NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, OCTOBER 15, 2020 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BRENHAM, TEXAS

1. **Call Meeting to Order**

2. **Invocation and Pledges to the US and Texas Flags - Mayor Pro Tem Ebel**

3. **Citizens Comments**

CONSENT AGENDA

4. **Statutory Consent Agenda**
   The Statutory Consent Agenda includes non-controversial and routine items that Council may act on with one single vote. A councilmember may pull any item from the Consent Agenda in order that the Council discuss and act upon it individually as part of the Regular Agenda.

   4-a. Minutes from the October 1, 2020 Regular City Council Meeting

   4-b. Approve Ordinance No. O-20-022 on Its Second Reading Amending the FY2019-20 Adopted Budget

   4-c. Approve Ordinance No. O-20-023 on Its Second Reading Amending Chapter 25, Article II, of the Code of Ordinances of the City of Brenham, Regulating Speed Limits in Designated School Crossing Zones

   4-d. Approve Ordinance No. O-20-024 on Its Second Reading Granting a Variance to Section 23-21(3)(a) and (3)(c) of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions, (Case No. P-20-029)

   4-e. Approve the Ratification of A Contract Between Pitney Bowes Global Financial Services, LLC and the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation

4-f. **Approve the Purchase and Installation of Playground Equipment for Jerry Wilson Park from GameTime Total Recreation Products, Inc., Through BuyBoard Contract No. 592-19, in the Amount of $72,455.12 and Authorize the Mayor to Execute Any Necessary Documentation**

4-g. **Approve Change Order No. 1 and Final Payment on Contract No. 2017-11 to Dudley Construction, Ltd. in the Amount of $49,975.00 for the Rehabilitation of Fireman's Park Stone Bridge and Authorize the Mayor to Execute Any Necessary Documentation**

WORK SESSION

5. **Discussion and Update on City of Brenham Parks and Recreation Projects**

REGULAR SESSION

6. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 23 – "Subdivisions" of the Code of Ordinances of the City of Brenham**

7. **Discuss and Possibly Act Upon Resolution No. R-20-029 Authorizing the Submission of a Grant Application to the Texas General Land Office (GLO) (Including All Supporting Documentation As May Be Required by the GLO) for the Community Development Block Grant-Mitigation (CDBG-MIT) Program (Floods of 2016 - DR-4266, DR-4269, DR-4272)**

8. **Discuss and Possibly Act Upon Resolution No. R-20-030 Authorizing the Submission of a Grant Application to the Texas General Land Office (GLO) (Including All Supporting Documentation As May Be Required by the GLO) for the Community Development Block Grant - Mitigation (CDBG-MIT) Program (Hurricane Harvey - DR-4332)**

9. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Providing for Increased Prior and Current Service Annuities in the Texas Municipal Retirement System ('TMRS') for Retirees and Beneficiaries of Deceased Retirees of the City of Brenham and Electing to Make Current Service and Prior Service Contributions to the City's TMRS Benefit Accumulation Fund at the Actuarially Determined Rate of Total Employee Compensation**

10. **Discuss and Possibly Act Upon an Amendment to the Gas Sales Contract Between WTG Gas Marketing, Inc. and the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation**

11. Discuss and Possibly Act Upon an Amendment to the System Water Availability Agreement Between Brazos River Authority (BRA) and the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation

12. Discuss and Possibly Act Upon the City Manager's Employment Agreement and Related Issues and Authorize the Mayor to Execute Any Necessary Documentation

13. Administrative/Elected Officials Report

Administrative/Elected Officials Reports: Reports from City Officials or City staff regarding items of community interest, including expression of thanks, congratulations or condolences; information regarding holiday schedules; honorary or salutary recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

Adjourn

Executive Sessions: The City Council for the City of Brenham reserves the right to convene into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code, Chapter 551, including but not limited to §551.071 - Consultation with Attorney, §551.072 - Real Property, §551.073 - Prospective Gifts, §551.074 - Personnel Matters, §551.076 - Security Devices, §551.086 - Utility Competitive Matters, and §551.087 - Economic Development Negotiation

CERTIFICATION

I certify that a copy of the October 15, 2020 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on October 12, 2020 at 9:00 a.m.

Jeana Bellinger, TRMC, CMC
City Secretary

Disability Access Statement: This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7567 for assistance.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of ___________________, 2020 at __________ AM PM.

________________________________ ________________________
Signature Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on October 1, 2020 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

Mayor Milton Y. Tate, Jr.
Mayor Pro Tem Andrew Ebel
Councilmember Susan Cantey
Councilmember Keith Herring
Councilmember Clint Kolby
Councilmember Adonna Saunders
Councilmember Albert Wright

Members absent:

None

Others present:

City Attorney Cary Bovey, Deputy City Secretary II Karen Stack, Assistant City Manager – Chief Financial Officer Carolyn Miller, Assistant City Manager - Public Services/Utilities Donald Reese, Public Works Director Dane Rau, Director of Tourism & Marketing Jennifer Eckermann, Development Services Director Stephanie Doland, Shauna Laauwe, Jared Campbell, and Todd Ashorn.

Citizens present:

Mary Thornhill, Dr. John McIntire, and Lisa Hibbeler

Media Present:

Alyssa Faykus, Brenham Banner Press; and Josh Blaschke, KWHI

1. Call Meeting to Order

2. Invocation and Pledges to the US and Texas Flags – Mayor Tate

3. Citizens Comments

None.

4. Proclamations

- **Think Pink Thursday**
- **Fire Prevention Week**

CONSENT AGENDA

5. Statutory Consent Agenda

5-a. Minutes from the September 17, 2020 Regular City Council Meeting

5-b. Approve the Purchase and Installation of a New Roof for the Blue Bell Aquatic Center from CR Systems, Inc., Through The Interlocal Purchasing System (TIPS) Contract No. 10102116, in the Amount of $70,380.00 and Authorize the Mayor to Execute Any Necessary Documentation

5-c. Approve Resolution No. R-20-028 Reauthorizing an Investment Policy for the City of Brenham

5-d. Acceptance of a Donation from The Dorothy Elaine O'Connor Living Trust in the Amount of $2,500.00 for the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation

5-e. Approve Change Order No. 1 and Final Payment on Contract No. 2016-03 to Angel Brothers Enterprises Ltd in the Amount of $71,443.81 for Burleson Road Culvert Replacement and Authorize the Mayor to Execute Any Necessary Documentation

5-f. Approve Change Order No. 1 and Final Payment on Contract No. 2016-04 to Lonnie Lischka Company, LP in the Amount of $21,690.32 for the Brenham Business Center Detention Pond Improvements Project and Authorize the Mayor to Execute Any Necessary Documentation

5-g. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the FY2019-20 Adopted Budget

A motion was made by Councilmember Wright and seconded by Councilmember Cantey to approve the Statutory Consent Agenda Items 5-a. through 5-g. as presented.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

REGULAR SESSION

6. Discuss and Possibly Act Upon an Ordinance on Its First Reading Granting a Variance to Section 23-21(3)(a) and (3)(c) of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions, (Case No. P-20-029)

This item was presented by Project Planner Shauna Laauwe. Laauwe explained that the subject property is an 8.156-acre lot in the City of Brenham's Extraterritorial Jurisdiction (ETJ). Laauwe advised that the property currently has two existing residences and accessory structures. Laauwe said that the owner wants to subdivide the property into two tracts, with Tract 1 being .75 acres and Tract 2 being 7.41 acres. Laauwe advised that the requested subdivision would require two variances from the City's Subdivision Ordinance.

First, Laauwe explained that Section 23-21(3)(a) requires rural tracts to be a minimum of 125 wide at the frontage road, whereas the requested division would result in Tract 2 having a strip of land that is only 24 feet wide. Laauwe explained this was necessary to give the resident of Tract 2 road access by deed rather than a travel easement. Laauwe further noted that providing this strip of land to Tract 2 would reduce the area of Tract 1 to 0.75 acres, which is below the 1 acre minimum required by Section 23-21(3)(c).

Laauwe reported that the Washington County Engineer reviewed the variance requests and has no objection, and that the Planning & Zoning Commission recommended approval on a vote of 6-1. Laauwe said staff recommend approval of the requested variance.

Councilmember Kolby asked whether a variance would still be required if Tract 2 was granted a travel easement. Laauwe replied that it would, because in that situation Tract 2 would not meet the requirement of having direct road access. Councilmember Cantey said she is concerned about the precedent that would be set by granting these variances. Mayor Pro Tem Ebel asked whether the lot of Tract 1 would be large enough for a septic system. Laauwe replied that Washington County determined that it was. Ebel also asked what the adjoining property owners thought of the variance request. Laauwe replied that staff had not received any comments from the adjacent property owners. Councilmember Herring asked who would be responsible for maintaining the driveway. Development Services Director Stephanie Doland replied that this would be a private driveway and would be maintained by the owner.

A motion was made by Councilmember Herring and seconded by Councilmember Saunders to approve an ordinance on its first reading granting a variance to Section 23-21(3)(a) and (3)(c) of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions, (Case No. P-20-029).

Mayor Tate called for a vote. The motion passed 6-1, with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	**No**
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

7. Discuss and Possibly Act Upon the Appointment of Members to Serve on the City of Brenham's Historic Preservation Ordinance Committee and Authorize the Mayor to Execute Any Necessary Documentation

Tourism and Marketing Director Jennifer Eckermann presented this item. Eckermann said that on February 5, 2020, City staff held a public meeting to discuss an Historic Preservation Ordinance. Eckermann reported that the meeting was well-attended, and staff were pleased with the representation from the community. Eckermann said that after the meeting, she met with City Manager James Fisher, Assistant City Manager/Chief Financial Officer Carolyn Miller, Councilmember Cantey, and Councilmember Kolby to review recommendations for citizens to serve on a committee to develop an Historic Preservation Ordinance for the City. Eckermann said that the recommended members who have agreed to serve are:

- City Council Representatives: Susan Cantey and Clint Kolby
- P&Z Commission Representatives: Deanna Alfred and Cayte Neil
- Main Street Board Representatives: Jim Moser and John Hermann
- Public Representatives: Mary Thornhill, Katie Burch, Tina Henderson, Ed Owens and Tami Redshaw

A motion was made by Councilmember Herring and seconded by Councilmember Cantey to approve the appointment of eleven (11) members to serve on the City of Brenham's Historic Preservation Ordinance Committee and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

8. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 25, Article II, of the Code of Ordinances of the City of Brenham, Regulating Speed Limits in Designated School Crossing Zones

This item was presented by Public Works Director Dane Rau. Rau said the issue of a school zone on W. Tom Green Street between S. Market Street and S. Austin Street (near Alton Elementary) was recently brought to the attention of staff. Rau explained that this area was not on the school zone list established in 2009, noting that in 2009 Alton Elementary was not being used as a school. Rau said that because the City is in control of W. Tom Green Street, staff recommend this section of roadway be added to Section 25-20 as a school crossing zone, which would reduce the speed limit to 20 mph during the hours of 7:30 a.m. to 8:30 a.m., and 2:45 p.m. to 4:00 p.m.

A motion was made by Councilmember Cantey and seconded by Councilmember Herring to approve an ordinance on its first reading amending Chapter 25, Article II, of the Code of Ordinances of the City of Brenham, regulating speed limits in designated school crossing zones.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

9. Discuss and Possibly Act Upon a Professional Services Agreement Between the City of Brenham and Infrastructure Management Services Related to the 2020 Pavement Data Collection and Analysis Services and Authorize the Mayor to Execute Any Necessary Documentation

This item was presented by Assistant City Manager - Public Services/Utilities Donald Reese. Reese explained that Brenham currently uses the subjective "windshield observation" method to evaluate the condition of its roads, meaning only the top surface area of the street is viewed with no knowledge of the condition of the subsurface. Reese said that this method of evaluation does not give additional information such as the performance of the roadway over its lifetime, the location of microcracks, or the thickness of the pavement.

Reese explained that Infrastructure Management Services (IMS) will collect data using a Laser Crack Measurement System. This system completes a 3D millimeter-level scanning of the pavement surfaces and collects data on pavement distresses and structural strength as well as pavement elevation (range and intensity) and identifies cracking, rutting, roughness, potholes, and bleeding. Reese said a Pavement Management Report, with detailed analysis and surveys, will be submitted to the City complete with budget and pavement condition forecasts, recommended rehabilitation strategies and GIS maps of the surveyed network. Reese noted that the City's road network is its largest asset by dollar value, and it is more cost effective to maintain the asset than to let it deteriorate and rebuild.

Councilmember Herring asked how often this service would need to be repeated. Reese estimated the service would need to be performed about once every three years. Mayor Pro Tem Ebel asked if IMS reports would be compatible with the City's existing technology. Reese replied that it was and added that no software purchase would be required.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Herring to approve a Professional Services Agreement between the City of Brenham and Infrastructure Management Services, in the amount of $77,828.00, for the 2020 Pavement Data Collection and Analysis Services and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

10. Discuss and Possibly Act Upon a Noise Variance for the City of Brenham's Community Picnic to be Held on November 1, 2020 from 4:00 p.m. to 6:00 p.m. at Henderson Park and Authorize the Mayor to Execute Any Necessary Documentation

This item was presented by Detective Jared Campbell. Campbell explained the purpose of the Community Picnic is to encourage members of the community to come together and get to know City and County Officials, Peace Officers, and other first responders. Campbell said the event will be held November 1st, 2020 from 4:00 p.m. to 6:00 p.m., and will include a DJ, hot dogs, and yard games. Campbell noted the event would have amplified sound; therefore, a noise variance is required.

A motion was made by Councilmember Cantey and seconded by Councilmember Wright to approve a noise variance for the City of Brenham's Community Picnic to be held on November 1, 2020 from 4:00 p.m. to 6:00 p.m. at Henderson park and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

11. Administrative/Elected Officials Report

Assistant City Manager Donald Reese reported on the following:

- The Scarecrow Extravaganza downtown started September 25th and will go through October 25th.
- On October 2nd, the Brenham Farmer and Artisan Market will be held downtown.
- Movies in the Park will be held at Park on October 2nd and 9th at Hohlt Park Amphitheatre.
- Hot Nights, Cool Tunes will be held on the 10th, 16th, 17th, and 24th of October.
- October 4th through 11th is the Clean Sweep Week at the Bluebell Aquatic Center.
- The Annual Kid Fish will be held at Bluebell Aquatic Center on the 24th.
- The Brazos Valley Gives online fundraiser for the Brenham Pet Adoption Center will be held on the 27th.
- Boo Bash Drive-Through Trunk or Treat will be held on October 31st at Boys & Girls Club in Brenham.
- Brenham Police Department Halloween Drive-Through will be held at Max Donuts on October 31st.

Sgt. Todd Ashorn reported on the following:

- National Night Out will be held on October 6th. Seven parties are scheduled, and Councilmembers are invited.

Councilmember Herring reported on the following:

- The High School Choir will be singing on October 1st at the Amphitheatre.

The meeting was adjourned.

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Milton Y. Tate, Jr.
Mayor

____

Karen Stack
Deputy City Secretary II

ORDINANCE NO. O-20-022

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING THE FY2019-20 ADOPTED BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Brenham, Texas has previously approved a budget for the fiscal year ending September 30, 2020, after having filed the same with the City Secretary and after holding public hearings on same, all after due notice as required by statute; and

WHEREAS, due to unforeseen circumstances and/or conditions, the City Council finds it is necessary to amend the FY2019-20 Budget for municipal purposes;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Brenham, Texas:

SECTION 1.

That the City Council of the City of Brenham, Texas, does hereby amend the budget for the City of Brenham, Texas for the fiscal year ending September 30, 2020, as shown on Exhibit A.

SECTION II.

This Ordinance shall take effect as provided by State Law and the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the 1st day of October 2020.

PASSED and APPROVED on its second reading this the 15th day of October 2020.

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Milton Y. Tate, Jr.
Mayor

ATTEST:

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Jeana Bellinger, TRMC, CMC
City Secretary

CITY OF BRENHAM
FY2019-20 ADOPTED BUDGET
BUDGET AMENDMENT #1
EXHIBIT A

FUND	AMENDMENT PAGE #	OPERATING REVENUES (INC)/DEC	GRANT REVENUES (INC)/DEC	TRANSFERS-IN (INC)/DEC	BOND/LEASE PROCEEDS (INC)/DEC	OPERATING EXPENDITURES INC/(DEC)	GRANT/BOND CAP PROJ INC/(DEC)	TRANSFERS-OUT INC/(DEC)	NET CHANGE TO FUND (INC)/DEC
101 GENERAL FUND	1	-	-	-	1,000,000	-	-	(960,000)	40,000
102 ELECTRIC FUND	2	-	-	-	-	-	1,444,439	10,000	1,454,439
103 GAS FUND	3	-	-	-	-	89,184	-	-	89,184
104 WATER FUND	4	-	995,752	-	-	-	(193,455)	-	802,297
105 WASTEWATER FUND	5	-	2,033,704	-	-	155,266	-	-	2,188,970
106 SANITATION FUND	6	-	-	-	-	(200,000)	-	200,000	-
118 DEBT SERVICE FUND	8	-	-	80,000	-	(80,000)	-	-	-
203 AIRPORT CAPITAL FUND	9	-	27,954	-	-	-	(31,060)	-	(3,106)
227 FEMA DISASTER-RELIEF FUND	10	-	341,549	(639,970)	-	-	614,429	-	316,008
232 DONATIONS FUND	11	(116,465)	-	-	-	76,303	-	-	(40,162)
234 PARKS CAPITAL IMPROVEMENT FD	12	-	-	(50,000)	-	50,000	-	-	-
237 STREET CAPITAL IMPROVE FUND	13	-	-	-	-	82,433	(3,311,185)	639,970	(2,588,782)
240 VEHICLE/EQUIPMENT REP FUND	14	-	-	(200,000)	-	-	-	-	(200,000)
250 BCDC FUND	16	(131,697)	-	-	-	665,485	-	(80,000)	453,788
252 BCDC CAPITAL PROJECTS FUND	17	-	-	1,000,000	-	-	(1,000,000)	-	-
260 BRENHAM COMMUNITY PROJ FD	18	(119,020)	-	(50,000)		119,020	-	50,000	-
TOTAL		(367,182)	3,398,959	140,030	1,000,000	957,691	(2,476,832)	(140,030)	2,512,636

ORDINANCE NO. O-20-023

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING CHAPTER 25, ARTICLE II, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS REGULATING SPEED LIMITS IN DESIGNATED SCHOOL CROSSING ZONES; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR SEVERABILITY, REPEALING AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; FINDING OF PROPER NOTICE AND MEETINGS.

WHEREAS, the City of Brenham, Texas is a Home Rule municipality incorporated and operating under the Laws of the State of Texas; and

WHEREAS, Section 51.001, Texas Local Government Code, authorizes the City Council of the City of Brenham to adopt ordinances for the good government, peace, safety, and order of the municipality; and

WHEREAS, the Texas Transportation Code authorizes the City to adopt laws and ordinances to regulate traffic within the corporate limits of the City of Brenham, Texas; and

WHEREAS, the City Council finds that in order to protect the public health, safety, and welfare, especially of school-aged children, it is necessary to adopt an ordinance regulating the speed in designated school crossing zones;

NOW, THEREFORE, be it ordained by the City Council of the City of Brenham, Texas that:

SECTION 1

Chapter 25, Article II, Speed Limits, Section 25-20, Generally, Subsection 25-20(d)(1), of the Code of Ordinances, City of Brenham, Texas shall be amended to read as follows:

(1) Brenham Early Childhood Learning Center – Twenty (20) miles per hour during the aforementioned times:

a) On S. Chappell Hill Street from E. Alamo Street to Seelhorst Street;
b) On E. Alamo Street from S. Chappell Hill Street to Barbee Street;
c) On Kerr Street from E. Alamo Street to Seelhorst Street;
d) On Mangrum Street from S. Chappell Hill Street to the east terminus of Mangrum Street; and
e) On Seelhorst Street from Kerr Street to S. Chappell Hill Street.

SECTION 2

Chapter 25, Article II, Speed Limits, Section 25-20, Generally, of the Code of Ordinances, City of Brenham, Texas shall be amended to add Subsection 25-20(d)(6) to read as follows:

6. Alton Elementary – Twenty (20) miles per hour during the aforementioned times:
   a) On W. Tom Green Street from S. Austin Street to S. Market Street.

SECTION 3
PENALTY

Any person violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding two hundred dollars ($200.00).

SECTION 4
SAVINGS CLAUSE

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5
SEVERABILITY

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. City hereby declares that it would have passed this Ordinance, and each section, subsection, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 6
REPEALER

Any other ordinances or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 7
EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 8
PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meetings at which this ordinance was passed were open to the public as required and that public notice of the time, place and purpose of said meetings were given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED, on its first reading on the 1st day of October 2020.

PASSED AND APPROVED, on its second reading on the 15th day of October 2020.

____
Milton Y. Tate, Jr.
Mayor

ATTEST:

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Jeana Bellinger, TRMC, CMC
City Secretary

ORDINANCE NO. O-20-024

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, GRANTING A VARIANCE TO SECTION 23-21(3)(a) AND (3)(c) OF THE CITY OF BRENHAM CODE OF ORDINANCES, CHAPTER 23, SUBDIVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETINGS

WHEREAS, the City of Brenham Code of Ordinances, Chapter 23, Subdivisions, provides for standards and regulations regarding subdivisions within the corporate boundaries and Extraterritorial Jurisdiction (ETJ) of the City of Brenham; and

WHEREAS, Chapter 23, Section 23-21(3)(a) states that rural residential lots shall have a minimum width of one hundred and twenty-five (125) feet at the building line; and (3)(c) states that rural lots have a minimum area of 43,560 square feet (1 acre) as follows:

Rural lots. Notwithstanding provisions for urban lots as provided in subsection (1), rural lot subdivisions may be approved in the extraterritorial jurisdiction for residential development that is to be served by individual water wells, by an individual sewage disposal system or by county roads, provided said development conforms to applicable state law, and other applicable codes and ordinances of the City of Brenham and Washington County. Standards that apply to rural residential lots are as follows:

a. *Minimum width:* One hundred twenty-five (125) feet. Radial lots to have minimum width of one hundred (100) feet with a minimum width of one hundred twenty-five (125) feet at the building line.

c. *Minimum area:* 43,560 square feet.

WHEREAS, in accordance with City of Brenham Code of Ordinances, Chapter 23, Subdivisions, Section 23-34, as the legislative body of the City of Brenham, the City Council of the City of Brenham, Texas has the authority to grant variances from the terms of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions; and

WHEREAS, the owner of the property described as Tract 93 of the Isaac Jameison Survey, A-67, in Washington County, Texas, located at 1093 South Berlin Road (See Exhibit "A" attached hereto), has requested a variance from City of Brenham Code of Ordinances, Chapter 23, Subdivisions, Section 23-21(3)(a) and (3)(c); and

WHEREAS, the requested variance was recommended for approval by the City of Brenham Planning and Zoning Commission during its regular meeting on September 28, 2020; and

WHEREAS, the property is in compliance with the City of Brenham Comprehensive Plan; and

WHEREAS, the City Council finds that by granting the variance, the spirit of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions is observed; and

WHEREAS, the City Council further finds that granting the variance is not contrary to the public interest;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS:

1. **Findings of Fact:** All of the above premises are hereby found to be true and correct findings of the City Council of the City of Brenham and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

2. **Variance Granted**: The City Council, for the property described as Tract 93 of the Isaac Jameison Survey, A-67, located at 1093 South Berlin Road, hereby grants the request for a variance from the provisions of the City of Brenham Code of Ordinances, Chapter 23, Section 23-21(3)(a) and (3)(c) to allow a subdivision of land in the City of Brenham's Extraterritorial Jurisdiction (ETJ) to allow Tract 1 to have a lot size of .75-acre of land instead of the required 1-acre (43,560 square feet), and to allow Tract 2 to have a width of twenty-five feet (25') at the road instead of the required one hundred twenty-five (125') feet.

3. **Conflict with Prior Ordinances:** In the case of a conflict between this Ordinance and any provision or clause of previous Ordinances adopted by the City of Brenham, the provisions of this Ordinance shall prevail.

4. **Severability**: Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are severable.

5. **Effective Date:** This Ordinance shall become effective immediately upon and after its passage and publication as may be required by governing law.

6. **Proper Notice and Meeting**: It is hereby officially found and determined that the meetings at which this Ordinance was passed were open to the public and that public notice of the time, place and purpose of said meetings was given as required by the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED and APPROVED on its first reading this the 1st day of October 2020.

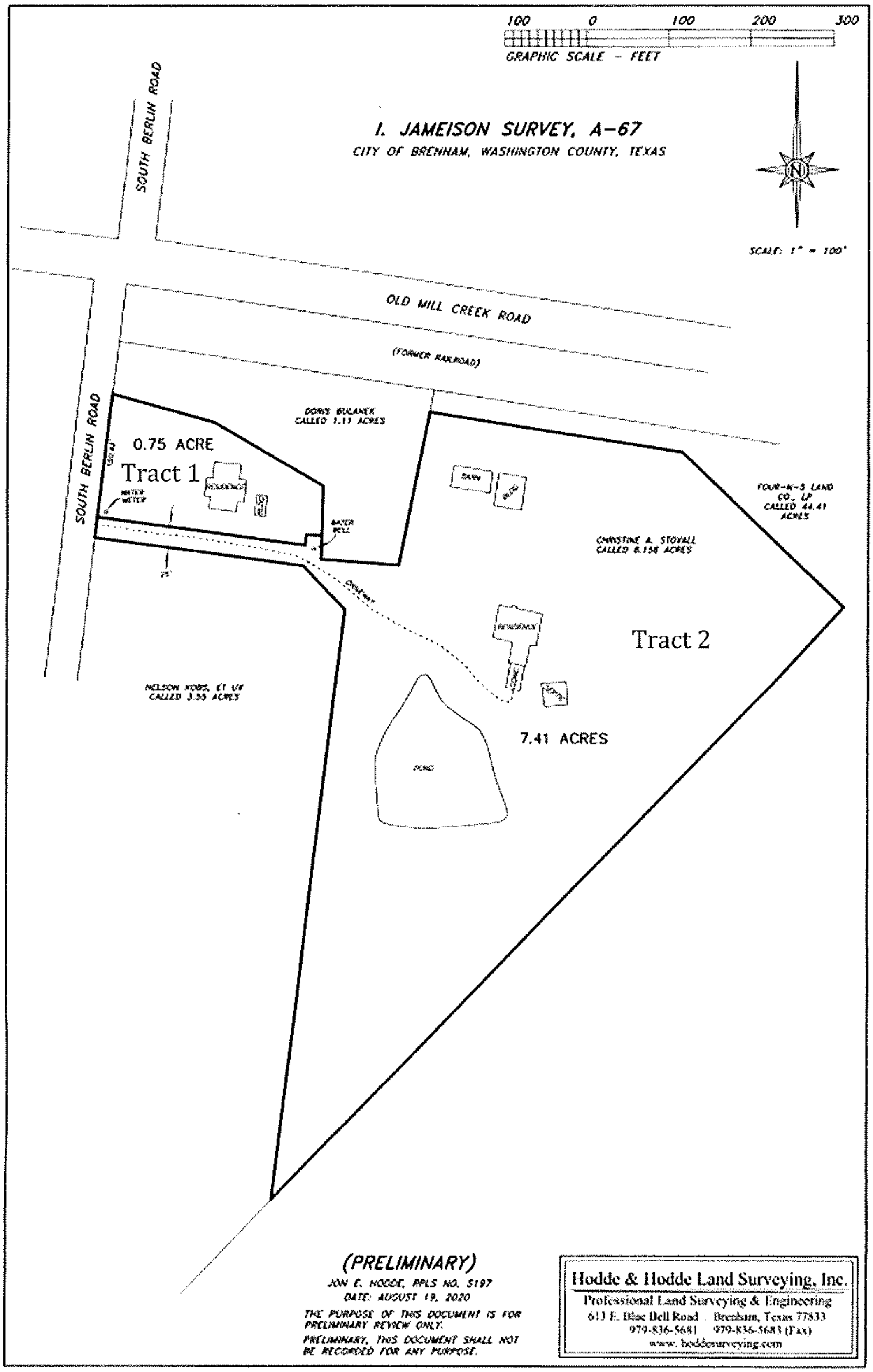
PASSED and APPROVED on its second reading this the 15th day of October 2020.

____
Milton Y. Tate, Jr.
Mayor

ATTEST:

____
Jeana Bellinger, TRMC, CMC
City Secretary

EXHIBIT A



100 0 100 200 300
GRAPHIC SCALE - FEET
I. JAMEISON SURVEY, A-67
CITY OF BRENHAM, WASHINGTON COUNTY, TEXAS
N
SCALE: 1" = 100'
SOUTH BERLIN ROAD
OLD MILL CREEK ROAD
(FORMER RAILROAD)
SOUTH BERLIN ROAD
DORIS BULANEK
CALLED 1.11 ACRES
0.75 ACRE
Tract 1
FOUR-K-S LAND CO., LP
CALLED 44.41 ACRES
CHRISTINE A. STOVALL
CALLED 8.158 ACRES
Tract 2
NELSON KOBS, ET UX
CALLED 3.55 ACRES
7.41 ACRES
(PRELIMINARY)
JON E. HODDE, RPLS NO. 5197
DATE: AUGUST 19, 2020
THE PURPOSE OF THIS DOCUMENT IS FOR PRELIMINARY REVIEW ONLY.
PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE.
Hodde & Hodde Land Surveying, Inc.
Professional Land Surveying & Engineering
613 E. Blue Bell Road . Brenham, Texas 77833
979-836-5681 979-836-5683 (Fax)
www.hoddesurveying.com

Regular City Council
AGENDA ITEM 4-E.

Agenda Item: **Approve the Ratification of A Contract Between Pitney Bowes Global Financial Services, LLC and the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation**

Meeting Type: Regular Meeting-October 15, 2020

Department: Administration

Staff Contact: Jeana Bellinger

Classification: Consent

SUMMARY STATEMENT:

As staff began processing reoccurring purchase orders for 2020-21 budget year, it was discovered that the contract for the City's postage machine with Pitney Bowes was never brought to Council for approval. The contract was signed in 2019 by the City Manager but since it is a multi-year (5 year) contract, it needed to be approved by the City Council.

The contract is for 60 months (5 years) at a cost of $16,311.48 per year and will expire on December 31, 2023. This contract is for the lease and maintenance of the postage machine.

ATTACHMENTS:

(1) Pitney Bowes Contract

RELEVANCE TO COMPREHENSIVE PLAN:

GC3: Long-term financial sustainability.

RECOMMENDED ACTION:

Approve the ratification of a contract between Pitney Bowes Global Financial Services, LLC and the City of Brenham for 5 years in the amount of $16,311.48 per year and authorize the Mayor to execute any necessary documentation.

pitney bowes

State and Local Fair Market Value Lease

Agreement Number

Your Business Information

Full Legal Name of Lessee / DBA Name of Lessee

CITY OF BRENHAM

Tax ID # (FEIN/TIN)

Sold-To: Address

200 W VULCAN ST, BRENHAM, TX, 77833-3149, US

Sold-To: Contact Name	Sold-To: Contact Phone #	Sold-To: Account #	
Amber Ortega	9793377515	0017372313	

Bill-To: Address

PO BOX 1059, BRENHAM, TX, 77834-1059, US

Bill-To: Contact Name	Bill-To: Contact Phone #	Bill-To: Account #	Bill-To: Email
Amber Ortega	9793377515	0017372319	aortega@cityofbrenham.org

Ship-To: Address

200 W VULCAN ST, BRENHAM, TX, 77833-3149, US

Ship-To: Contact Name	Ship-To: Contact Phone #	Ship-To: Account #
SHELLEY ADDISON	(979) 337-7516	0011481380

PO #

Your Business Needs

Qty	Item	Business Solution Description
1	RELAY5000	Relay 5000 Inserting System
1	CRM8	CRight Mailer Elec Deliv Integrated SW
3	F780183	F780183 - Sheet/Flat envelope Tray
1	F780184	F780184 - Insert Tray
1	F790700-01	F790700-01 - US Relay Localization Kit
1	NOIT	Client Self-Install
1	SMA_TIER2	SMA TIER 2-SOFTWARE SERVICE AGREEMENT
1	STDSLA	Standard SLA-Equipment Service Agreement (for Relay 5000 Inserting System)
1	TIOK	TIOK-Inserter Installation & Training
1	TI50	TI50 - Relay 5000 Inserting System
1	WDF1	WDF1-Document Formatting Option
1	WPB5	WPB5-PB 1st Base License (+ 1st 5 apps)

1	WPF0	WPF0-Document ProSvcs Level 1
1	WPF1	WPF1-Document ProSvcs Level 1
6	WPF5	WPF5-Document Pro Svcs Level 2
1	WPR1	WPR1-Document Process Management
1	SENDPROPSERIES	SendPro P Series
1	1FWW	10 lb Interfaced Weighing (unit)
1	4W00	Connect+ /SendPro P Series Meter
1	APA2	100 Dept Analytics
1	APKE	SendPro P Receiving Feature
1	APKF	SendPro P Shipping Feature Access
1	AZBE	SendPro P Series Mono Print Module
1	AZCG	SendPro P1500 Series Bundle (145/70 Lpm)
1	M9SS	Mailstream Intellilink Services
1	MSD1	10" Color Touch Display
1	MW90007	SendPro P Series Drop Stacker
1	MW96000	Weighing Platform
1	NV10	INVIEW TMR Web Acct Bundle Single only
1	NV90	NV90 - INVIEW Subscription
1	SJM5	SoftGuard for SendPro P1500
1	STDSLA	Standard SLA-Equipment Service Agreement (for SendPro P Series)
1	T6CS	Receiving - Standard

Your Payment Plan

Initial Term: 60 months	Initial Payment Amount:	
Number of Months	Monthly Amount	Billed Quarterly at*
60	$ 1,308.43	$ 3,925.29

Does not include any applicable sales, use, or property taxes which will be billed separately.

( ) Tax Exempt Certificate Attached
( ) Tax Exempt Certificate Not Required

( ) Purchase Power® transaction fees included
(X) Purchase Power® transaction fees extra

pitneybowes

State and Local Fair Market Value Lease

Agreement Number

Your Business Information

Full Legal Name of Lessee / DBA Name of Lessee			Tax ID # (FEIN/TIN)
CITY OF BRENHAM			
Sold-To: Address			
200 W VULCAN ST, BRENHAM, TX, 77833-3149, US			
Sold-To: Contact Name	**Sold-To: Contact Phone #**	**Sold-To: Account #**	
Amber Ortega	(979) 337-7515	0017372313	
Bill-To: Address			
PO BOX 1059, BRENHAM, TX, 77834-1059, US			
Bill-To: Contact Name	**Bill-To: Contact Phone #**	**Bill-To: Account #**	**Bill-To: Email**
Amber Ortega	(979) 337-7515	0017372319	aortega@cityofbrenham.org
Ship-To: Address			
200 W VULCAN ST, BRENHAM, TX, 77833-3149, US			
Ship-To: Contact Name	**Ship-To: Contact Phone #**	**Ship-To: Account #**	
Amber Ortega	(979) 337-7515	0017372313	
PO #			

Your Business Needs

Qty	Item	Business Solution Description
1	RELAY5000ADDON	Relay 5000 Inserting System Add-On
1	DITV	DITV-Installation and Training-Stackers
1	F790042-01	Power Cord
1	STDSLA	Standard SLA-Equipment Service Agreement (for Relay 5000 Inserting System Add-On)
1	TIVP	TIVP - Vertical Power Stacker

Your Payment Plan

Initial Term: 60 months	Initial Payment Amount:	
Number of Months	**Monthly Amount**	**Billed Quarterly at***
60	$ 50.86	$ 152.58

*Does not include any applicable sales, use, or property taxes which will be billed separately.

( ) Tax Exempt Certificate Attached
( ) Tax Exempt Certificate Not Required

( ) Purchase Power® transaction fees included
( ) Purchase Power® transaction fees extra

Your Signature Below

Non-Appropriations. You warrant that you have funds available to make all payments until the end of your current fiscal period, and shall use your best efforts to obtain funds to make all payments in each subsequent fiscal period through the end of your Lease Term. If your appropriation request to your legislative body, or funding authority ("Governing Body") for funds to make the payments is denied, you may terminate this Lease on the last day of the fiscal period for which funds have been appropriated, upon (i) submission of documentation reasonably satisfactory to us evidencing the Governing Body's denial of an appropriation sufficient to continue this Lease for the next succeeding fiscal period, and (ii) satisfaction of all charges and obligations under this Lease incurred through the end of the fiscal period for which funds have been appropriated, including the return of the equipment at your expense.

By signing below, you agree to be bound by all the terms and conditions of your State's/Entity's/Cooperative's contract, including the Pitney Bowes Terms, which are available at https://www.pb.com/states and are incorporated by reference (collectively, this "Agreement"). The terms and conditions of this Agreement will govern this transaction and be binding on us after we have completed our credit and documentation approvals process and have signed below. The lease requires you either provide proof of insurance or participate in the ValueMAX® equipment protection program (see Section L9 of the Pitney Bowes Terms) for an additional fee. If software is included in the Order, additional terms apply which are available by clicking on the hyperlink for that software located at www.pitneybowes.com/us/license-terms-of-use/software-and-subscription-terms-and-conditions.html. Those additional terms are incorporated by reference.

576-18
State/Entity's Contract #

Lessee Signature

James Fisher
Print Name

City Manager
Title

01/11/2019
Date

Email Address

Pitney Bowes Signature

Print Name

Title

Date

Sales Information

Jeffrey Medlin	jeffrey.medlin@pb.com
Account Rep Name	Email Address

Regular City Council
AGENDA ITEM 4-F.

Agenda Item: **Approve the Purchase and Installation of Playground Equipment for Jerry Wilson Park from GameTime Total Recreation Products, Inc., Through BuyBoard Contract No. 592-19, in the Amount of $72,455.12 and Authorize the Mayor to Execute Any Necessary Documentation**

Meeting Type: Regular Meeting-October 15, 2020

Department: Public Works

Staff Contact: Dane Rau

Classification: Consent

SUMMARY STATEMENT:

During the 2020-21, BCDC funding meeting new playground equipment for Jerry Wilson Park was approved for purchase. This equipment will be a new amenity to Jerry Wilson Park which will allow kids to enjoy different kinds of play equipment that we do not have at other parks. In the past we have had some older standalone equipment such as monkey bars and swings, but this park has never had a full playscape. With this new addition we will add a 6-bay swing set that will have 2 toddler swings, 2 belt swings, and 2 impression swings. We have also included a full playscape consisting of slides, climbers, telescopes, and platforms. The new additions which we currently do not have in any other parks is a sky runner and an arch swing in which multiple kids can play on at the same time. This also includes and full border with engineered wood fibers for fall protection. (See renderings)

In the 2020-21 budget, BCDC allocated $85,000 for the purchase of this equipment. The total price falls below budget at $72,455.12. These items can be purchased through GameTime which is a member of Buy board and offers great rebates through a grant program internal to GameTime. By adding these units, it will improve the amenities at Jerry Wilson Park and give all park users something different.

We plan to use the additional funds to purchase small items such as trashcans, benches, picnic tables, and a water bottle filling station that are all part of Jerry Wilson Park Improvements dedicated to 2020-21. These improvements have also been approved and funded by BCDC.

We would like to ask council to approve the purchase of playground equipment from GameTime in the amount of $72,455.12.

ATTACHMENTS:

(1) GameTime Quote
(2) Rendering - Jerry Wilson Park

RELEVANCE TO COMPREHENSIVE PLAN:

Parks and Recreation Programs and Initiatives 11: As new playground equipment becomes needed in parks, consider inclusive playground equipment that is accessible to children with a variety of physical and sensory needs and abilities.

RECOMMENDED ACTION:

Approve the purchase and installation of playground equipment for Jerry Wilson Park from GameTime Total Recreation Products, Inc., through Buy Board Contract No. 592-19, in the amount of $72,455.12 and authorize the Mayor to execute any necessary documentation.

c/o Total Recreation Products, Inc.
17802 Grant Road Cypress, Texas 77429
Phone: 281-351-2402
Toll Free: 800-392-9909
Fax: 281-351-2493

10/05/2020
Quote #65383-01-05

TJ-01093-20 Rev 3 Jerry Wilson Park - Option with Roofs

City of Brenham
Attn: Dane Rau
200 West Vulcan Street
Brenham, TX 77834
Phone: 979-337-7407
drau@cityofbrenham.org

Ship to Zip 77301

Quantity	Part #	Description	Unit Price	Amount
1	RDU	GameTime - TJ-01093-20-2A2R2 Modified Rainforest PrimeTime 5-12 Play Unit with Roofs	$38,279.00	$38,279.00
1	GRANT	GameTime - **2020 Grant Matching Funds**	($15,763.28)	($15,763.28)
1	178749	GameTime - Owner's Kit	$58.00	$58.00
1	6200	GameTime - Sky Runner (F/S)- ***Grant matching funds applied to qualifying freestanding items. Matching funds are only applicable when freestanding item is purchased in conjunction with a qualifying unit.***	$2,854.00	$2,854.00
1	5056	GameTime - Arch Swing	$6,481.00	$6,481.00
1	RDU	GameTime - Three Bay PrimeTime Swings with (2) Belt Seats, (2) Tot Seats and (2) Expression Swings	$6,557.00	$6,557.00
1	RDU	GameTime - Surfacing Accessories, (85) 12" Playcurbs, (1) Accessible Curbs, (2) 2250 SF Geo Textile Rolls	$6,499.00	$6,499.00
1	W77739	GT-Impax - 213 Cubic Yards (4297 SF) of Engineered Wood Fiber Surfacing, Calculated at 12" Compacted Depth to Zip Code 77833- *Price includes discount of $837.77 and Freight*	$5,476.01	$5,476.01
1	INSTALL	GameTime - Installation of Above Equipment and Surfacing Only;- *No other site work, demolition or concrete work included. Acquisition of any and all permits is the sole responsibility of the customer.* *Standard installation does not include any extra or additional machinery, drillers, etc., for rock excavation. If rock conditions are encountered, additional charges will apply.*	$20,539.27	$20,539.27
Contract: Buy Board Contract #592-19			**Sub Total**	$70,980.00
			Discount	($2,990.36)
			Estimated Freight	$4,465.48
			Total	**$72,455.12**

Comments

Freight Calculated to Installer's Zip Code 77301:

GRANT MATCHING FUNDS ARE AVAILABLE THROUGH November 15th, 2020 OR UNTIL EXHAUSTION OF FUNDS.

Important Terms & Conditions - Please Review

To place an order, you must provide one of the following: a Purchase Order assigned to GameTime; or this Price Quotation, signed by an authorized purchaser, with a check made payable to GameTime. GameTime will also accept payment by Visa, MasterCard, or American Express. A current approved credit application is required for Net 30 terms.

TJ-01093-20 Rev 3 Jerry Wilson Park - Option with Roofs

This quotation explicitly excludes any and all items not expressly specified or identified above. No other product, equipment, or service is included, regardless of any Contract Document, Contract Section, Plans, Specifications, Drawing, or Addendum. Delivery for most GameTime equipment is approximately 5-6 weeks after all order documents have been received and payment terms have been approved. A current, approved credit application is required for N30 terms. To place an order, you must provide a purchase order or a signed Total Recreation Products, Inc. (hereafter described as TRP) quote, assigned to GameTime. Neither general contractor nor subcontractor contracts can be accepted. Purchase documents that contain indemnity or hold harmless conditions cannot be accepted. Retainage is not permitted. The following must be received before your order can be processed: complete billing and shipping addresses, a contact name and phone #, and all color choices. Manufacturer's colors may vary from year to year. You are responsible for ensuring that any required submittal approvals are completed before placing your order for processing. TRP reserves the right to limit submittals to one copy. Shop drawings, bluelines, sepias, are not available. Closeout documents may be limited to GameTime or TRP standard issue. If Sales Tax Exempt, a copy of your tax exemption form or resale certificate must accompany your order, or any applicable sales tax, will be added to your invoice. Most GameTime products are shipped from the Ft. Payne, AL plant. GameTime cannot hold orders or store equipment. Equipment is invoiced when shipped. If a cash sale, your payment must be received in full before the order will be processed. Contractors must also provide copies of current, fully executed bid/performance/payment bonds, as applicable. Pricing shown does not include any charges for permits, bonding, prevailing wage, or additional insured certifications.

Unless otherwise noted, any quantity of surfacing or playcurbs quoted has been calculated specifically for the equipment and layout shown. No additional surfacing or curbing is included, and no allowance has been made, for an unleveled, convoluted or larger site, or for a different layout. Neither GameTime nor TRP is responsible for any surface, curbing, border, or drain that is provided by others. Also please confirm that your area is adequate for the equipment that you are purchasing.

Installation charges, if quoted, are for a "standard" installation unless specifically noted to be otherwise. Installation charges are due upon completion. Standard installations are based upon a soil work site, that is freely accessible by truck, (no fencing, tree/landscaping or utility obstacles, etc.), and level, (+/- 1-2% maximum slope). An accessible water source must be available to the installer. Any site work that is not expressly described is excluded. Standard installation does not include any extra or additional machinery, drillers, etc., for rock excavation. If rock conditions are encountered, additional charges will apply.

Standard installations generally require from 2-10 business days to complete, depending upon the amount and type of equipment, site conditions, weather, and the installer's schedule. Work may or may not be performed in consecutive days. Playcurbs are staked in, not set in concrete. Engineered wood fiber and shredded rubber surfacings are spread, not compacted, rolled, or watered. Landscape timbers are not warranted. The Customer is responsible for locating and clearly marking all underground utilities in the installation area before any installation work can begin. The installer is not responsible for damages, repairs, or discontinuance of business due to damaged utilities.

If applicable, sprinkler system locates, re-working and repairs are excluded from installation charges. Installation of all products, (equipment, borders, fall surfacing and amenities) are as quoted and approved by acceptance of quotes and drawings. As a precautionary measure, work in progress areas will be taped off at the end of the workday. Pier spoils from installation shall be spread at site, site will be left rough grade. The installer is not responsible for any damages or re-work resulting from after hours events or activities during the work in progress period. Temporary fencing is only provided by specific request, and additional charges will apply. Collectively and/or individually, not the manufacturer, TRP, their representatives, nor the installation company shall be held liable for any damages resulting from misuse, vandalism, or neglect. Any deviations from approved and accepted placement of all items, along with additional work, over and above quoted items, will be chargeable to the customer. Once work is completed the customer will be notified if present at the job site, and all responsibility of any new work will be transferred to the customer. The customer is responsible for maintaining the integrity of completed installation work until all components have seated and/or cured (concrete footings, etc.). Your project site must be completely prepared and ready to receive your equipment before any installation work begins. Acquisition of any and all permits is the sole responsibility of the customer. Additional charges may be billed for any extra hours or trips needed as a result of the work site not being ready. Neither the installation contractor, GameTime nor TRP will be responsible for delays caused by shortages, incorrect parts, weather conditions, other contractors, or lack of site readiness.

If you are receiving your equipment, you are responsible for unloading and accepting delivery from the freight company and reporting any damaged freight or shortages on the freight bill at the time. You will also be responsible for a complete inventory of your received equipment and reporting any discrepancies to us immediately. Neither the freight company nor the manufacturer will resolve shipment discrepancies that are not reported immediately. Make sure that all items have been received before any type of installation work is scheduled. The freight carrier will be instructed to call your designated contact 24 hours before delivery to arrange a delivery appointment.

Once accepted, orders can only be changed or canceled with the consent of GameTime and TRP, and on terms that will indemnify them against loss. Changed or canceled orders are subject to a $100.00 service charge. Additionally, canceled orders are subject to a 25% restocking fee, plus freight charges (to and from). Built-to-order equipment orders are non-cancelable. Changes to orders that have been shipped and invoiced are subject to the above $100.00 service charge plus additional restocking/return charges of 25%. Non-returnable items shall be charged at full invoice value. Any return transportation charges shall be for the Buyer's account. Replacement parts are also subject to the cancellation/returns policy. Please carefully review any research information that has been sent to you and confirm that you are ordering the correct replacement parts for your equipment. This quotation is valid 30 days. After 30 days, please request an updated quote. Prices may be subject to material and fuel surcharges at the time of shipment and are subject to change without notice. Current prices will apply at the time of shipment. Acceptance of this quote indicates your agreement to GameTime's credit terms, which are net 30 days, FOB shipping with approved credit. Any deviations from this proposal may invalidate the quoted pricing and/or terms.

c/o Total Recreation Products, Inc.
17802 Grant Road Cypress, Texas 77429
Phone: 281-351-2402
Toll Free: 800-392-9909
Fax: 281-351-2493

10/05/2020
Quote #65383-01-05

TJ-01093-20 Rev 3 Jerry Wilson Park - Option with Roofs

THIS QUOTATION IS SUBJECT TO POLICES IN THE CURRENT GAMETIME PARK AND PLAYGROUND CATALOG AND THE FOLLOWING TERMS AND CONDITIONS. OUR QUOTATION IS BASED ON SHIPMENT OF ALL ITEMS AT ONE TIME TO A SINGLE DESTINATION, UNLESS NOTED, AND CHANGES ARE SUBJECT TO PRICE ADJUSTMENT. PURCHASES IN EXCESS OF $1,000.00 TO BE SUPPORTED BY YOUR WRITTEN PURCHASE ORDER MADE OUT TO GAMETIME, C/O TOTAL RECREATION.
Please complete and return with your required form of payment:

Acceptance of quotation:

Accepted By (printed): ____________________ **P.O. No:** ____________________

Signature: ____________________ **Date:** ____________________

Title: ____________________ **Phone:** ____________________

Facsimilie: ____________________ **Purchase Amount: $72,455.12**

Order Information:

Bill To: ____________________	Ship To: ____________________
Company: ____________________	Company: ____________________
Attn: ____________________	Attn: ____________________
Address: ____________________	Address: ____________________
City, State, Zip: ____________________	City, State, Zip: ____________________
Contact: ____________________	Contact: ____________________
Email Address: ____________________	Email Address: ____________________
Tel: ____________________	Tel: ____________________
Fax: ____________________	Fax: ____________________

For non-taxable purchases: Please also provide a copy of your Sales Tax Exemption Certificate or Resale Certificate.

Quote prepared by: Jennifer Roberts

GameTime
www.gametime.com

City of Brenham
Jerry Wilson Park
View 1

www.totalrecreation.net

City of BRENHAM

Regular City Council
AGENDA ITEM 4-G.

Agenda Item: **Approve Change Order No. 1 and Final Payment on Contract No. 2017-11 to Dudley Construction, Ltd. in the Amount of $49,975.00 for the Rehabilitation of Fireman's Park Stone Bridge and Authorize the Mayor to Execute Any Necessary Documentation**

Meeting Type: Regular Meeting-October 15, 2020

Department: Public Works

Staff Contact: Dane Rau

Classification: Consent

SUMMARY STATEMENT:

On December 5, 2019 City Council awarded Dudley Construction Ltd the bid related to the Fireman's Park Stone Arch Bridge Rehabilitation Project in the amount of $99,500.

The improvements have been completed. The work consisted of replacement and/or consolidation of fill by grouting, strengthening of the spandrels/railing, repair of wing walls, crack repair of masonry, new sidewalk pavement and reconstruction of historic stone railing/caps. There was one Change Order in the amount of $7,000 which consisted of additional concrete paving and additional backfill material. The final payment due is $49,975. The total project amount was $106,500.

ATTACHMENTS:

(1) Application for Payment No. 2
(2) Application for Payment No. 3 & Final
(3) Change Order No. 1
(4) Certificate of Final Completion
(5) Certificate of Payment to Subcontractors and Suppliers
(6) Consent of Surety to Final Payment

RELEVANCE TO COMPREHENSIVE PLAN:

Parks and Recreation Goal PR 3: Renew focus on pedestrian and bicyclist access and safety within the city, connecting to park and recreation sites.

RECOMMENDED ACTION:

Approve Change Order No. 1 and final payment to Dudley Construction Ltd in the amount of $49,975 for the Fireman's Park Stone Arch Bridge Rehabilitation Project and authorize the Mayor to execute any necessary documentation.

Application and Certificate for Payment

DUDLEY CONSTRUCTION

11370 State Highway 30
College Station TX 77845
(979) 776-2135

Owner: City of Brenham
200 W. Vulcan
Brenham TX 77843

Job Location: Rehab of Stone Arch Bridge
200 W. Vulcan

Application: 2
Period: 10/02/2020
Application for Payment #2
Contract For:
Contract Date:
Project No.: 19116

1. Original CONTRACT SUM...............................	$99,500.00
2. Net Change by Change Orders.....................	$7,000.00
3. CONTRACT SUM to Date...............................	$106,500.00
4. TOTAL COMPLETED & STORED TO DATE.....	$106,500.00
5. RETAINAGE:	
Total Retainage..	$5,325.00
6. TOTAL EARNED LESS RETAINAGE...............	$101,175.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT...	$56,525.00
8. CURRENT PAYMENT DUE..	$44,650.00
9. BALANCE TO FINISH INCLUDING RETAINAGE.......	$5,325.00

CHANGE ORDER SUMMARY

Net Changes by Change Order	TOTALS	$7,000.00

Contractor's Certification of Work

The undersigned Contractor certifies that, to the best of the contractor's knowledge, information and belief the Work covered by this Application for payment has been completed in accordance with the Contract documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payments were issued and payments received from the Owner, and that current payment shown herein is now due.

Contractor: Mark Dudley Date: 10/02/2020

State of: Texas
County of: Brazos
Subscribed and sworn to before me this 2nd day of October, 2020

Notary Public: Alisyn Hargett
My Commission expires: 10/11/2024

ALISYN D. HARGETT
My Notary ID # 125082989
Expires October 11, 2024

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated and belief the Work has progressed as indicated, the quantity of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED... $ 44,650

(Attached explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT: By: [signature] Date: 10/5/2020

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

PROGRESS BILLING
Continuation Sheet

Application: 2

Period: 10/02/2020

APPLICATION AND CERTIFICATION FOR PAYMENT,
containing Contractor's signed certification is attached,
In tabulations below, amounts are stated to the nearest dollar.

Rehab of Stone Arch Bridge

Description of Work	Scheduled	Changes	Contract	Previous	Current Comp.	Stored Mat.	Total Comp.	%	Balance	Retained
	99,500.00		99,500.00	59,500.00	40,000.00		99,500.00	100.00		4,975.00
Change Order# 1		7,000.00	7,000.00		7,000.00		7,000.00	100.00		350.00
Totals:	**99,500.00**	**7,000.00**	**106,500.00**	**59,500.00**	**47,000.00**		**106,500.00**	**100.00**		**5,325.00**

Application and Certificate for Payment

DUDLEY CONSTRUCTION
11370 State Highway 30
College Station TX 77845
(979) 776-2135

Owner: City of Brenham
200 W. Vulcan
Brenham TX 77843

Job Location: Rehab of Stone Arch Bridge
200 W. Vulcan

Application: 3
Period: 11/01/2020
Application for Payment #3
Contract For:
Contract Date:
Project No.: 19116

1. Original CONTRACT SUM............................	$99,500.00
2. Net Change by Change Orders....................	$7,000.00
3. CONTRACT SUM to Date..............................	$106,500.00
4. TOTAL COMPLETED & STORED TO DATE.....	$106,500.00
5. RETAINAGE:	
a. 0.00 **% Completed Work**	
b. 0.00**% of Stored Work**	
Total Retainage...	$0.00
6. TOTAL EARNED LESS RETAINAGE...............	$106,500.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT...	$101,175.00
8. CURRENT PAYMENT DUE.....................................	$5,325.00
9. BALANCE TO FINISH INCLUDING RETAINAGE.......	$0.00

Contractor's Certification of Work

The undersigned Contractor certifies that, to the best of the contractor's knowledge, information and belief the Work covered by this Application for payment has been completed in accordance with the Contract documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payments were issued and payments received from the Owner, and that current payment shown herein is now due.

Contractor: Mark Dudley Date: 10/02/2020

State of: TEXAS

County of: BRAZOS

Subscribed and sworn to before me this 2ND day of OCT, 2020

Notary Public: Alisyn Hargett

My Commission expires: 10/11/2024

ALISYN D. HARGETT
My Notary ID # 125082989
Expires October 11, 2024

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated and belief the Work has progressed as indicated, the quantity of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED.. $ 5,325

(Attached explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT: By: ________ Date: 10/5/2020

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY

Net Changes by Change Order	TOTALS	$7,000.00

PROGRESS BILLING
Continuation Sheet

Application: 3

Period: 11/01/2020

APPLICATION AND CERTIFICATION FOR PAYMENT,
containing Contractor's signed certification is attached,
In tabulations below, amounts are stated to the nearest dollar.

Rehab of Stone Arch Bridge

Description of Work	Scheduled	Changes	Contract	Previous	Current Comp.	Stored Mat.	Total Comp.	%	Balance	Retained
	99,500.00		99,500.00	99,500.00			99,500.00	100.00		
Change Order# 1		7,000.00	7,000.00	7,000.00			7,000.00	100.00		
Totals:	**99,500.00**	**7,000.00**	**106,500.00**	**106,500.00**			**106,500.00**	**100.00**		

11370 State Hwy. 30 ■ College Station ■ Texas ■ 77845
Tel. 979.776.2135 ■ Fax. 979.776.2235

Change Order Agreement

Date: October 2, 2020

Perform Work at or Ship to:

To:	**City of Brenham**	**Rehabilitation of the Stone Arch Bridge**
	200 West Vulcan Street, Suite 206	**at Fireman's Park**
	Brenham, Texas 77833	**901 N. Park St.**
		Brenham, Texas 77833

Contract / Purchase Order #: **2017-11**

Change Order No.: **One**

This Change Order is issued to cover revisions described below which were not part of your original subcontract or purchase order:

Description of Change(s):

1. Additional Concrete Paving and Backfill - $7,000

Amount of Change Order:	**$**	**7,000.00**
Previous Change Orders:	**$**	**0.00**
Amount of original Contract or Purchase Order:	**$**	**99,500.00**
Amount of revised Contract of Purchase Order:	**$**	**106,500.00**

The terms and conditions of your original Subcontract or Purchase Order for this project shall govern this change. Please sign and return one fully executed copy.

Accepted:

Dudley Construction Ltd.,
a Texas Limited Partnership

Mark Dudley

Date: ______________________ Date: October 2, 2020

Document 00641

CERTIFICATE OF FINAL COMPLETION

CERTIFICATE OF FINAL COMPLETION OF: Rehabilitation of the Stone Arch Bridge at Fireman's Park

Project No.: 2017-11

Contract Dated: ____________________

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Mark Dudley who, being by me duly sworn, on his oath says that he or she represents Dudley Construction, Ltd., the Contractor who has performed a contract with the City of Brenham for the construction of the Work described above, and is duly authorized to make this affidavit; that he or she has personally examined the Work described above as required by the Contract documents; that said Work and all items thereof have been completed and all known defects made good; that all surplus material, refuse, dirt and rubbish have been cleaned up and removed or disposed of ~~as directed by the City Engineer~~; that all parts of Work are in a neat, tidy, finished condition and ready in all respects for acceptance by the City; that all gravel or shell roadway surfaces removed during the course of the Work have been replaced in accordance with the Specifications, that rates of pay for all labor employed on said Work have not been below the minimum set out in "Labor Classification and Minimum Wage Scale" in the Contract documents and that within the knowledge of affiant all just bills for labor and material and for the rental or use of any equipment or apparatus, used in, on, or in connection with the Work have been paid in full by the Contractor.

Mark Dudley
Affiant's Signature

SWORN AND SUBSCRIBED before me on October 2, 2020
Date

ALISYN D. HARGETT
My Notary ID # 125082989
Expires October 11, 2024

Alisyn Hargett
Notary Public in and for the State of TEXAS

Alisyn Hargett
Print or type name

My Commission Expires: 10/11/2024
Expiration Date

THIS IS TO CERTIFY that I have ~~thoroughly inspected~~ **observed** the Work performed by the above named Contractor on the above described Contract and find all things in accordance with the Contract documents governing this Work **to the best of my knowledge and belief.**

S. Patrick Sparks, P.E., Project Engineer of Record

____
Dane Rau, City of Brenham

Approved:
Dane Rau
City of Brenham Public Works

END OF DOCUMENT

Document 00642

CERTIFICATION OF PAYMENT
TO SUBCONTRACTORS AND SUPPLIERS

The undersigned, Mark Dudley (Affiant), states that he is the President of the General Partership (Title), of Dudley Construction, LTD. (Contractor)

and that he is duly authorized to execute this Certification of Payment to Subcontractors and Suppliers; that Contractor has made payments to Subcontractors and Suppliers for all labor, materials, equipment, and services furnished to date for Work on Project No. 2017-11 in the amounts for which Contractor has been paid; that the labor, materials, equipment, and services covered by this Certificate of Payment have been furnished in accordance with and all in compliance with the Contract Documents; that no sums have been withheld by Contractor for Subcontractors and Suppliers as a result of any allegations of deficiencies in the Work; and that such payments were made in accordance with the Contract Documents and with the laws of the State of Texas.

[signature]
Affiant's Signature

SWORN AND SUBSCRIBED before me on October 2, 2020
Date

ALISYN D. HARGETT
My Notary ID # 125082989
Expires October 11, 2024

Alisyn Hargett
Notary Public in and for the State of TEXAS

Alisyn Hargett
Print or type name

My Commission Expires: 10/11/2024
Expiration Date

END OF DOCUMENT

CONSENT OF SURETY COMPANY TO FINAL PAYMENT

OWNER ☐
CONTRACTOR ☐
SURETY ☐
OTHER ☐

AIA DOCUMENT G707 A **Bond #4429476**

PROJECT: Rehabilitation of the Stone Arch Bridge at Fireman's Park
(name, address)

TO: (Owner)

City of Brenham

ARCHITECT PROJECT NO:
CONTRACT FOR: $ 106,500.00

CONTRACT DATE: ON OR ABOUT January 2020

CONTRACTOR: Dudley Construction, Ltd.

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the

SureTec Insurance Company, 9737 Great Hills Trail, Suite 320, Austin, Texas 78759
, SURETY,
on bond of

Dudley Construction, Ltd., 11370 State Highway 30, College Station, Texas 77845
, CONTRACTOR,
hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of its obligations to

City of Brenham
, OWNER,
as set forth in the said Surety's bond.

IN WITNESS WHEREOF,
the Surety has hereunto set its hand this 2nd Day of October 2020

SureTec Insurance Company
Surety

Signature of Authorized Representative

Dennis M. Descant, Jr., Attorney-In-Fact
Title

Attest: Holly H. Blank, Administrative Assistant
(Seal):

AIA DOCUMENT G707 - CONSENT OF SURETY COMPANY TO FINAL PAYMENT, - April 1970 EDITION AIA® - ONE PAGE

POA #: 4221073

SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

Jeffrey L. Brady, Dennis M. Descant, Jr., Cheryl A. Sanders, Alicia Cantavella

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety for, providing the bond penalty does not exceed

Ten Million and 00/100 Dollars ($10,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the CEO, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. *(Adopted at a meeting held on 20th of April, 1999.)*

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its CEO, and its corporate seal to be hereto affixed this 23rd day of October , A.D. 2019 .

SURETEC INSURANCE COMPANY

By: ______________________

John Knox Jr., CEO

SURETEC INSURANCE COMPANY TEXAS

State of Texas ss:
County of Harris

On this 23rd day of October , A.D. 2019 before me personally came John Knox Jr., to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is CEO of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.

JACQUELYN GREENLEAF
Notary Public, State of Texas
Comm. Expires 05-18-2021
Notary ID 126903029

Jacquelyn Greenleaf, Notary Public
My commission expires May 18, 2021

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 2nd day of October , 2020 A.D.

M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.
For verification of the authority of this power you may call (713) 812-0800 any business day between 8:30 am and 5:00 pm CST.

SureTec Insurance Company

IMPORTANT NOTICE
Statutory Complaint Notice/Filing of Claims

To obtain information or make a complaint: You may call the Surety's toll free telephone number for information or to make a complaint or file a claim at: 1-866-732-0099. You may also write to the Surety at:

SureTec Insurance Company
9737 Great Hills Trail, Suite 320
Austin, TX 78759

You may contact the Texas Department of Insurance to obtain information on companies, coverage, rights or complaints at 1-800-252- 3439. You may write the Texas Department of Insurance at:

PO Box 149104
Austin, TX 78714-9104
Fax#: 512-490-1007
Web: http://www.tdi.texas.gov
Email: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIMS DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

Regular City Council
AGENDA ITEM 5.

Agenda Item: **Discussion and Update on City of Brenham Parks and Recreation Projects**

Meeting Type: Regular Meeting-October 15, 2020

Department: Parks and Recreation

Staff Contact: Dane Rau, Director of Public Works

Classification: Work Session

SUMMARY STATEMENT:

The Brenham Community Development Corporation (BDCD) met June 18, 2020, to discuss and approve the Parks and Recreation projects for FY20-21. Attached is a spreadsheet of projects and expenses. Staff will discuss items in detail at the Council meeting.

In addition to the BCDC projects funded, staff will begin work on the Brenham Family Park project. On August 27, 2020, the Texas Parks and Wildlife Commission approved the grant request for the Brenham Family Park project in the amount of $750,000. The required match comes from the Brenham Community Development Corporation (BCDC) and the City of Brenham.

The total project cost for Brenham Family Park Phase I(a) is $1.7 million dollars. Proposed developments include a 10-feet wide concrete pedestrian and bike-friendly trail, restrooms, pedestrian bridge, security lighting, native landscaping, picnic facilities, a parking lot, road expansion, lake development, and park signage.

Staff met with Local Park Grants Coordinator Matthew Fougerat on Friday, September 25 for a site visit and meeting to discuss grant requirements and a tentative project timeline which is attached.

ATTACHMENTS:

(1) Parks and Recreation Project List FY20-21 - BCDC
(2) Brenham Family Park - Timeline

RELEVANCE TO COMPREHENSIVE PLAN:

Continue implementation of the 2015 Parks, Recreation, and Open Spaces Master Plan and integrate projects into a formalized capital improvement planning process.

RECOMMENDED ACTION:

No action - discussion only.

Parks and Recreation FY21 Budget Requests

	Description	Budget Request
First Quarter (Oct-Dec)	Sidewalk Repairs – Fireman's Park	$15,000
	Replace Roof – Blue Bell Aquatic Center	$73,500
	Upgrade to Accu Tab & Acid Rite System – BBAC	$25,000
	Add Playground - Jerry Wilson (deferred from 2020)	$85,000
	Resurface two (2) tennis courts – Hasskarl	$15,000
	Christmas Stroll Programming	$5,000
	Request for FY21 First Quarter	$218,500

	Description	Budget Request
Second Quarter (Jan-Mar)	Replace Outfield Wall - Fireman's Field	$80,000
	Resurface two BB fields with MasterTurf – Linda Anderson	$27,500
	Refurbish Big Yellow Slide – BBAC	$30,000
	Refurbish Banana Split Slide – BBAC	$20,000
	Conceptual/Engineering Design – Phase II(a)	$10,000
	Splashpad Phase II – Henderson Park	$250,000
	Request for FY21 Second Quarter	$417,500

	Description	Budget Request
Third Quarter (April-June)	Replace Landing Pads for Leisure Pool – BBAC	$8,500
	Covered Basketball Courts – Jackson Street Park	$125,000
	Improvements - Jerry Wilson Park	$120,000
	Request for FY21 Third Quarter	$253,500

	Description	Budget Request
Fourth Quarter (July-Sept)	Movies in the Park	$4,000
	Renovations - Blinn Softball Field (deferred from 2020)	$25,000
	Repaint Steel Beams & Replaster Competition Pool and add New Handicap Lift	$101,000
	Request for FY21 Fourth Quarter	$130,000

Total Budget Requests $1,019,500

City of BRENHAM

Brenham Family Park Phase I(a)
Project Timeline

ACTIVITY	TIME FRAME
Commission Approval	August 27, 2020. Begin 3-year project period
Project seeking Federal Land and Water Conservation (LWCF) funding	Anticipate submitting for LWCF during December/January window with approval by April 2021
Grant Agreement Execution	April 2021
Pending Documentation such as: - Plans & specs (100%) - Texas Department of Licensing and Regulation (TDLR); Accessibility - Texas Commission on Environment Quality (TCEQ) Stormwater Permit - Texas Historical Commission (THC) Cultural Resources Survey & Clearance - U.S. Army Corps of Engineers (USACE) Permits - TPWD Biological Consultations	Within 6 months of grant agreement date – September
Quarterly Status Reports	On or before January 15, April 15, July 15, and October 15
Construction Plan Submission	Within 6 months of grant agreement date for development only projects (dependent on documentation timeline – June 2021
Begin Construction	August 2021 (Estimated)
Construction Completed	February 2023 (Estimated)
Project Completion and Grant Close-Out	Within 3 years after Commission approval

Regular City Council
AGENDA ITEM 6.

Agenda Item: **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 23 – "Subdivisions" of the Code of Ordinances of the City of Brenham**

Meeting Type: Regular Meeting-October 15, 2020

Department: Development Services

Staff Contact: Stephanie Doland

Classification: Regular

SUMMARY STATEMENT:

During the September 17th Council meeting staff provided a workshop presentation concerning the following amendments to the Subdivision Ordinance:

Firstly, staff proposes to consider amending the Subdivision Ordinance to require all development, both commercial and residential, to place all utilities within the development underground. Currently the Subdivision Ordinance only requires underground utilities within residential developments to be underground and staff requests consideration from Council to require the same to apply for commercial developments.

Secondly, staff proposes a re-write to the fiscal security provisions section of the Subdivision Ordinance which details the required processes for a private developer to construct public infrastructure within a subdivision. Following the private developer's construction of public infrastructure, the city accepts the infrastructure in perpetuity. The existing language concerning infrastructure acceptance via a fiscal security is outdated and lacking in clarity. Staff proposes to amend this section to eliminate confusion about the required processes as well as clarify the fiscal security options available.

During the workshop presentation Staff received direction to offer a Public Hearing at an upcoming Planning and Zoning Commission to receive feedback from citizens, developers and Commissioners concerning the proposed amendments to the Subdivision Ordinance. On September 28, 2020 the Planning and Zoning Commission met and **unanimously recommended approval** of the proposed Ordinance amendments. During the Public Hearing on the item no citizen comments were provided. Noticed of the Public Hearing was posted in the Brenham Banner and advertised by KWHI prior to the Planning and Zoning Commission meeting.

ATTACHMENTS:

(1) Ordinance for First Reading

RELEVANCE TO COMPREHENSIVE PLAN:

Strategic Action Priority Number 11: "Update the City's development regulations and standards (including zoning and subdivision regulations) to coordinate all aspects of local development review and approval processes (Page 111).

RECOMMENDED ACTION:

Approve an Ordinance on its first reading Amending Chapter 23 – "Subdivisions" of the Code of Ordinances of the City of Brenham

ORDINANCE NO. ___________

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING CHAPTER 23 – "SUBDIVISIONS" OF THE CODE OF ORDINANCES, CITY OF BRENHAM, TEXAS BY AMENDING SECTION 23-30 – "REQUIRED IMPROVEMENTS" TO REQUIRE ALL UTILITIES TO BE LOCATED UNDERGROUND THROUGHOUT ALL DEVELOPMENT; AMENDING SECTION 23-31 "COSTS-PAYMENT FOR INSTALLATION OF IMPROVEMENTS BY SUBDIVIDER" TO CLARIFY RESPONSIBILITIES OF DEVELOPERS IN THE INSTALLATION AND CONSTRUCTION OF PUBLIC INFRASTRUCTURE; AMENDING SECTION 23-10 TO REMOVE SUBSECTION (B)(4); PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR PROPER NOTICE OF MEETINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances, City of Brenham, Texas ("Code of Ordinances"), Chapter 23, Subdivisions, provides for standards and regulations regarding subdivisions within the corporate boundaries and extraterritorial jurisdiction of the City of Brenham; and

WHEREAS, the City Council recognizes the need from time to time to amend these regulations to help facilitate high quality and orderly development and the protection of the public health and general welfare of the community; and

WHEREAS, the City Council deems it appropriate to approve and adopt the amendments herein below to Chapter 23 – "Subdivisions" of the Code of Ordinances.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS THAT CHAPTER 23 – "SUBDIVISIONS" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1.

That Chapter 23 – "Subdivisions" of the Code of Ordinances of the City of Brenham, Texas Section 23-30 – Required Improvements, is hereby amended to read as follows:

Section 23-30. – Required Improvements.

(4) *City utilities.* Each developer shall provide city utilities within the subdivision that conform to construction standards of the city for water, sanitary sewerage, gas and electric systems as provided in the current design standards.

(5) *Private utilities.* All private, franchised utilities, including, but not limited to, electric lines, telephone cables, television cables and natural gas mains, shall be located underground throughout any new development; except that overhead electric lines may be utilized in the perimeter easements of a development, where primary electric lines and/or feeders are necessary to provide services to the development and adjacent areas. Such underground utilities shall be buried in dedicated utility easements or in street rights-of-way, as appropriate and approved by the city engineer. The placement and separation of the various utilities within an easement or street right-of-way shall be determined by the city engineer in accordance with city design standards and any other specifications as approved by the city engineer.

<u>SECTION 2.</u>

That Chapter 23 – "Subdivisions" of the Code of Ordnances of the City of Brenham, Texas Section 23-31 – Costs-payment for installation of improvements by subdivider, is hereby amended to read as follows:

Sec. 23-31. – Assurances for Completion of Improvements.

The subdivider shall have the responsibility for construction costs for street and utility improvements within a subdivision and for off-site utility extensions.

(1) <u>Purpose.</u> The provisions of this Chapter, as set forth in this section, are designed and intended to insure that, for all subdivisions of land within the jurisdiction of the City, all improvements as required herein are installed in a timely manner in order that:

(a) The City can provide for the orderly and economical extension of public facilities and services; and

(b) All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and

(c) All required improvements are constructed in accordance with the City's applicable rules, regulations, standards, and specifications.

(2) Policy. Upon approval of a final plat by the Planning and Zoning Commission, and prior to it being signed by the chairperson of the Planning and Zoning Commission, and before said final plat shall be allowed to be recorded in the plat records of Washington County, Texas the applicant requesting final plat approval shall, within the time period for which the final plat has been conditionally approved by the City:

(a) Construct all improvements as required by this Chapter, and provide a surety instrument guaranteeing their maintenance as required herein; or

(b) Provide a surety instrument guaranteeing construction of all improvements required by this Chapter, and as provided for herein.

(c) In all instances, the original copy of the final plat, without benefit of required signatures of City officials, shall be held in escrow by the City and shall not be released for any purpose until such time as the conditions of this section are complied with.

(d) Upon the requirements of this section being satisfied, the final plat shall be considered fully approved, except as otherwise provided for in this Chapter, and the original copy of the final plat shall be signed by the appropriate persons and City staff shall record said final plat in the plat records of Washington County, Texas.

(3) Completion of improvements.

(a) Prior to the signing of the approved final plat by the chairperson of the Planning and Zoning Commission, the applicant shall complete all improvements required by this Chapter in accordance with the approved construction plans and subject to the approval of the Development Services Director or designee and acceptance by the City Council, except as otherwise provided for in this Chapter.

(b) Alternative to completing improvements. The Development Services Director or designee may waive the requirement that the applicant complete all improvements required by this Chapter prior to the signing of the approved final plat, contingent upon securing from the applicant a guarantee, as provided for by this Section, for completion of all required improvements, including the City's cost for collecting the guaranteed funds and administering the completion of improvements, in the event the applicant defaults. Such guarantee shall take one (1) of the following forms:

(1) Performance bond. The applicant shall post a performance bond with the City, as set forth herein, in an amount equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements, using the standard City form.

(2) Escrow account. The applicant shall deposit cash, or other instrument readily convertible into cash at face value, either with the City, or in escrow with a bank, savings and loan or other financial institution acceptable to the City. The use of any instrument other than cash shall be subject to the approval of the City. The amount of the deposit shall equal one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements. In the case of any escrow account, the applicant shall provide the City with an agreement between the financial institution and the applicant, the form and substance of which is subject to approval of the City, guaranteeing the following:

(A) That the funds of said escrow account shall be held in trust until released by the City and may not be used or pledged by the applicant as security in any other matter during that period; and

(B) That in the case of a failure on the part of the applicant to complete said improvements, the financial institution shall immediately make the funds in said account available to the City for use in the completion of those improvements.

(3) Letter of credit. The applicant shall provide an irrevocable letter of credit from a bank, savings and loan or other financial institution acceptable to the City. This letter shall be submitted to the City and shall certify the following:

(A) That the creditor does guarantee funds equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements; and

(B) That, in the case of failure on the part of the applicant to complete all remaining required improvements within the required time period, the creditor shall pay to the City immediately upon written request of the City, and without further action, such funds as are necessary to fully pay for the completion of those improvements, up to the limit of credit stated in the letter; and

(C) That this letter of credit may not be withdrawn, or reduced in amount, until approved by the City according to provisions of this Section.

(4) Cost estimates. A licensed professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of all required improvements to the Development Services Director or designee for approval, who shall review the estimates to determine the adequacy of the guarantee instrument for ensuring the construction of all remaining required improvements.

(5) Surety acceptance. The bank, financial institution, insurer, person or entity providing any letter of credit, bond or holding any escrow account pursuant to this Chapter shall meet or exceed the minimum requirements established by this Chapter and all other applicable ordinances, laws and regulations, and shall be subject to the approval of the City.

(6) Sufficiency. Such surety shall comply with all statutory requirements, and all associated documents and instruments shall be subject to the approval of the City Attorney as to form, sufficiency, and manner of execution. All such surety instruments shall be both a payment and performance guarantee.

(c) <u>Time limit for completing improvements.</u> The period within which required improvements must be completed shall be incorporated in the surety instrument and shall not in any event, without prior written approval of the City, exceed one (1) year from date of final plat approval.

(1) The Development Services Director or designee may, upon application of the applicant and upon proof of hardship, extend the completion date set forth in such bond or other instrument for a maximum period of one (1) additional year. An application for extension shall be accompanied by an updated estimate of construction costs prepared by a professional engineer licensed to engage in the practice of engineering in the State of Texas. A surety instrument for guaranteeing completion of remaining required improvements must be filed in an amount equal to one hundred ten percent (110%) of the updated estimate of construction costs as approved by the Development Services Director or designee.

(d) Assurances for completion shall be posted or improvements shall be completed within two (2) years of final plat approval, unless otherwise approved by the City. In those cases where a surety instrument has been required and posted, and improvements have not been completed within the terms of said surety instrument, the City may declare the applicant and/or surety to be in default and require that all of the required improvements be installed.

(e) Inspection and acceptance of improvements. The Development Services and Public Utility Departments shall inspect all required improvements, to ensure compliance with City requirements and the approved construction plans.

(1) The applicant shall provide a certificate of compliance from the state department of licensing and regulation for all pedestrian improvements within the subdivision.

(2) When all required improvements have been satisfactorily completed, the applicant shall request a final inspection.

(3) The Development Services Department shall have ten (10) working days to complete this inspection upon notification by the applicant that all required improvements have been completed and are ready for inspection by the City.

(4) Within ten (10) working days after the date of inspection the Development Services Department shall issue an inspection report including issuance of a punch list to the applicant denoting remaining items to be completed.

(5) Provided that all improvements have been satisfactorily completed, the City Council shall accept in writing the improvements having been satisfactorily completed. The City shall not accept dedications of required improvements or release or reduce a performance bond or other assurance until such time it is determined that:
  i. All improvements have been satisfactorily completed.
  ii. One (1) set of as-built plans measuring twenty-two by thirty-four inches (22” x 34”) has been submitted to and approved by the Development Services Director or designee, along with a statement prepared by a professional engineer licensed to engage in the practice of engineering in the State of Texas that all improvements have been installed and constructed in accordance with the submitted as-built plans and the City’s applicable rules, regulations, standards, and specifications.
  iii. Copies of all inspection reports, shop drawings and certified test results of construction materials have been submitted to and approved by the Development Services Director or designee.
  iv. Two (2) copies of the approved maintenance bond meeting the requirements of this Chapter have been provided to the City.
  v. Electronic copy containing computed generated Auto CAD drawings of all public improvements shown on the construction plans, and all lot lines shown on the plat, have been submitted to the Development Services Department to update City maps.
  vi. An affidavit of all bills paid and a release of liens have been provided to the City.
  vii. An inventory of infrastructure including infrastructure type, location (latitude and longitude coordinates), length, size and dollar value has been provided, using the standard City form.
  viii. Any and all other requirements identified in the final plat process have been satisfied.

(f) Reduction or release of improvement surety instrument.

(1) The principal amount of a surety instrument may be reduced with the approval of the Development Services Director or designee, and the City Manager or designee, upon actual construction of required improvements by a ratio that the improvement bears to the total public improvements required for the subdivision, as determined by the Development Services Director or designee.

(2) Before the City may reduce said surety instrument, the applicant shall provide a new surety instrument in an amount equal to one hundred ten percent (110%) of the estimated cost of the remaining required improvements, and such new surety instrument shall comply with this Chapter and all other applicable ordinances, laws and regulations.

(3) The substitution of a new surety instrument shall in no way change or modify the terms and conditions of the performance surety instrument or the obligation of the applicant as specified in the performance surety instrument.

(4) In no event shall a surety instrument be reduced below ten percent (10%) of the principal amount of the original estimated total costs of improvements for which surety was given, prior to completion and acceptance of all required improvements.

(5) The City shall not release a surety instrument unless and until all of the requirements and conditions of this Chapter have been fulfilled.

(g) Maintenance bond required.

(1) Before the release of any surety instrument guaranteeing the construction of all required subdivision improvements, or the signing of the final plat where subdivision improvements were made prior to the filing of the final plat for recordation, the applicant shall furnish the Development Services Department with a maintenance bond or other acceptable surety to assure the quality of materials, workmanship, and maintenance of all required improvements including but not limited to the City's costs for collecting the guaranteed funds and administering the correction and/or replacement of covered improvements.

(2) The maintenance bond or other surety instrument:

i. Shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution.
ii. Shall clearly state both the applicant as the principal and the City as the obligee.
iii. Shall cover all improvements and facilities requested for City acceptance, including but not necessarily limited to water, wastewater, gas, electric, street and drainage improvements.
iv. Shall be in an amount equal to ten percent (10%) of the cost of improvements for one (1) calendar year from the date of City Council acceptance of operation and maintenance of the subdivision. A statement of construction value or final pay estimate shall be provided to the Development Services Department to support said warranty and maintenance bond amounts.
v. Shall require the surety to notify the City at least thirty (30) days prior to the expiration of the one (1) year maintenance period.

(3) In an instance where a maintenance bond or other surety instrument has been posted and a defect or failure of any required improvement occurs within the period of coverage, the City may declare the principal on said bond or surety instrument to be in default of its repair and/or maintenance obligations. Surety shall, within thirty (30) days following written notice of default and request for performance from obligee:

  i. Notify obligee in writing of its election to correct all defects and workmanship in the subdivision improvements and shall commence and complete construction, re-construction, replacement, repair or maintenance of the subdivision improvements; or
  ii. Notify obligee in writing that surety elects not to complete, re-construct, replace, repair, or maintain the subdivision improvements.
  iii. If the surety fails to give such written notice, then it will be deemed to have elected not to complete, re-construct, replace, repair, or maintain the subdivision improvements. In either event, surety shall be obligated to pay obligee for all loss, cost and expense which the obligee incurs to correct all defects and workmanship in the subdivision improvements. In the event that surety elects to proceed under 3(i) above, the contractor selected by surety to perform such work shall be approved by obligee, which approval shall not be unreasonably withheld.

(4) Whenever a defect or failure of any required improvement occurs within the period of coverage, the City shall require that a new maintenance bond or surety instrument be posted for a period of one (1) full calendar year sufficient to cover the corrected defect or failure.

SECTION 3.

That Chapter 23 – “Subdivisions” of the Code of Ordnances of the City of Brenham, Texas Section 23-10 – Final Plat Application, is hereby amended by deleting subsection 23-10(b)(4).

SECTION 4. SAVINGS CLAUSE.

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5. SEVERABILITY.

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. City hereby declares that it would have passed this Ordinance, and each section, subsection, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 6. REPEALER.

Any other ordinances or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 7. PROPER NOTICE AND MEETINGS.

It is hereby officially found and determined that the meetings at which this Ordinance was passed were open to the public as required and that public notice of the time, place and purpose of said meetings were given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

PASSED and **APPROVED** on its first reading this the ___ day of ________ 2020.

PASSED and **APPROVED** on its second reading this the ___ day of _________ 2020.

____
Milton Y. Tate, Jr.
Mayor

ATTEST:

____
Jeana Bellinger, TRMC, CMC
City Secretary

Regular City Council
AGENDA ITEM 7.

Agenda Item: **Discuss and Possibly Act Upon Resolution No. R-20-029 Authorizing the Submission of a Grant Application to the Texas General Land Office (GLO) (Including All Supporting Documentation As May Be Required by the GLO) for the Community Development Block Grant-Mitigation (CDBG-MIT) Program (Floods of 2016 - DR-4266, DR-4269, DR-4272)**

Meeting Type: Regular Meeting-October 15, 2020

Department: Public Works

Staff Contact: Dane Rau, Director of Public Works

Classification: Regular

SUMMARY STATEMENT:

See the attached memo from Dane Rau, Director of Public Works, and Crystal Locke, Community Services Specialist.

ATTACHMENTS:

(1) Memo - 2016 Floods
(2) Resolution No. R-20-029
(3) Project Map - 2016 Floods
(4) Project Description - 2016 Floods
(5) Final Application Memo - Public Management
(6) 424-Form_2016 Floods
(7) Local Certification
(8) Professional Engineering Services Contract - 2016 Floods

RELEVANCE TO COMPREHENSIVE PLAN:

The proposed projects in this application will satisfy the need for reducing the risk of flooding with regional stormwater management improvements outlined in the City Comprehensive Plan.

RECOMMENDED ACTION:

Approve Resolution No. R-20-029 authorizing the submission of a grant application to the Texas General Land Office (GLO) (including all supporting documentation as may be required by the GLO) for the Community Development Block Grant-Mitigation (CDBG-MIT) Program (Floods of 2016 - DR-4266, DR-4269, DR-4272)

To: Mayor and Council

From: Dane Rau, Director of Public Works
Crystal Locke, Community Services Specialist

Subject: Submission of a Grant Application to the Texas General Land Office (GLO) for the Community Development Block Grant – Mitigation (CDBG-MIT) Program (Floods of 2016 – DR-4266, DR-4269, DR-4272)

Date: October 8, 2020

The Texas General Land Office (GLO) has developed a $147.6 million competition for the impacted regions associated with the flooding events of 2016. The Program allocation is split between the HUD Most Impacted and Distressed and the State Most Impacted and Distressed (50% allocated of the $147.6 million respectively). For the City of Brenham this means the competition will be within the State Most Impacted and Distressed for $73.8 million.

On June 11, 2020, Council awarded Bid No. 20-005 related to the grant administration and/or planning services for the Community Development Block Grant - Mitigation (CDBG-MIT) program to Public Management. On August 6, 2020, Council awarded RFQ No. 20-006 related to engineering/architectural/surveying services for the CDBG-MIT program to Strand Associates. City staff and both parties met mid-August to collaborate and discuss mitigation projects that will reduce the risks and impacts of future natural disasters pertaining to the 2016 Flood State Competition.

Attached is information for the City's application in the upcoming CDBG-MIT-2016 Floods competition. The project consists of major drainage improvements pertaining to the Hog Branch tributary throughout the central area of the City, project map, and description attached. On September 25, the City of Brenham gave notice of the City's intent to apply to the Texas General Land Office (GLO) for a Texas CDBG-MIT Program. The City requested public comments for fourteen (14) days from the date of the posting which ended October 9. No comments were received.

The final application budget is presented below:

Activity	**Grant**	**Match**	**Total**
Construction	$2,577,994.00	$34,006.00	$2,612,000.00
Engineering	$414,800.00	$0.00	$414,800.00
Acquisition	$153,800.00	$0.00	$153,800.00
Administration	$254,000.00	$0.00	$254,000.00
Total	**$3,400,594.00**	**$34,006.00**	**$3,434,600.00**

The 1% local match commitment has been allocated to the construction activity and will be expected to be expended at the start of construction. The match is committed by the City of Brenham from the Drainage Utility Fund.

In addition, the following items are included for final approval and authorization to submit this application to the Texas General Land Officer on or before October 28, 2020.

- Application Resolution
- SF-424 Form
- Local Certification

Staff learned recently that the GLO is requiring a signed engineering contract to be included in the application for funding. Unfortunately, due to the complexity of these projects and time constraints for the application Strand Associates does not have the ability to write a comprehensive scope to associate with the specific projects. Due to the lack of project specific scope, the fees are not being included on the contract. The language regarding the 15% engineering fee cap is included on the contact. The contract is written so that the detailed scope and fee can be addressed by amendment when the project receives funding. The attached engineering contract has been prepared using the GLO contract template. The engineering fees for the 2016 Floods grant are currently $414,800.

RESOLUTION NO: R-20-029

A RESOLUTION OF THE CITY COUNCIL OF BRENHAM, TEXAS, AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE TEXAS GENERAL LAND OFFICE (GLO) FOR COMMUNITY DEVELOPMENT BLOCK GRANT - MITIGATION (CDBG-MIT) PROGRAM; AND AUTHORIZING THE MAYOR AND/OR CITY MANAGER TO ACT AS THE CITY'S EXECUTIVE OFFICER(S) AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT – MITIGATION (CDBG-MIT) PROGRAM.

WHEREAS, the Floods of 2016 (DR-4266, DR-4269. DR-4272) severely impacted the City of Brenham; and

WHEREAS, the City of Brenham desires to increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters; and

WHEREAS, the City of Brenham desires a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, the City of Brenham aims to Affirmatively Further Fair Housing by identifying projects that overcome or do not increase patterns of residential segregation based on race, color, religion, national origin, sex, disability or family status;

WHEREAS, it is necessary and in the best interests of the City of Brenham to apply for funding under the Community Development Block Grant – Mitigation (CDBG-MIT) Program;

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

1. That a Community Development Block Grant – Mitigation (CDBG-MIT) Fund application, including all supporting documentation as may be required by the GLO, is hereby authorized to be filed by the City of Brenham with the General Land Office for the mitigation efforts under the 2016 Floods Competition.
2. That the projects detailed within the application will address major drainage improvements at various sites throughout the City of Brenham which were identified as a risk due to Hurricanes/Tropical Storms/Tropical Depressions and Riverine Flooding, thereby placing undue and certain health and safety risks on residents.
3. That the CDBG-MIT Application request amount be filed for **$3,400,594.00**.

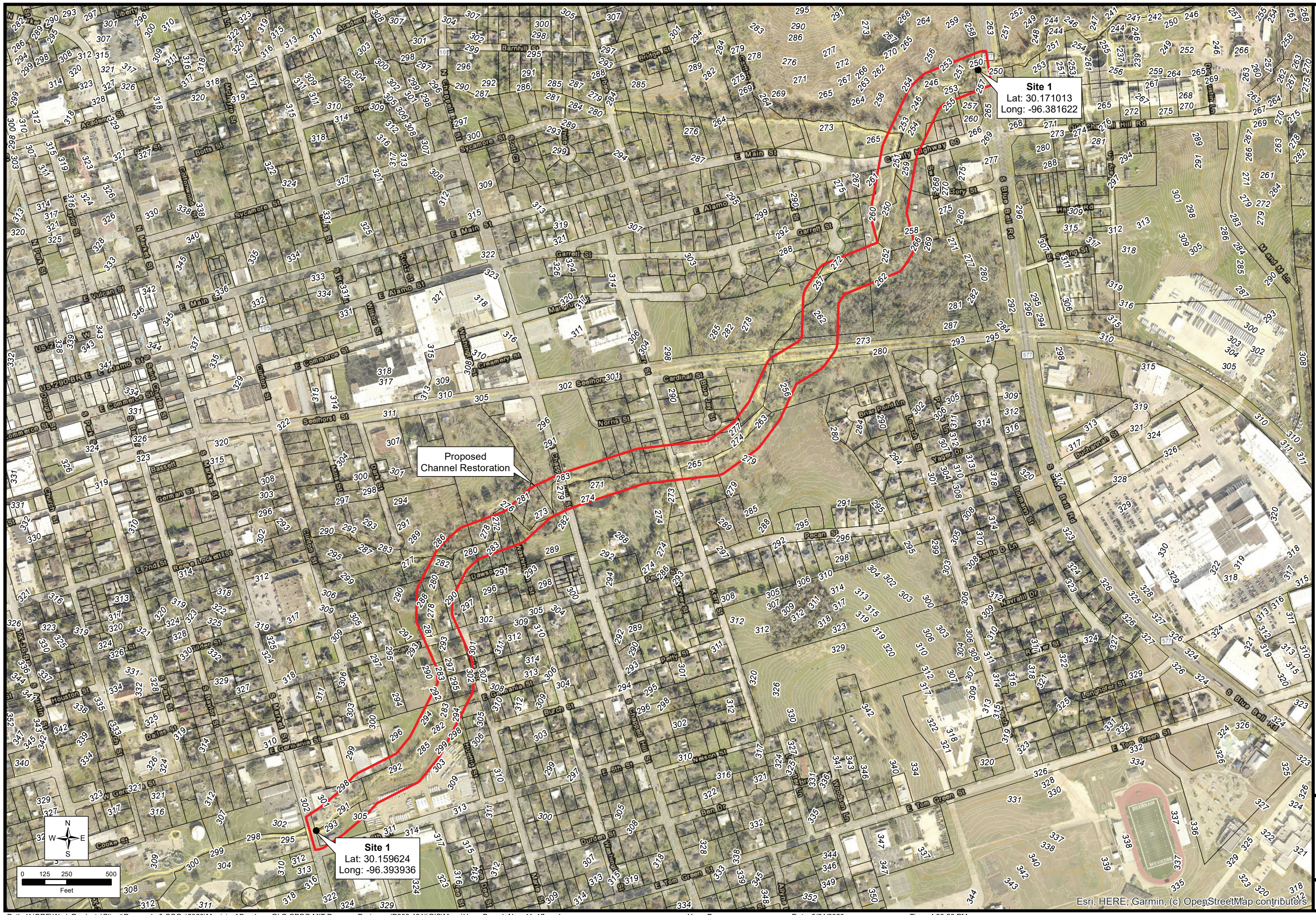
4. That the application will require a 1% cash match, based on CDBG-MIT application request amount, in the amount of **$34,006.00** committed by the City of Brenham from the **Drainage Utility Fund**.
5. That the total project cost is **$3,434,600.00** to include construction, engineering, acquisition, and administration services.
6. That the City Council directs and designates the Mayor and/or City Manager as the City's Chief Executive Officer(s) and Authorized Representative to act in all matters in connection with this application, including but not limited to providing all supporting documentation as may be required by the GLO, and the City's participation in the Community Development Block Grant - Mitigation (CDBG-MIT) Program.
7. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, fair housing, and civil rights requirements.

Passed and approved this 15th day of October 2020.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



HOGG BRANCH

GLO CDBG-MIT PROGRAM - INFRASTRUCTURE PROJECTS
CITY OF BRENHAM
WASHINGTON COUNTY, TEXAS

STRAND ASSOCIATES®

1

Path: K:\BRE\Work Products\Client\Proposals & SOQs\2020\Municipal\Brenham-GLO CDBG MIT Program-Drainage (P200.494)\GIS\Maps\Hogg Branch New 11x17.mxd User: Danc Date: 9/24/2020 Time: 4:33:26 PM

Strand Associates, Inc.®
1906 Niebuhr Street
Brenham, TX 77833
(P) 979.836.7937

Brenham Community Development Block Grant (CDBG)–Mitigation (MIT)
2016 Project Description
City of Brenham, Texas (City)

Hazard and Risk Description

The portions of the City within the Hogg Branch Creek watershed have a history of experiencing significant impacts from flooding and drainage issues. The Hogg Branch Creek area is heavily wooded, eroded, and silted-up, restricting the amount of stormwater conveyance to travel out of the City. Past drainage issues in the City and proposed flood mitigation recommendations are documented in the "Comprehensive City Plan," dated September 19, 2019. It is noted that several undersized and/or damaged drainage facilities within the City are in need of rehabilitation.

Hazard Mitigation Actions

The proposed drainage improvement activity includes bank stabilization and erosion control measures that will serve to reduce the flooding hazards and potential loss of infrastructure for Hogg Branch Creek. The proposed project in this application will further enhance past projects that the City has conducted, which include several drainage improvements projects, such as the Louanna Estates Subdivision storm sewer upsizing, Park Street downtown improvements, and channel restoration west of Jackson Street. Furthermore, the proposed project in this application will satisfy the need for reducing the risk of flooding with regional stormwater management improvements outlined in the 2019 City Comprehensive Plan.

Provide a Project Summary

Hogg Branch Creek is a main drainage channel that travels directly through the middle of the City, conveying stormwater runoff from the western to the eastern side of the City. There is visual evidence of significant streambank erosion, which has resulted in transport and deposition of sediment and debris within receiving downstream reaches of Hogg Branch Creek. The existing conditions of this channel consist of heavily wooded areas and high erosion, resulting in the future loss of buildings and infrastructure if not bank stabilized. The goal of this project is to perform streambank regrading improvements, removal of debris and vegetation, and embankment protection. The regraded streambanks and streambed will be armored with permanent articulated concrete stabilization measures and equipped with open cells backfilled with soil that allow for native vegetation to be established. A restored streambed will also aid in the City's need for regional detention within the City, as depicted in the 2019 City Comprehensive Plan.

STRAND ASSOCIATES, INC.®

Kelly M. Hajek, P.E. — September 25, 2020 (Date)

KMH:cdj\K:\BRE\Work Products\Client\Proposals & SOQs\2020\Municipal\Brenham-GLO CDBG MIT Program-Drainage (P200.494)_APPLICATION\To Public Management\2016\BRENHAM 2016 Project Description Attachment.09242020.docx

October 7, 2020

Mayor and Council
City of Brenham
200 W. Vulcan
Brenham, Texas 77833

RE: Brenham CDBG-MIT (2016 Floods) Application

Dear Mayor and Council:

Please allow this letter, and the detail contained within, to serve as the basis for discussion for the City's application in the upcoming Community Development Block Grant – Mitigation (CDBG-MIT-2016 Floods) competition. The project consists of major drainage improvements in the central area of the City. The final application budget is presented below:

Activity	Grant	Match	Total
Construction	$2,577,994.00	$34,006.00	$2,612,000.00
Engineering	$414,800.00	$0.00	$414,800.00
Acquisition	$153,800.00	$0.00	$153,800.00
Administration	$254,000.00	$0.00	$254,000.00
Total	$3,400,594.00	$34,006.00	$3,434,600.00

Please note, the 1% local match commitment has been allocated to the construction activity and will be expected to be expended at the start of construction.

In addition, the following items are included for final approval and authorization to submit this application to the Texas General Land Officer on or before October 28, 2020:

- Application Resolution
- SF-424 Form (requires signature)
- Local Certification (requires signature)

The approved application resolution and the forms requiring signatures will need to be completed and sent back to me for inclusion with the official application material.

Respectfully,

Nic Houston

View Burden Statement

OMB Number: 4040-0004
Expiration Date: 12/31/2022

Application for Federal Assistance SF-424

* 1. Type of Submission:	☐ Preapplication ☒ Application ☐ Changed/Corrected Application
* 2. Type of Application:	☒ New ☐ Continuation ☐ Revision
* If Revision, select appropriate letter(s):	
* Other (Specify):	
* 3. Date Received:	10/28/2020
4. Applicant Identifier:	
5a. Federal Entity Identifier:	
5b. Federal Award Identifier:	

State Use Only:

6. Date Received by State:	
7. State Application Identifier:	

8. APPLICANT INFORMATION:

* a. Legal Name:	City of Brenham
* b. Employer/Taxpayer Identification Number (EIN/TIN):	76-6000404
* c. Organizational DUNS:	0741649220000

d. Address:

* Street1:	200 W. Vulcan
Street2:	
* City:	Brenham
County/Parish:	
* State:	TX: Texas
Province:	
* Country:	USA: UNITED STATES
* Zip / Postal Code:	77833-0000

e. Organizational Unit:

Department Name:	City of Brenham
Division Name:	Administration

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:	Mr.
* First Name:	Milton
Middle Name:	Y.
* Last Name:	Tate
Suffix:	Jr.
Title:	Mayor
Organizational Affiliation:	Administration
* Telephone Number:	979-377-7200
Fax Number:	
* Email:	mtate@cityofbrenham.org

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

C: City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

United States Department of Housing and Urban Development

11. Catalog of Federal Domestic Assistance Number:

14.228

CFDA Title:

Community Development Block Grant - Mitigation (CDBG-MIT)

*** 12. Funding Opportunity Number:**

FR-6109-N-02

* Title:

Community Development Block Grant - Mitigation (CDBG-MIT)

13. Competition Identification Number:

N/A

Title:

N/A

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment | Delete Attachment | View Attachment

*** 15. Descriptive Title of Applicant's Project:**

Flood & Drainage Activities. Area wide Benefit.

Attach supporting documents as specified in agency instructions.

Add Attachments | Delete Attachments | View Attachments

Application for Federal Assistance SF-424

16. Congressional Districts Of:

* a. Applicant: 10

* b. Program/Project: CDBG

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment | Delete Attachment | View Attachment

17. Proposed Project:

* a. Start Date: 11/01/2021

* b. End Date: 10/31/2027

18. Estimated Funding ($):

* a. Federal	3,400,594.00
* b. Applicant	34,006.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	3,434,600.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on ______.

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☒ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment | Delete Attachment | View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr.

* First Name: Milton

Middle Name: Y.

* Last Name: Tate

Suffix: Jr.

* Title: Mayor

* Telephone Number: 979-377-7200

Fax Number:

* Email: mtate@cityofbrenham.org

* Signature of Authorized Representative:

* Date Signed:

Each Applicant for Community Development Block Grant Mitigation ("CDBG-MIT") funding must complete Federal Assistance Standard Form 424 (SF-424) and certify that local certifications included in this application guide were followed in the preparation of any CDBG-MIT program application. Additionally, Applicant must certify that it will continue to follow local certifications in the event that funding is awarded and Applicant is reclassified as a Subrecipient.

Each Applicant/Subrecipient must comply with the provisions of the National Environmental Policy Act ("NEPA"), the Council on Environmental Quality ("CEQ") regulations, the requirements set forth in Title 24 of the Code of Federal Regulations ("CFR") part 58, and applicable Texas General Land Office policy directives.

Each Applicant/Subrecipient must comply with all applicable federal and state laws, including environmental, labor (Davis-Bacon Act), the procurement procedures and contract requirements found at 2 C.F.R. §200.318 – §200.326, and all civil rights requirements.

Each Applicant/Subrecipient certifies, as outlined in 84 FR 45838 (August 30,2019), the following:

A. The Applicant/Subrecipient certifies that it has in effect and if following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with CDBG-MIT funds.

B. The Applicant/Subrecipient certifies its compliance with restrictions on lobbying as required by 24 C.F.R. part 87, together with disclosure forms, if required by part 87.

C. Any entity or entities designated by the subrecipient, and any contractor, subrecipient, or designated public agency carrying out an activity with CDBG-MIT funds, possess(es) the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and the federal register notice. The subrecipient certifies that activities to be undertaken with CDBG-MIT funds are consistent with the Action Plan.

D. The Applicant/Subrecipient certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Act ("URA"), as amended, and implementing regulations at 49 CFR part 24, except where waivers or alternative requirements are provided for CDBG-MIT funds.

E. The Applicant/Subrecipient certifies that it will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u) and implementing regulations at 24 C.F.R. part 135.

F. The Applicant/Subrecipient certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR §91.115 or §91.105 (except as provided for in notices providing waivers and alternative requirements for this grant). Also, each local government receiving assistance from a state grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR §570.486 (except as provided for in notices providing waivers and alternative requirements for this grant).

G. The Applicant/Subrecipient certifies that it is complying with each of the following criteria:

1) Funds will be used solely for necessary expenses related to mitigation activities, as applicable, in the most impacted and distressed areas for which the President declared a major disaster in 2015, 2016, or 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. §5121 et seq.).

2) With respect to activities expected to be assisted with CDBG-MIT funds, the relevant action plan has been developed to give priority to activities that will benefit low- and moderate-income families.

3) The aggregate use of CDBG-MIT funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 50 percent (or another percentage permitted by HUD in a waiver published in an applicable Federal Register notice) of the CDBG-MIT grant amount is expended for activities that benefit such persons.

4) The Applicant/Subrecipient will not attempt to recover any capital costs of public improvements assisted with CDBG-MIT funds by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

i. CDBG-MIT funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or

ii. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (a).

H. The Applicant/Subrecipient certifies that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d), the Fair Housing Act (42 U.S.C. §3601-§3619), and implementing regulations, and that it will affirmatively further fair housing.

I. The Applicant/Subrecipient certifies that it has adopted and is enforcing the following policies, and, in addition, must certify that they will require local governments that receive grant funds to certify that they have adopted and are enforcing:

1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations;

2) A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

J. The Applicant/Subrecipient certifies that it (and any administering entity) currently has or will develop and maintain the capacity to carry out mitigation activities, as applicable, in a timely manner and that the subrecipient has reviewed the respective requirements of this notice.

K. The Applicant/Subrecipient certifies that it will not use CDBG-MIT funds for any activity in an area identified as flood prone for land use or hazard mitigation planning purposes by the state, local, or tribal government or delineated as a Special Flood Hazard Area (or 100-year floodplain) in FEMA's most current flood advisory maps, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain, in accordance with Executive Order 11988 and 24 C.F.R. part 55. The relevant data source for this provision is the state, local, and tribal government land use regulations and hazard mitigation plans and the latest-issued FEMA data or guidance, which includes advisory data (such as Advisory Base Flood Elevations) or preliminary and final Flood Insurance Rate Maps.

L. The Applicant/Subrecipient certifies that its activities concerning lead-based paint will comply with the requirements of 24 CFR part 35, subparts A, B, I, K, and R.

M. The Applicant/Subrecipient certifies that it will comply with environmental requirements at 24 CFR part 58.

N. The Applicant/Subrecipient certifies that it will comply with applicable laws.

WARNING: ANY PERSON WHO KNOWLINGLY MAKES A FALSE CLAIM OR STATEMENT TO HUD MAY BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES UNDER 18 U.S.C. §287; 18 U.S.C. §1001, AND 31 U.S.C. § 3729.

Except as otherwise provided under federal law, any person who knowingly and willfully falsifies, conceals, or covers up a material fact by any trick, scheme or device or who makes any materially false, fictitious, or fraudulent statement or representation or who makes or uses any false writing or document knowing the writing or document to contain materially false, fictitious, or fraudulent statement or entry shall be prosecuted under Title 18, United States Code, §1001.

Milton Y. Tate, Jr., Mayor

______________________________ ____________

Printed Name of Authorized Signatory *Date*

____

Signature of Authorized Signatory

PROFESSIONAL ENGINEERING SERVICES FOR MITIGATION PROJECTS UNDER THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

THE City of Brenham, Texas, (the "Subrecipient") and Strand Associates, Inc.®, Tax Identification Number 39-1020418 ("Provider"), each a "Party" and collectively, "the Parties," enter into the following contract as of August 6, 2020,for professional engineering services (the "Contract") pursuant to the Professional Services Procurement Act, TEX. GOVT. CODE 2254 and 2 C.F.R. Part 200.

WHEREAS, the Subrecipient has applied for U.S. Department of Housing and Urban Development Community Development Block Grant–Mitigation ("CDBG-MIT") 2016 Flood funds, administered by the Texas General Land Office ("GLO") for mitigation assistance; and

WHEREAS, the CDBG-MIT program is funded under the Housing and Urban Development, Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018, Division B, Subdivision 1 of the Bipartisan Budget Act of 2018, Pub. L. No. 115-123.

NOW, THEREFORE, the Parties agree to the following terms and conditions:

I. DEFINITIONS/INTERPRETIVE PROVISIONS/PROJECT DESCRIPTION

1.01 DEFINITIONS

"Activity" means a defined class of works or services authorized to be accomplished using CDBG-MIT grant funds. Activities are specified in Subrecipient Budgets as 'Category,' and the terms are interchangeable under this Contract.

"Administrative and Audit Regulations" means the regulations included in Title 2, CFR, Part 200. Chapter 321 of the Texas Government Code; Subchapter F of Chapter 2155 of the Texas Government Code; and the requirements of Article VII herein. With regard to any federal funding, agencies with the necessary legal authority include: the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of Inspector General, and any of their authorized representatives. In addition, state agencies and/or designee's with the authority to audit and inspect include, the Subrecipient, the GLO, the GLO's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office and the Texas Comptroller of Public Accounts.

"Attachment" means documents, terms, conditions, or additional information physically added to this Contract following the execution page, or incorporated by reference, as if physically.

"Benchmark" or "Billing Milestone" means a clearly defined set of incremental services that must be performed; or an interim level of accomplishment that must be met by Provider in order to receive periodic incremental and final reimbursement for services under this Contract.

"CDBG—MIT" means the Community Development Block Grant—Mitigation Program administered by the U.S. Department of Housing and Urban Development, in cooperation with the GLO.

"Certificate of Construction Completion" means a document submitted by an engineer or, if none, a construction contractor, to a Subrecipient which, when executed by the Subrecipient, indicates acceptance of the non-housing project, as built.

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

"Contract Period" means the period of time between the effective date of a contract and its expiration or termination date.

"Deliverable" means a unit or increment of work to include, any item, report, data, document, photograph, or other submission required to be delivered under the terms of this Contract, in whatever form.

"Federal Assurances" means Standard Form 424B (Rev. 7-97 (non-construction projects; or Standard Form 424D (Rev. 7-97 (construction projects, in **Attachment A,** attached hereto and incorporated herein for all purposes.

"Federal Certifications" means U.S. Department of Commerce Form CD-512 (12-04, "Certifications Regarding Lobbying – Lower Tier Covered Transactions," also in **Attachment A**, attached hereto and incorporated herein for all purposes.

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

"GAAP" means "Generally Accepted Accounting Principles." "GASB" means the Governmental Accounting Standards Board.

"General Affirmations" means the statements in **Attachment B**, attached hereto and incorporated herein for all purposes, which Provider affirms by executing this Contract.

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

"HSP" means HUB Subcontracting Plan, as outlined by Chapter 2161 of the Texas Government Code.

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

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

"Mentor Protégé" means the Comptroller of Public Accounts' leadership program found at: http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/

"Non-housing" refers to a project involving the restoration and/or repair of infrastructure facilities and the economic revitalization activities approved under a CDBG-MIT program grant.

"Performance Statement" means Provider's detailed project summary hereby incorporated for all purposes as **Attachment C**.

"Project" means the professional engineering services described in **SECTION 1.03** of this Contract and in any applicable Attachments.

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

"Project Implementation Manual" means a set of guidelines for the CDBG-MIT Program, incorporated herein by reference for all purposes in its entirety.

"Project Period" means the stated time for completion of a Project assigned by Work Order, if any.

"Prompt Pay Act" means Chapter 2251, Subtitle F of Title 10 of the Texas Government Code.

"Provider" means Strand Associates, Inc, selected to provide the services under this Contract, if any.

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

"Quarterly Report" means a document submitted by Provider to a Subrecipient for approval and submission to the GLO as a condition of reimbursement, as discussed in **SECTION 1.05** and **ARTICLE III**, below.

"RFQ/RFP" means the Subrecipient's Request for Qualifications/Proposals, or the Solicitation, as defined below.

"Scope of Services" means Provider's detailed scope of services hereby incorporated for all purposes as **Attachment H and I.**

"Solicitation" means Subrecipient's Request for Qualifications/Proposals, including any Addenda.

"Solicitation Response" means Provider's full and complete response to the Solicitation, including any Addenda.

"State of Texas TexTravel" means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

"Subcontractor" means an individual or business that signs a contract to perform part or all of the obligations of Provider under this Contract.

"Subrecipient" means City of Brenham, Texas, a local governmental body or political subdivision that receives funds under HUD's CDBG—MIT Program for non-housing projects.

"Subrecipient Agreement" means the contractual agreement for a CDBG-MIT non-housing grant between the GLO and the Subrecipient for which Provider performs services assigned by the Subrecipient, if any.

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

1.02 INTERPRETIVE PROVISIONS

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms;

(b) The words "hereof," "herein," "hereunder," and similar words refer to this Contract as a whole and not to any particular provision, section, attachment, work order, or schedule of this Contract unless otherwise specified;

(c) The term "including" is not limiting and means "including without limitation" and, unless otherwise expressly provided in this Contract, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent that such amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation;

(d) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract;

(e) All attachments within this Contract, including those incorporated by reference, and any amendments are considered part of the terms of this Contract;

(f) This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each shall be performed in accordance with its terms;

(g) Unless otherwise expressly provided, reference to any action of the Subrecipient or by the Subrecipient by way of consent, approval, or waiver shall be deemed modified by the phrase "in its/their sole discretion." Notwithstanding the preceding sentence, any approval, consent, or waiver required by, or requested of, the Subrecipient shall not be unreasonably withheld or delayed;

(h) Time is of the essence in this Contract.

(i) In the event of conflicts or inconsistencies between this contract and its attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: Signed Contract; Attachments to the Contract: Attachment A, Attachment B, Attachment C, Attachment D, Attachment E, Attachment F, Attachment G and Attachment H. Solicitation Documents; and Provider's Response to Solicitation.

1.03 PROJECT

Provider shall perform, or cause to be performed, professional engineering services as required for disaster recovery projects in the City of Brenham, Washington County, Texas, authorized under GLO Contract No. TBD as ("Subrecipient's Contract"), as may be amended from time to time, and as outlined in detail in the Performance Statement, attached hereto and incorporated herein for all purposes as **Attachment C** ("the Project").

Provider is responsible for obtaining Subrecipient's most current performance statement and Implementation Schedule, Budget ("Subrecipient's Documents"), and any other documentation which may be required to accomplish the Project that is the subject of this Contract. Such documents are incorporated herein by reference in their entirety for all purposes.

No services may begin and no charges may be incurred prior to the effective date of Subrecipient's Contract and/or Amendment, to which this Contract is related, with the exception of assistance to Subrecipient in completing the grant application as necessary, and other pre-execution services authorized by prior, written approval of the GLO, if any. Subrecipient Documents may be obtained from the Subrecipient or the Subrecipient's Grant Administrator, and their effective date and status as executed documents must be confirmed by Provider prior to commencement of any services.

1.04 REPORTING REQUIREMENTS

Provider shall assist the Subrecipient to timely submit all reports and documentation that are required under this Contract and any Subrecipient Contract.

MONTHLY REPORTS–APPLICABLE TO NON-HOUSING AND HOUSING PROJECTS:

MONTHLY REPORTS ARE REQUIRED AS A CONDITION OF REIMBURSEMENT TO ALL SUBRECIPIENTS. It is incumbent upon Provider to facilitate the submission of each Monthly Report in a timely manner. Each Monthly Report shall include progress made since the prior reporting period, current Benchmarks achieved, projected quantities, problems encountered and detailed plans to correct them, goals to be accomplished in the subsequent reporting period, and any other information as may be required by the GLO.

The GLO may review the Monthly Report(s) and may request revisions to be made. Provider shall make itself aware of such revision requests and shall assist the Subrecipient in making appropriate revisions. Upon acceptance of the Monthly

Report and submission of a properly prepared invoice, appropriate payment may be made to Subrecipient and to Provider.

Provider shall facilitate the timely submission to the GLO of such additional information by the Grant Recipient.

Reimbursement may be withheld if a Monthly Report is delinquent or deficient, in the sole discretion of the GLO.

Provider shall submit to the Subrecipient all reports, drawings, surveys, designs, and such other work products as required by the Scope of Services in **Attachments H and I** of this Contract and Subrecipient's Contract, and in accordance with the Project Implementation Manual, and any Technical Guidance Letters or Revisions issued by the GLO, if any.

FINAL DOCUMENTATION: By the close of business no later than thirty (30) days after completion of a construction project, Provider shall submit to the Subrecipient and to Subrecipient's Grant Administration Provider, if any, a copy of the executed Certificate of Construction Completion ("COCC") for the project which must include a final, **' as built"** report of quantities, drawings, and specifications used during the course of the project, with justification as to why any variances from original plans, approved pursuant to **SECTION 1.04(c)** of Provider's Contract, were required. **Notwithstanding the preceding** the GLO, in its sole discretion, may approve extensions to this Deliverable due date. Such approvals must be in writing, and may be delivered by regular mail, electronic mail, or facsimile transmission.

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II. TERM

2.01 DURATION

This Contract shall be effective as of the date of award and shall terminate after closing of project with GLO. Any extensions will be subject to terms and conditions mutually agreeable to both parties.

2.02 ABANDONMENT OR DEFAULT

If the Provider defaults on the Contract, the Subrecipient reserves the right to cancel the Contract without notice and either re-solicit or re-award the Contract to the next best responsive and responsible vendor qualified under the Solicitation. The defaulting provider will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of services, unless the specification or scope of services significantly changed. The period of suspension will be determined by the Subrecipient based on the seriousness of the default.

2.03 TERMINATION OF CONTRACT FOR CAUSE

If the Provider fails to fulfill in a timely and proper manner its obligations under this Contract, or if the Provider violates any of the covenants, conditions, agreements, or stipulations of this Contract, the Subrecipient shall have the right to terminate this Contract by giving written notice to the Provider of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Provider pursuant to this Contract shall, at the option of the Subrecipient, be turned over to the Subrecipient and become the property of the Subrecipient. In the event of termination for cause, the Provider shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Provider shall not be relieved of liability to the Subrecipient for damages sustained by the Subrecipient by virtue of any breach of the Contract by the Provider, and the Subrecipient may set-off the damages, upon notification to Provider, it incurred as a result of the Provider’s breach of the contract from any amounts it might otherwise owe the Provider.

2.04 TERMINATION FOR CONVENIENCE OF THE CITY/COUNTY

Subrecipient may at any time and for any reason terminate Provider’s services at Subrecipient’s convenience upon providing written notice to the Provider specifying the extent of termination and the effective date. Upon receipt of such notice, Provider shall, unless the notice directs otherwise, immediately discontinue the services and placing of orders for materials, facilities and supplies in connection with the performance of this Contract.

Upon such termination, Provider shall be entitled to payment only as follows: (1) the actual cost of the services completed in conformity with this Contract; plus, (2) such other costs actually incurred by Provider as are permitted by this contract and approved by Subrecipient; (3) plus ten percent (10%) of the cost of the services referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Provider prior to the date of the termination of this Contract. Provider shall not be entitled to any claim or claim of lien against Subrecipient for any additional compensation or damages in the event of such termination and payment.

2.05 CHANGES

The Subrecipient may, from time to time, request changes in the services the Provider will perform under this Contract. Such changes, including any increase or decrease in the amount of the Provider's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Contract.

2.06 RESOLUTION OF PROGRAM NON-COMPLIANCE AND DISALLOWED COSTS

In the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or CDBG-MIT program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Contract and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

2.07 PERSONNEL

a. The Provider represents that he/she/it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Subrecipient.

b. All of the services required hereunder will be performed by the Provider or under its supervision and all personnel engaged in the services shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

c. None of the services covered by this Contract shall be subcontracted without the prior written approval of the Subrecipient. Any services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

2.08 ASSIGNABILITY

The Provider shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the Subrecipient thereto; provided, however, that claims for money by the Provider from the Subrecipient under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Subrecipient.

2.09 REPORTS AND INFORMATION

The Provider, at such times and in such forms as the Subrecipient may require, shall furnish the Subrecipient such periodic reports as it may request pertaining to the services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

2.10 RECORDS AND AUDITS

The Subrecipient shall maintain fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to 2 CFR 200.300-.309, 24 CFR 570.490, and this Contract. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Contract. The Subrecipient shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Contract or the period required by other applicable laws and regulations.

2.11 FINDINGS CONFIDENTIAL

All of the reports, information, data, etc., prepared or assembled by the Provider under this contract are confidential and the Provider agrees that they shall not be made available to any individual or organization without the prior written approval of the Subrecipient.

2.12 COPYRIGHT

No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Provider.

2.13 COMPLIANCE WITH LOCAL LAWS

The Provider shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Provider shall save the Subrecipient harmless with respect to any damages arising from any tort related to Provider's negligence in performing any of the services embraced by this Contract.

2.14 CONFLICTS OF INTEREST

a. Governing Body. No member of the governing body of the Subrecipient and no other officer, employee, or agent of the Subrecipient, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of CDBG-MIT award between GLO and the Subrecipient, shall have any personal financial interest, direct or indirect, in the Provider or this Contract; and the Provider shall take appropriate steps to assure compliance.

b. Other Local Public Officials. No other public official, who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the CDBG-MIT award between GLO and the Subrecipient, shall have any personal financial interest, direct or indirect, in the Provider or this Contract; and the Provider shall take appropriate steps to assure compliance.

c. The Provider and Employees. The Provider warrants and represents that it has no conflict of interest associated with the CDBG-MIT award between GLO and the Subrecipient or this Contract. The Provider further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the CDBG-MIT award between GLO and the Subrecipient or in any business, entity, organization or person that may benefit from the award. The Provider further agrees that it will not employ an individual with a conflict of interest as described herein.

2.15 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

The Provider certifies, by entering into this Contract, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term "principal" for purposes of this Contract is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Provider. The Provider understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

2.16 EQUAL OPPORTUNITY CLAUSE (APPLICABLE TO CONTRACTS AND SUBCONTRACTS OVER $10,000).

- The Provider will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- The Provider will, in all solicitations or advertisements for employees placed by or on behalf of the Provider, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- The Provider will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- The Provider will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Provider's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- The Provider will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity," and of the rules, regulations, and relevant orders of the Secretary of Labor.

- The Provider will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- In the event of the Provider 's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Provider may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- The Provider will include the portion of the sentence immediately preceding paragraph

(a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Provider will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Provider becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Provider may request the United States to enter into such litigation to protect the interests of the United States.

2.17 CIVIL RIGHTS ACT OF 1964

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

2.18 SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

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

2.19 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The Provider agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.

2.20 AGE DISCRIMINATION ACT OF 1975

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

2.21 BYRD ANTI-LOBBING AMENDMENT (31 U.S.C. 1352) (IF CONTRACT GREATER THAN OR EQUAL TO $100,000)

The Provider certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining this contract. The Provider shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

2.22 EXTENT OF CONTRACT

This Contract, which includes Parts I-VIII, and Attachments A - H represents the entire and integrated agreement between the Subrecipient and the Provider and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by authorized representatives of both Subrecipient and the Provider.

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III. CONSIDERATION

3.01 CONTRACT LIMIT, FEES, AND EXPENSES

The application will be completed at $__________ amount. (To be amended and added with funding.)

Provider will be compensated on a negotiated fee basis, for a not to exceed 15% for the maximum amount available for such services as prescribed by the Subrecipient Contract, the GLO, HUD or any governing law, for the term of this Contract. Shall be reimbursable in increments as shown in the Benchmarks in **Attachment C** for the type of services to be performed. The Subrecipient agrees to pay Provider in accordance with The Prompt Pay Act, Tex. Govt. Code Ch. 2251.

Grant funds must not be commingled between or among HUD funding rounds; nor between or among Non-Housing and Housing assignments.

Reimbursement for services may be requested based on the Benchmarks**,** according to the type of services authorized, contingent upon Provider's facilitation of the timely submission of each Monthly Report required, as discussed in **SECTION 1.04** above.

At a minimum, invoices must clearly reflect:

(a) Provider's Contract Number;

(b) Service Period

(c) the name and GLO Contract Number (12 digits) of the Subrecipient Contract to which services have been provided;

(d) the current amount being billed;

(e) the cumulative amount billed previously;

(f) the balance remaining to be billed; and

(g) an itemized statement of services performed, including documentation as required under the Contract, such as invoices, receipts, statements, stubs, tickets, time sheets, and any other which, in the judgment of the Subrecipient, provides full substantiation of reimbursable costs incurred.

Subject to the maximum Contract amount authorized herein, upon specific, prior, written approval by the Subrecipient, lodging, travel, and other incidental direct expenses may be reimbursed under this Contract for professional or technical personnel who are (a) away from the cities in which they are permanently assigned; (b) conducting business specifically authorized by the Subrecipient; and (c) performing services not originally contemplated in the Scope of Services.

NOTICE TO PROVIDER:

Failure to include all of the information required in **SECTION 3.01** with each invoice may result in a significant delay in processing payment for the invoice.

Not-To-Exceed Draw Percentages	
Milestones	**Engineering Funds**
Engineering Notice to Proceed	30%
100% Design Approval	60%
Bid Advertisement	70%
Construction Notice to Proceed	85%
Record Drawings/COCC/FWCR	100%

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IV. PROVIDER'S WARRANTY, AFFIRMATIONS, AND ASSURANCES

4.01 PERFORMANCE WARRANTY

Provider represents that all services performed under this Contract will be performed in a manner consistent with a degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Provider represents that all work product, including Deliverables if any, under this Contract shall be completed in a manner consistent with standards in the applicable trade, profession, or industry; shall conform to the specifications set forth in the incorporated Attachments (if any). If Provider fails to submit Deliverables timely or to perform satisfactorily under conditions required by this Contract, the Subrecipient may require Provider, at its sole expense, to the extent such defect or damage is caused by the negligence of Provider, to (a) repair or replace all defective or damaged Deliverables; (b) refund any payment received for all defective or damaged Deliverables and, in conjunction therewith, require Provider to accept the return of such Deliverables; and/or (c) take necessary action so that future performance and Deliverables conform to the Contract requirements.

4.02 GENERAL AFFIRMATIONS

To the extent that they are applicable, Provider further certifies that the General Affirmations in **Attachment B** have been reviewed, and that Provider is in compliance with each of the requirements reflected therein.

4.03 FEDERAL ASSURANCES

To the extent that they are applicable, Provider further certifies that the Federal Assurances in **Attachment A** have been reviewed and that Provider is in compliance with each of the requirements reflected therein. The Federal Assurance form must be executed by Provider's authorized signatory.

4.04 FEDERAL CERTIFICATIONS

To the extent that they are applicable, Provider further certifies that the Federal Certifications also in **Attachment A** have been reviewed, and that Provider is in compliance with each of the requirements reflected therein. The Federal Certifications form must be executed by Provider's authorized signatory.

In addition, Provider certifies that it is in compliance with any other applicable federal laws, rules, or regulations, as they may pertain to this Contract including, those listed in Attachment D.

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V. FEDERAL AND STATE FUNDING, RECAPTURE OF FUNDS, AND OVERPAYMENT

5.01 FEDERAL FUNDING

(a) Funding for this Contract is appropriated under the Housing and Urban Development, and the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018, Pub. L. 115-123) enacted on February 9, 2018. It is to mitigate disaster risk and reduce future losses, and allow grantees the opportunity to transform state & local planning, and to affirmatively further fair housing in accordance with Executive Order 12892, in areas affected by the 2015, 2016 & Hurricane Harvey (2017) Floods, which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The Fulfillment of the Contract is based on those funds being made available to the GLO as the lead administrative state agency. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the CDBG-MIT Program, and any other applicable laws. Further, Provider acknowledges that all funds are subject to recapture and repayment for non-compliance.

(b) All participants in the CDBG-MIT grant program must have a data universal numbering system (DUNS) number, as well as a Commercial and Government Entity (CAGE) Code.

(c) The DUNS number and CAGE Code must be reported to the GLO for use in various grant reporting documents, and may be obtained by visiting the Central Contractor Registration web site at:

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

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

5.02 STATE FUNDING

(a) This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, it is understood that all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, the Subrecipient, in its sole discretion, may terminate this Contract. In that event, the parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.

(b) Furthermore, any claim by Provider for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Provider, under the annual budget in effect at the time of the breach. Nothing in this provision shall be construed as a waiver of sovereign immunity.

5.03 RECAPTURE OF FUNDS

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

5.04 OVERPAYMENT

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

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VI. OWNERSHIP

6.01 OWNERSHIP AND THIRD PARTY RELIANCE

(a) The Subrecipient shall own, and Provider hereby assigns to the GLO, all right, title, and interest in all services to be performed; all goods to be delivered; and/or all other related work product prepared, or in the course of preparation, by Provider (or its subcontractors) pursuant to this Contract, together with all related worldwide intellectual property rights of any kind or character (collectively, the "Work Product"). Under no circumstance will any license fee, royalty, or other consideration not specified in this Contract be due to Provider for the assignment of the Work Product to the GLO or for the GLO's use and quiet enjoyment of the Work Product in perpetuity. Provider shall promptly submit all Work Product to the GLO upon request or upon completion, termination, or cancellation of this Contract for any reason, including all copies in any form or medium.

(b) Provider and the Subrecipient shall not use, willingly allow, or cause such Work Product to be used for any purpose other than performance of Provider's obligations under this Contract without the prior written consent of either party and the GLO. Work Product is for the exclusive use and benefit of, and may be relied upon only by the Parties. Prior to distributing any Work Product to any third party, other than the GLO, the parties shall advise such third parties that if it relies upon or uses such Work Product, it does so entirely at its own risk without liability to the GLO, Provider, or the Subrecipient.

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VII. RECORDS, AUDIT, RETENTION, CONFIDENTIALITY, PUBLIC RECORDS

7.01 BOOKS AND RECORDS

Provider shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the Subrecipient, the GLO, the State of Texas Auditor's Office, the United States Government, and/or their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes.

7.02 INSPECTION AND AUDIT

(a) Provider agrees that all relevant records related to this Contract and any Work Product produced in relation to this Contract, including the records and Work Product of its Subcontractors, shall be subject to the Administrative and Audit Regulations. Accordingly, such records and Work Product shall be subject, at any time, to inspection, examination, audit, and copying at any location where such records and Work Product may be found, with or without notice from the Subrecipient, the GLO, HUD, or other government entity with necessary legal authority. Provider agrees to cooperate fully with any federal or state entity in the conduct of inspection, examination, audit, and copying, including providing all information requested. Provider will ensure that this clause concerning federal and state entities' authority to inspect, examine, audit, and copy records and Work Product, and the requirement to fully cooperate with the federal and state entities, is included in any subcontract it awards.

(b) Provider understands that acceptance of state funds under this Contract acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. Provider further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Provider will ensure that this clause concerning the State Auditor's Office's authority to audit state funds and the requirement to fully cooperate with the State Auditor's Office is included in any subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Provider relating to the Contract for any purpose. HUD, the Comptroller General, the General Accounting Office, the Office of Inspector General, or any authorized representative of the U.S. Government shall also have this right of inspection. **PROVIDER SHALL ENSURE THAT ALL SUBCONTRACTS AWARDED REFLECT THE REQUIREMENTS OF THIS SECTION 7.02, AND THE REQUIREMENT TO COOPERATE.**

(c) Provider will be deemed to have read and have knowledge of all applicable federal, state, and local laws, regulations, and rules including, but not limited to those identified in **Attachment D**, governing audit requirements pertaining to the Project.

7.03 PERIOD OF RETENTION

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

7.04 CONFIDENTIALITY

To the extent permitted by law, Provider and the Subrecipient agree to keep all information confidential, in whatever form produced, prepared, observed, or received by Provider or the Subrecipient to the extent that such information is: (a) confidential by law; (b) marked or designated "confidential" (or words to that effect) by Provider or the Subrecipient; or (c) information that Provider or the Subrecipient is otherwise required to keep confidential by this Contract. Furthermore, Provider will not advertise that it is doing business with the Subrecipient, use this Contract as a marketing or sales tool, or make any press releases concerning services under this Contract without the prior written consent of the Subrecipient.

7.05 PUBLIC RECORDS

Information related to the performance of this Contract may be subject to the Public Information Act ("PIA") and will be withheld from public disclosure or released only in accordance therewith. Provider shall make any information required under the PIA available to the Subrecipient in portable document file (".pdf") format or any other format agreed between the Parties. Failure of Provider to mark as "confidential" or a "trade secret" any information that it believes to be excepted from disclosure waives any and all claims Provider may make against the Subrecipient for releasing such information without prior notice to Provider. Provider shall notify the Subrecipient within twenty-four (24) hours of receipt of any third party written requests for information, and forward a copy of said written requests to the Subrecipient. If the request was not written, Provider shall forward the third party's contact information to the Subrecipient.

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VIII. MISCELLANEOUS PROVISIONS

8.01 INSURANCE

Provider shall acquire for the duration of this Contract insurance with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount and in the form required by **Attachment E** of this Contract**, REQUIRED INSURANCE AND FORM**. Furthermore, Provider shall submit a certificate of liability insurance as required under this Contract, including (if requested) a schedule of coverage (or "underwriter's schedules") establishing to the satisfaction of the Subrecipient the nature and extent of coverage granted by each policy.

Provider shall submit certificates of insurance and endorsements electronically, in the manner requested by the Subrecipient. In the event that any policy is determined to be deficient to comply with the terms of this Contract, Provider shall secure such additional policies or coverage as the Subrecipient may reasonably request or that are required by law or regulation.

Provider will be responsible for submitting renewed certificates of insurance and endorsements, as evidence of insurance coverage throughout the term of this Contract. Provider may not be actively working on behalf of the Subrecipient if the insurance coverage does not adhere to insurance requirements. Failure to submit required insurance documents may result in the cancellation of this Contract.

8.02 TAXES/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE

PROVIDER AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, PROVIDER SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF PROVIDER'S AND PROVIDER'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. PROVIDER AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE SUBRECIPIENT SHALL NOT BE LIABLE TO THE PROVIDER, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/ OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER. 2) PROVIDER AGREES TO INDEMNIFY AND HOLD HARMLESS THE SUBRECIPIENT, THE GLO, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. PROVIDER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE SUBRECIPIENT NAMED AS A DEFENDANT IN

ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE SUBRECIPIENT. PROVIDER AND THE SUBRECIPIENT AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

8.03 LEGAL OBLIGATIONS

Provider shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Provider to provide the goods or services required by this Contract. Provider will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Provider agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

8.04 INDEMNITY

EXCEPT FOR DAMAGES DIRECTLY OR PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OF THE SUBRECIPIENT OR THE GLO, PROVIDER SHALL INDEMNIFY AND HOLD HARMLESS THE SUBRECIPIENT, THE STATE OF TEXAS, THE GLO, AND THE OFFICERS, REPRESENTATIVES, AGENTS, AND EMPLOYEES OF THE SUBRECIPIENT, THE STATE OF TEXAS, AND THE GLO FROM ANY LOSSES, CLAIMS, SUITS, ACTIONS, DAMAGES, OR LIABILITY (INCLUDING ALL COSTS AND REASONABLE EXPENSES OF DEFENDING AGAINST ALL OF THE AFOREMENTIONED) ARISING IN CONNECTION WITH:

- **ANY NEGLIGENT, ACTS, OMISSION, OR MISCONDUCT IN THE PROVIDER'S PERFORMANCE OF THE SERVICES REFERENCED HEREIN; OR**

- **ANY CLAIMS OR AMOUNTS ARISING OR RECOVERABLE UNDER FEDERAL OR STATE WORKERS' COMPENSATION LAWS, THE TEXAS TORT CLAIMS ACT, OR ANY OTHER SUCH LAWS.**

PROVIDER SHALL BE RESPONSIBLE FOR THE SAFETY AND WELL BEING OF ITS EMPLOYEES, CUSTOMERS, AND INVITEES. THESE REQUIREMENTS SHALL SURVIVE THE TERM OF THIS CONTRACT UNTIL ALL CLAIMS HAVE BEEN SETTLED OR RESOLVED AND SUITABLE EVIDENCE TO THAT EFFECT HAS BEEN FURNISHED TO THE SUBRECIPIENT.

8.05 ASSIGNMENT AND SUBCONTRACTS

Provider shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the prior written consent of the Subrecipient. Notwithstanding this provision, it is mutually understood and agreed that Provider may subcontract with others for some or all of the services to be performed. In any approved subcontracts, Provider shall legally bind such subcontractor to perform and make such subcontractor subject to all the duties, requirements, and obligations of Provider as specified in this Contract. Nothing in this Contract shall be construed to relieve Provider of the responsibility for ensuring that the goods delivered and/or the services rendered by Provider and/or any of its subcontractors comply with all the terms and provisions of this Contract. Provider will provide written notification to the Subrecipient of any such subcontractor performing fifteen percent (15%) or more of the services under this Contract, including the name and taxpayer identification number of subcontractor, the task(s) being performed, and the number of subcontractor employees expected to work on the task.

8.06 RELATIONSHIP OF THE PARTIES

Provider is associated with the Subrecipient only for the purposes and to the extent specified in this Contract, and, with respect to Provider's performance pursuant to this Contract, Provider is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its services under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the Subrecipient or the GLO any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Provider or any other party. Provider shall be solely responsible for, and the Subrecipient shall have no obligation with respect to:

(a) withholding of income taxes, FICA, or any other taxes or fees;

(b) industrial or workers' compensation insurance coverage;

(c) participation in any group insurance plans available to employees of the State of Texas;

(d) participation or contributions by the State to the State Employees Retirement System;

(e) accumulation of vacation leave or sick leave; or

(f) unemployment compensation coverage provided by the State.

8.07 COMPLIANCE WITH OTHER LAWS

In the performance of this Contract, Provider shall comply with all applicable federal, state, and local laws, ordinances, and regulations. Provider shall make itself familiar with and at all times shall observe and comply with all applicable federal, state, and local laws, ordinances, and regulations that in any manner affect performance under this Contract including, those attached hereto and incorporated herein for all purposes as **Attachment D**. Provider will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.

8.08 NOTICES

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

Subrecipient
City of Brenham
P.O. Box 1059
Brenham, TX 77834
Attention: Honorable Milton Y. Tate, Jr., Mayor

Provider
Strand Associates, Inc.®
1906 Niebuhr Street
Brenham, Texas 77833
Attention: Kelly M. Hajek, P.E.

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

8.10 GOVERNING LAW AND VENUE

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit between Subrecipient and Provider under this Contract shall be in a court of competent jurisdiction in Washington County, Texas. Provider irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

8.11 SEVERABILITY

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

8.12 FORCE MAJEURE

Except with respect to the obligation of payments under this Contract, if either of the parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; pandemic; or similar events that are beyond the control of the affected party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected party's obligation to comply with such covenant shall be suspended, and the affected party shall not be liable for damages for failure to comply with such covenant. In any such event, the party claiming Force Majeure shall promptly notify the other party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Provider.

8.13 ENTIRE CONTRACT AND MODIFICATION

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

8.14 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall together constitute but one and the same Contract. If the Contract is not executed by the GLO within thirty (30) days of execution by the other party, this Contract shall be null and void. In the sole discretion of the GLO, Work Orders issued, if any, may be executed by the parties in counterparts exchanged by electronic mail.

8.15 THIRD-PARTY BENEFICIARY

The Parties agree that the GLO, as the administrator of the CDBG-MIT program, is a third-party beneficiary to this Contract and that the GLO shall have the right to enforce any provision of this Contract. Provided, however, that GLO shall only enforce a provision Contract after notifying the Parties, in writing, of a potential breach or default of the Contract and allowing the Provider sixty (60) days to cure the breach or default. Venue of any suit under this Section 8.17 shall be in a court of competent jurisdiction in Travis County, Texas. Provider irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto. **NOTHING IN THIS**

CONTRACT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.

8.16 PROPER AUTHORITY

Each party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Provider acknowledges that this Contract is effective for the period of time specified in the Contract. Any services performed by Provider before this Contract is effective or after it ceases to be effective are performed at the sole risk of Provider.

8.17 REQUIRED CONTRACT PROVISIONS FOR CONTRACTS USING FEDERAL FUNDS

Attachment F

8.18 CERTIFICATE OF INTEREST PARTIES

Provider shall visit https://www.ethics.state.tx.us/filinginfo/1295/ and fill out Certificate of Interested Parties (FORM 1295) **Attachment G.**

SIGNATURE PAGE FOLLOWS

IN WITNESSETH WHEREOF, the parties have executed this Agreement by causing the same to be signed on this _____ day of _______________, ______.

SUBRECIPIENT:	PROVIDER:
CITY OF BRENHAM	STRAND ASSOCIATES, INC.®
______________________________	______________________________
Milton Y. Tate, Jr. Date	Joseph M. Bunker Date
Mayor	Corporate Secretary

ASSURANCES - CONSTRUCTION PROGRAMS

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

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

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

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

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will not dispose of, modify the use of, *or* change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.

4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.

5. Will provide and maintain competent and adequate engineering services at the construction site to review that the completed 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. In furnishing observation services, Provider’s efforts will be directed toward determining for Subrecipient that the completed project will, in general, conform to the Contract Documents; but Provider will not supervise, direct, or have control over the contractor’s work and will not be responsible for the contractor’s construction means, methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor’s failure to perform the construction work in accordance with the Contract Documents.

6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

10. Will comply with all Federal statutes relating to non-discrimination . These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color *or* national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975. as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse: (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, U) 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 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.

14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

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 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

THIS FORM MUST BE EXECUTED

FORM **CD-512**
(REV 12-04)

U.S. DEPARTMENT OF COMMERCE

CERTIFICATION REGARDING LOBBYING
LOWER TIER COVERED TRANSACTIONS

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

LOBBYING

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

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

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

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

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

Statement for Loan Guarantees and Loan Insurance

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

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

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

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

NAME OF APPLICANT	AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

THIS FORM MUST BE EXECUTED

DISCLOSURE OF LOBBYING ACTIVITIES

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

Approved by OMB
0348-0046

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year ________ quarter ________ date of last report ____________

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ______, *if known*: **Congressional District**, *if known*: 4c	**Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: ____________
8. Federal Action Number, *if known*:	**9. Award Amount,** *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: ______________________ Print Name: ______________________ Title: ______________________ Telephone No.: ____________ Date: ________
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

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

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

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

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

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

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

GENERAL AFFIRMATIONS

Provider agrees without exception to the following affirmations:

1. Provider certifies that he/she/it has not given, offered to give, nor intends to give at anytime hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.

2. Provider certifies that neither Provider nor any firm, corporation, partnership, or institution represented by Provider or anyone acting for such firm, corporation, partnership, or institution has (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or federal antitrust laws; or (2) communicated the contents of the Contract or proposal either directly or indirectly to any competitor or any other person engaged in the same line of business during the procurement process for the Contract or proposal.

3. Provider certifies that if its business address shown on the Contract is a Texas address, that address is the legal business address of Provider and Provider qualifies as a Texas Resident Bidder under Texas Administrative Code, Title 34, Part 1, Chapter 20.

4. Section 2155.004 of the Texas Government Code prohibits the award of a contract that includes proposed financial participation by a person who received compensation from the Subrecipient to participate in preparing the specifications or request for proposals on which the Contract is based. Under Section 2155.004, Government Code, the vendor [Provider] certifies that the individual or business entity named in this bid or Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.

5. Under Texas Family Code section 231.006, a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under a contract to provide property, materials, or services. Under Section 231.006, Texas Family Code, the vendor or applicant [Provider] certifies that the individual or business entity named in this Contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

6. Provider agrees that any payments due under the Contract will be applied towards any debt, including but not limited to delinquent taxes and child support, Provider owes to the State of Texas.

7. The Subrecipient is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism and any subsequent changes made to it. The Subrecipient will cross-reference Providers/vendors with the federal System for Award Management (https://www.sam.gov/), which includes the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

8. Provider certifies: 1) that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity; 2) that Provider is in compliance with the State of Texas statutes and rules relating to procurement; and 3) that Provider is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at https://www.sam.gov/.

9. Under Section 2155.006(b) of the Texas Government Code, the Subrecipient may not enter into a contract that includes proposed financial participation by a person who, during the five year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, Provider certifies that the individual or business entity named in the Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.

10. The state auditor may conduct an audit or investigation of any entity receiving state funds directly under the Contract or indirectly through a subcontract under the Contract. Acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Provider shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Provider and the requirement to cooperate is included in any subcontract it awards.

11. Provider understands that the neither the Subrecipient nor the GLO tolerate any type of fraud. The Subrecipient's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Providers are expected to report any possible fraudulent or dishonest acts, waste, or abuse affecting any transaction with the GLO to the GLO's Internal Audit Director at 512.463.5338 or to tracey.hall@glo.texas.gov.

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

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Attachment C

Performance Statement

To Be Determined and Added once funding has occurred & contract is approved between state and entity

NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

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

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

GENERALLY

The Acts and Regulations specified in this Contract;

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

The Housing and Community Development Act of 1974 (12 U.S.C. § 5301 *et seq*.);
Cash Management Improvement Act regulations (31 C.F.R. Part 205);
Community Development Block Grants (24 C.F.R. Part 570);

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);

Disaster Recovery Implementation Manual; Plan for Disaster Recovery

CIVIL RIGHTS

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

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

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

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

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

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

LABOR STANDARDS

The Davis-Bacon Act, as amended (originally, 40 U.S.C. 276a-276a-5 and re-codified at 40 U.S.C. 3141-3148); 29 C.F.R. Part 5;

The Copeland "Anti-Kickback" Act (originally, 18 U.S.C. 874 and re-codified at 40 U.S.C. 3145): 29 C.F.R. Part 3;

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (originally, 40 U.S.C. § 327A and 330 and re-codified at 40 U.S.C. 3701-3708);

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

Federal Executive Order 11246, as amended;

EMPLOYMENT OPPORTUNITIES

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

The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212); and Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688); and

Federal Executive Order 11246, as amended;

GRANT AND AUDIT STANDARDS

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

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for

Federal Awards (2 C.F.R. Part 200);

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

Title 1 Texas Administrative Code § 5.167(c);

LEAD-BASED PAINT

Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) and the procedures established by TDRA thereunder.

HISTORIC PROPERTIES

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

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

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

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

ENVIRONMENTAL LAW AND AUTHORITIES

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

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

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

FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION

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

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

COASTAL ZONE MANAGEMENT

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

SOLE SOURCE AQUIFERS

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

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

ENDANGERED SPECIES

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

WILD AND SCENIC RIVERS

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

AIR QUALITY

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

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

FARMLAND PROTECTION

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

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

HUD ENVIRONMENTAL STANDARDS

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

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

ENVIRONMENTAL JUSTICE

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

SUSPENSION AND DEBARMENT

Use of debarred, suspended, or ineligible contractors or subrecipients (24 C.F.R. Section 570.609);

General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and
Nonprocurement Suspension and Debarment (2 C.F.R. Part 2424).

OTHER REQUIREMENTS

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

ACQUISITION / RELOCATION

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

FAITH-BASED ACTIVITIES

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

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REQUIRED INSURANCE

<u>GENERALLY</u>. Provider shall, at its sole expense, acquire, maintain, and keep in force for the duration of this Contract, insurance in the amounts attached herein and under the requirements specified herein. Furthermore, unless specified or otherwise agreed to by the Subrecipient, the required insurance shall be in effect prior to the commencement of services by Provider and shall continue in full force until the earlier as appropriate of (i) the expiration of this Contract; or (ii) such time as the Subrecipient notifies Provider that such insurance is no longer required. Any insurance or self-insurance available to the Subrecipient shall be in excess of, and non-contributing with, any insurance required from Provider. Provider's insurance policies shall apply on a primary basis. If, at any time during the Contract, an insurer or surety fails to provide insurance to Provider or otherwise fails to comply with the requirements of this Contract, Provider shall immediately notify the Subrecipient and replace such insurance or bond with an insurer meeting such requirements. General aggregate limits of Provider's Commercial General Liability policy shall apply per project. Provider's auto insurance policy shall apply to "any auto."

<u>Approval</u>. Prior approval of the insurance policies by the Subrecipient shall be a condition precedent to any payment of consideration under this Contract and insurance must be submitted for review and approval by the GLO prior to the commencement of services. Any failure of the Subrecipient to timely approve or failure to disapprove the insurance furnished by Provider shall not relieve Provider of Provider's full responsibility to provide the insurance required by this Contract.

<u>Continuing Coverage</u>. The Subrecipient's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent to this Contract.

<u>Renewal.</u> Provider shall provide the Subrecipient with renewal or replacement certificates no less than thirty (30) days before the expiration or replacement of the required insurance.

<u>Additional Insured Endorsement</u>. The Subrecipient, the GLO, and each entity's officers, employees, and authorized agents shall be named as additional insureds for all liability arising under this Contract except on Workers' Compensation and Professional Liability policies. **<u>An original additional insured endorsement</u> signed by an authorized <u>insurance company representative must be submitted to the Subrecipient to evidence the endorsement of the Subrecipient as an additional insured on all policies, and the certificate(s) must reference the related Subrecipient Contract Number.</u>**

<u>Subrogation</u>. Each liability insurance policy, except Professional Liability, shall provide for a waiver of subrogation as to the Subrecipient, the State of Texas, the GLO, and their officers, employees, and authorized agents, and shall be issued by insurance companies authorized to do business in the State of Texas, and currently rated by A.M. Best as "A-" or better.

<u>Policy Cancellation Endorsement</u>. Except for ten (10) days' notice for non-payment of premium, each insurance policy shall be endorsed to specify that without 30 days' prior

written notice to the Subrecipient, the policy shall not be canceled, non-renewed, or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to the address specified in this Contract. A copy of this signed endorsement must be attached to this Contract.

Alternative Insurability. Notwithstanding the requirements of this Attachment, the Subrecipient reserves the right to consider reasonable alternative methods of insuring the contract in lieu of the insurance policies and/or bonds required. It will be Provider's responsibility to recommend to the Subrecipient alternative methods of insuring the Contract. Any alternatives proposed by Provider should be accompanied by a detailed explanation regarding Provider's inability to obtain insurance coverage as described in this Contract. The GLO shall be the sole and final judge as to the adequacy of any substitute form of insurance coverage.

INSURANCE REQUIRED:

$1 MILLION COMMERCIAL GENERAL LIABILITY (EACH OCCURRENCE)
$2 MILLION COMMERCIAL GENERAL LIABILITY (AGGREGATE LIMIT)
$1 MILLION CSL AUTOMOBILE INSURANCE
$1 MILLION PROFESSIONAL LIABILITY
STATUTORY WORKERS' COMPENSATION & EMPLOYERS LIABILITY
- $1 MILLION EACH ACCIDENT
- $1 MILLION DISEASE EACH EMPLOYEE
- $1 MILLION DISEASE POLICY LIMIT
STATUTORY U.S. LONGSHORE AND HARBOR WORKERS' INSURANCE

NOTE: Insurance certificates must be in the form approved by the Texas Attorney General, a sample of which follows this page.

Insurance Certificates must:

(a) be submitted the Subrecipient;
(b) prominently display Subrecipient Contract No. TBD
(c) Name the Subrecipient and the General Land Office as an additional insured

Failure to submit required insurance forms as instructed may significantly delay the start of services under the Contract.

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REQUIRED FORM OF CERTIFICATE FOLLOWS THIS PAGE

Contract No. TBD

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DDIYYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER($), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the tenns and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A:	
INSURED	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS-MADE OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC						EACH OCCURRENCE	$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$
							PRODUCTS - COMP/OP AGG	$
								$
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					WC STATU-TORY LIMITS / OTH-ER	
							E.L. EACH ACCIDENT	$
							EL DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS/ LOCATIONS/ VEHICLES (Attach ACORD 101, Addillonat Remarks Schedule, If more space Is required)

CERTIFICATE HOLDER	CANCELLATION
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

REQUIRED CONTRACT PROVISIONS (CONTRACTS USING FEDERAL FUNDS)

Italics – Explanatory; NOT CONTRACT LANGUAGE

THRESHOLD	PROVISION	CITATION
None	H) Debarment and Suspension (Executive Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMS guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Camp., p. 189) and 12689 (3 CFR Part 1989 Camp., p, 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.	2 CFR 200 APPENDIX II (H)
None	Grantees or subgrantees must retain all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.	2 CFR 200.333 (former 24 CFR (85.36(i) {11))
>$10,000	*B) All contracts in excess of $10, 000 must address termination for cause and for convenience by the non-• Federal entity including the manner by which it will be affected and the basis for settlement.* **Termination for Cause:** If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor violates any of the covenants, conditions, agreements, or stipulations of this Agreement. The City/County shall have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the City/County, be turned over to the City/County and become the property of the City/County. In the event of termination for cause, the Contractor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination. Notwithstanding the above. The Contractor shall not be relieved of liability to the City/County for damages sustained by the City/County by virtue of any breach of contract by the Contractor, and the City/County may set-off the damages it incurred as a result of the Contractor's breach of contract from any amounts it might otherwise owe the Contractor. **Termination for Convenience of the City/County:** City/County may at any time and for any reason terminate Contractor 's services and work at City/County's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by City/County; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against City/County for any additional compensation or damages in the event of such termination and payment.	2 CFR 2:00 APPENDIX II (B)

<table>
<tr><td>>$50,000</td><td>

(A) Contracts for more than $50,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

Use the following language for contracts > $50,000:

Resolution of Program Non-compliance and Disallowed Costs:
In the event of any dispute, claim, question, or disagreement
- arising from or relating to this agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or TxCDBG program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate and attempt to reach a just and equitable solution satisfactory to both parties. If the matter IS not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally.

</td><td>2 CFR 200
APPENDIX II (A)</td></tr>
<tr><td colspan="3">

Equal Opportunity Clause for Construction Contracts > $10K, including administration & engineering contracts associated with construction contracts.

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<tr><td>≥$10,000</td><td>

2 CFR 200 Appendix II (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60 all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the Equal Opportunity. Clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part. 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity, "and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

§60-1.4(b) Equal opportunity clause:

(b) Federally assisted construction contracts. Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract. loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places. Available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

</td><td>41 CFR §60-1.4 (b)
and 2 CFR 200
APPENDIX II (C)</td></tr>
</table>

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This Provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled , terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence Immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however. That in the event a contractor becomes involved in. or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations. and relevant

	orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24 , 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order . In addition, the applicant agrees that if it fails or refuses to comply with these undertakings. the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan. insurance. guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings. (c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts. (d) Incorporation by reference. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate. (e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written (f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings. [43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997; 79 FR 72993, Dec. 9, 2014; 80 FR 54934, September 11. 2015]	
CONSTRUCTION CONTRACTS		
>$2,000 for Davis Bacon and Copeland "Anti-Kickback" Act; >$100,000 for Contract Work Hours and Safety Standards Act	*Federal labor standards provisions include:* 1. *Davis Bacon Act (40 U.S.C. 3141 et seq) as supplemented by DOL regulations (29 CFR part 5);* 2. *Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3): and* 3. *Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq)*	

>$2,000	*Compliance with the Davis-Bacon Act (40 U.S.C. 3141 et seq.) as supplemented by Department of Labor regulations (29 CFR part 5) and with the Copeland Anti-Kickback" Act (18 U.S.C. 874: 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR part 3)* (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation. All prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act 40 U.S.C. 3141-3144 and 3146-3148 as supplemented by Department of Labor regulations {29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland ''Anti-Kickback " Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations {29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency	2 CFR 200 APPENDIX II (D)
≥$100,000	(E) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award of $100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.	2 CFR 200 APPENDIX II (I) and 24 CFR §570.303
>$100,000	(F) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.	2 CFR 200 APPENDIX II (E)
>$150,000	(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).	*2 CFR 200 APPENDIX II (G)*

CERTIFICATE OF INTERESTED PARTIES

FORM **1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:

Date Filed:

Date Acknowledged:

1 **Name of business entity filing form, and the city, state and country of the business entity's place of business.**

2 **Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

3 **Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary

5 **Check only if there is NO Interested Party.** ☐

6 **AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

____
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said ____________________________________, this the ____________ day of ______________, 20________, to certify which, witness my hand and seal of office.

____

Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

TEXAS GENERAL LAND OFFICE
ENGINEERING
SCOPE OF WORK

SCOPE OF SERVICES REQUESTED

Providers will help the GLO fulfill State and Federal Community Development Block Grant Disaster Recovery ("CDBG-DR") statutory responsibilities related to disaster recovery for presidentially declared disasters in Texas. Providers will assist the GLO and grant recipients in the completion of CDBG qualified housing or non-housing projects. Provider may be qualified to provide Engineering services for housing projects, non-housing projects, or both. Engineering services must be performed in compliance with the U.S. Department of Housing and Urban Development ("HUD") and guidelines issued by the GLO. Providers will be bound to specific terms and conditions found in the sample general terms and conditions.

DESCRIPTION OF SERVICES AND SPECIAL CONDITIONS

Provider will be required to show the ability to provide all the Engineering services described below. Provider shall then provide a detailed description of how they meet the requirement, describing their knowledge and experience, as well as providing discrete examples of previous work where applicable.

General Requirements

(a) Coordinate, as necessary, between subrecipient and its service providers (i.e., Engineer, Environmental, Contracted Construction Company, Grant Administrator, etc.) and GLO. regarding project design services.

(b) Provide monthly project status updates.

(c) Funding release will be based on deliverables identified in the contract.

Initial Engineering and Design Support

Provider will be required to show the ability to provide all the Engineering services described below:

(a) Assist with the development of grant applications, as necessary.

(b) Provide all project information necessary to ensure timely execution of the environmental review.

(c) Provide preliminary engineering, investigations, and drawings sufficient to achieve the preliminary design milestone, including at a minimum:

i. Cross sections/elevations

ii. Project layout/staging areas

iii. General notes

iv. Special notes

v. Design details

vi. Specifications

vii. Utility relocation designs

viii. Construction limits, including environmentally sensitive areas that should be avoided during construction

ix. Required permits

x. Quantities

xi. Estimate of construction costs to within +/- 25%

xii. Schedules for design, permitting, acquisition and construction

(d) Design surveying, topographic and utility mapping.

(e) Perform subsurface explorations for project sites, as necessary.

(f) Prepare horizontal alignments/layouts for all proposed project alternatives necessary to fully describe the project scope, anticipated limitations, and potential project impacts.

(g) Recommend value engineering options (alternative design, construction methods, procurement, etc.) that may improve efficiency, expedite the schedule, or reduce project costs for the subrecipient.

(h) Identify, acquire and submit all necessary permits and approvals required for design approval and construction.

(i) Submit all necessary deliverables to the appropriate entity for review and comment. Adjust project and/or design to satisfactorily address any comments, as necessary.

(j) Prepare plans and profiles, including vertical design information for the selected alternative.

(k) Identify and address potential obstacles to project implementation (i.e., pipelines, easements, permitting, environmental, etc.) prior to moving forward with the final design.

(l) Support subrecipient with acquisition or property/servitudes/right-of-way documentation as required by the City to facilitate the project, preparing right of way surveys and/or property boundary maps and legal descriptions of parcels to be acquired.

(m) Provide project schedules from cradle to grave in MS Project format or equal as approved by the subrecipient based on GLO guidance.

Engineering and Final Design Support

Provider will be required to show the ability to provide all the Engineering services described below as they relate to final design support:

(a) Prepare plans and profiles, including necessary design information for the selected alternative sufficient to achieve all detailed design milestones. Examples include, but are not limited to:

i. Cross sections/elevations

ii. Project layout/staging areas

iii. General notes

iv. Special notes

v. Design details

vi. Specifications

vii. Utility relocation designs

viii. Construction limits, including environmentally sensitive areas that should be avoided during construction

ix. Required permits

x. Quantities

xi. Estimate of construction costs to within +/- 20%

xii. Schedules for design, permitting, acquisition and construction

(b) Provide information to appropriate individuals for the development of environmental fund release reports and floodplain maps.

(c) Identify, acquire and submit all necessary permits and approvals required for design approval and construction.

(d) Provide hard copy, if necessary, reproducible plan drawings and bid documents, in addition to electronic copies to the subrecipient, upon design completion, and as requested during design. Electronic copies should be in the native format (AutoCAD DWG) along with PDF packages and should contain all corresponding references, databases, or files associated with the completed design documents.

(e) Assist the subrecipient and any service provider related to the project with all necessary documentation to ensure compliance with all Program requirements and regulations.

Bid and Award Support

Provider will be required to show the ability to provide all the Engineering services described below as they relate to bid and award support.

(a) Submit appropriate items and support subrecipient in the development of complete bid package.

(b) Prepare and assist subrecipient in the advertisements for bid solicitation.

(c) Support development and issuance of bid-related documents necessary to complete bid process (e.g., bid proposal form, bid addenda and supporting documentation).

(d) Attend and support subrecipient at pre-bid conference and bid opening.

(e) Support subrecipient with ongoing communication during bid process.

(f) Support subrecipient to complete bid tabulation and evaluation of responses and provide recommendation for award.

(g) Support subrecipient to negotiate and finalize contract documents, including issuance of the Notice to Proceed, in accordance with program and subrecipient requirements.

(h) Support subrecipient in the conducting of a preconstruction conference.

Contract Management and Construction Observation

Provider will be required to show the ability to provide all the Engineering services described below as they relate to contract management and construction oversight.

(a) Ensure delivery of subrecipient project in accordance with contract.

(b) Provide ongoing Construction Oversight Reports detailing the status of construction for subrecipient project.

(c) Review all service provider submittals to ensure compliance with construction contract documents and provide recommendations to subrecipient.

(d) Provide periodic and final inspections and tests reports, as required for the project.

(e) Provide observation of construction activities at a minimum on a bi-weekly basis or as directed by the GLO or subrecipient. In furnishing observation services, provider's efforts will be directed toward determining for subrecipient that the completed project will, in general, conform to the Contract Documents; but provider will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents.

(f) Review Construction Change Orders and provide recommendation to subrecipient as to appropriate action.

(g) Review invoice/draw requests and provide recommendation to subrecipient as to appropriate action, in compliance with the construction contract documents. Provider's review of Payment Requests from contractor(s) will not impose responsibility to determine that title to any of the work has passed to subrecipient free and clear of any liens, claims, or other encumbrances. Any such service by Provider will be provided through an amendment to this Agreement.

(h) Obtain independent cost estimates for validation purposes, as required.

(i) Review and respond to requests for information/clarification.

(j) Support subrecipient with issue identification and claims resolutions.

(k) Enter all requisite information into the GLO system of record in accordance with established policies and procedures.

(l) Develop a final "as built" report of quantities, drawings, and specifications.

(m) Issue to the subrecipient, for execution, a Certificate of Construction Completion within 30 days of final inspection approval.

(n) Deliver "as-built" drawings to the subrecipient within 30 days of project completion.

(o) Host and/or attend project coordination meetings in person, by phone, or by video conference, which may or may not fall during normal business hours.

(p) Perform other contract management and construction oversight duties as required to ensure success of the subrecipient project.

(q) Provide necessary certifications to regulatory agencies of project completion and compliance (ex. TCEQ).

(r) Submit all final invoices within 60 days after contract or work order expiration.

Specialized Services

Provider will be required to show the ability to provide all the Engineering services described below as they relate to specialized services.

(a) Provide Geotechnical Investigations as may be required for a project.

(b) Provide Detailed Surveying as may be required for a project.

(c) Provide Site Specific Testing as may be required for a project.

(d) Provide Archeological Studies as may be required for a project.

(e) Provide Planning Studies as may be required for a project.

(f) Provide Feasibility Studies as may be required for a project.

(g) Provide Legal documentation for property and/or easements to be acquired (i.e., field notes, etc.).

(h) Provide Phase I and Phase II environmental site assessments as requested.

The Texas General Land Office Engineering Scope of Work is clarified as follows.

Scope of Services:

Grant Application Services

1. Assist with the development of grant applications, including preparation of the following:

   a. Project maps providing project location and site plan,
   b. Opinions of Probable Construction Cost,
   c. Project schedules,
   d. Beneficiary justification memo, and
   e. Mitigation justification memo.

2. Provide project information to be used by others as they perform environmental reviews.

Design, Bidding-Related, and Construction-Related Services

To be determined and added by amendment once funding has occurred and contract is approved between State and Entity.

Regular City Council
AGENDA ITEM 8.

Agenda Item: **Discuss and Possibly Act Upon Resolution No. R-20-030 Authorizing the Submission of a Grant Application to the Texas General Land Office (GLO) (Including All Supporting Documentation As May Be Required by the GLO) for the Community Development Block Grant - Mitigation (CDBG-MIT) Program (Hurricane Harvey - DR-4332)**

Meeting Type: Regular Meeting-October 15, 2020

Department: Public Works

Staff Contact: Dane Rau, Director of Public Works

Classification: Regular

SUMMARY STATEMENT:

See the attached memo from Dane Rau, Director of Public Works, and Crystal Locke, Community Services Specialist.

ATTACHMENTS:

(1) Memo - Harvey
(2) Resolution No. R-20-030
(3) Project Map - Harvey
(4) Project Description - Harvey
(5) Final Application Memo - Public Management
(6) 424-Form - Harvey
(7) Local Certification
(8) Professional Engineering Services Contract - Hurricane Harvey

RELEVANCE TO COMPREHENSIVE PLAN:

The proposed projects in this application will satisfy the need for reducing the risk of flooding with regional storm water management improvements outlined in the City Comprehensive Plan.

RECOMMENDED ACTION:

Approve Resolution No. R-20-30 authorizing the submission of a grant application to the Texas General Land Office (GLO) (including all supporting documentation as may be required by the GLO) for the Community Development Block Grant - Mitigation (CDBG-MIT) Program (Hurricane Harvey - DR-4332)

City of BRENHAM

To: Mayor and Council

From: Dane Rau, Director of Public Works
Crystal Locke, Community Services Specialist

Subject: Submission of a Grant Application to the Texas General Land Office (GLO) for the Community Development Block Grant – Mitigation (CDBG-MIT) Program (Hurricane Harvey – DR-4332)

Date: October 8, 2020

The Texas General Land Office (GLO) has developed a $2.1 billion competition for the 49-County Harvey impacted area. The Program allocation is split between the HUD Most Impacted and Distressed and the State Most Impacted and Distressed (50% allocated of the $2.1 billion respectively). For the City of Brenham, this means the competition will be within the State Most Impacted and Distressed for $1 billion.

On June 11, 2020, Council awarded Bid No. 20-005 related to the grant administration and/or planning services for the Community Development Block Grant - Mitigation (CDBG-MIT) program to Public Management. On August 6, 2020, Council awarded RFQ No. 20-006 related to engineering/architectural/surveying services for the CDBG-MIT program to Strand Associates. City staff and both parties met mid-August to collaborate and discuss mitigation projects that will reduce the risks and impacts of future natural disasters pertaining to the Hurricane Harvey State Mitigation Competition.

Attached is information for the City's application in the upcoming CDBG-MIT-Harvey competition. The project consists of major drainage improvements in multiple locations throughout the central area of the City, project map, and description attached. On September 25, the City of Brenham gave notice of the City's intent to apply to the Texas General Land Office (GLO) for a Texas CDBG-MIT Program. The City requested public comments for fourteen (14) days from the date of the posting which ended October 9. No comments were received.

The final application budget is presented below:

Activity	**Grant**	**Match**	**Total**
Construction	$3,987,543.00	$50,017.00	$4,037,560.00
Engineering	$610,100.00	$0.00	$610,100.00
Acquisition	$30,000.00	$0.00	$30,000.00
Administration	$374,000.00	$0.00	$374,000.00
Total	**$5,001,643.00**	**$50,017.00**	**$5,051,660.00**

The 1% local match commitment has been allocated to the construction activity and will be expected to be expended at the start of construction. The match is committed by the City of Brenham from the Drainage Utility Fund.

In addition, the following items are included for final approval and authorization to submit this application to the Texas General Land Officer on or before October 28, 2020.

- Application Resolution
- SF-424 Form
- Local Certification

Staff learned recently that the GLO is requiring a signed engineering contract to be included in the application for funding. Unfortunately, due to the complexity of these projects and time constraints for the application Strand Associates does not have the ability to write a comprehensive scope to associate with the specific projects. Due to the lack of project specific scope, the fees are not being included on the contract. The language regarding the 15% engineering fee cap is included on the contact. The contract is written so that the detailed scope and fee can be addressed by amendment when the project receives funding. The attached engineering contract has been prepared using the GLO contract template. The engineering fees for the Hurricane Harvey grant are currently $610,100.

RESOLUTION NO: R-20-030

A RESOLUTION OF THE CITY COUNCIL OF BRENHAM, TEXAS, AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE TEXAS GENERAL LAND OFFICE (GLO) FOR COMMUNITY DEVELOPMENT BLOCK GRANT - MITIGATION (CDBG-MIT) PROGRAM; AND AUTHORIZING THE MAYOR AND/OR CITY MANAGER TO ACT AS THE CITY'S EXECUTIVE OFFICER(S) AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT – MITIGATION (CDBG-MIT) PROGRAM.

WHEREAS, Hurricane Harvey (DR-4332) severely impacted the City of Brenham; and

WHEREAS, the City of Brenham desires to increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters; and

WHEREAS, the City of Brenham desires a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, the City of Brenham aims to Affirmatively Further Fair Housing by identifying projects that overcome or do not increase patterns of residential segregation based on race, color, religion, national origin, sex, disability or family status;

WHEREAS, it is necessary and in the best interests of the City of Brenham to apply for funding under the Community Development Block Grant – Mitigation (CDBG-MIT) Program;

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

1. That a Community Development Block Grant – Mitigation (CDBG-MIT) Fund application, including all supporting documentation as may be required by the GLO, is hereby authorized to be filed by the City of Brenham with the General Land Office for the mitigation efforts under Hurricane Harvey Competition.

2. That the projects detailed within the application will address major drainage improvements at various sites throughout the City of Brenham which were identified as a risk due to Hurricanes/Tropical Storms/Tropical Depressions and Riverine Flooding, thereby placing undue and certain health and safety risks on residents.

3. That the CDBG-MIT Application request amount be filed for $5,001,643.00.

4. That the application will require a 1% cash match, based on CDBG-MIT application request amount, in the amount of $50,017.00 committed by the City of Brenham from the Drainage Utility Fund.

5. That the total project cost is $5,051,660.00 to include construction, engineering, acquisition, and administration services.

6. That the City Council directs and designates the Mayor and/or City Manager as the City's Chief Executive Officer(s) and Authorized Representative to act in all matters in connection with this application, including but not limited to providing all supporting documentation as may be required by the GLO, and the City's participation in the Community Development Block Grant - Mitigation (CDBG-MIT) Program.

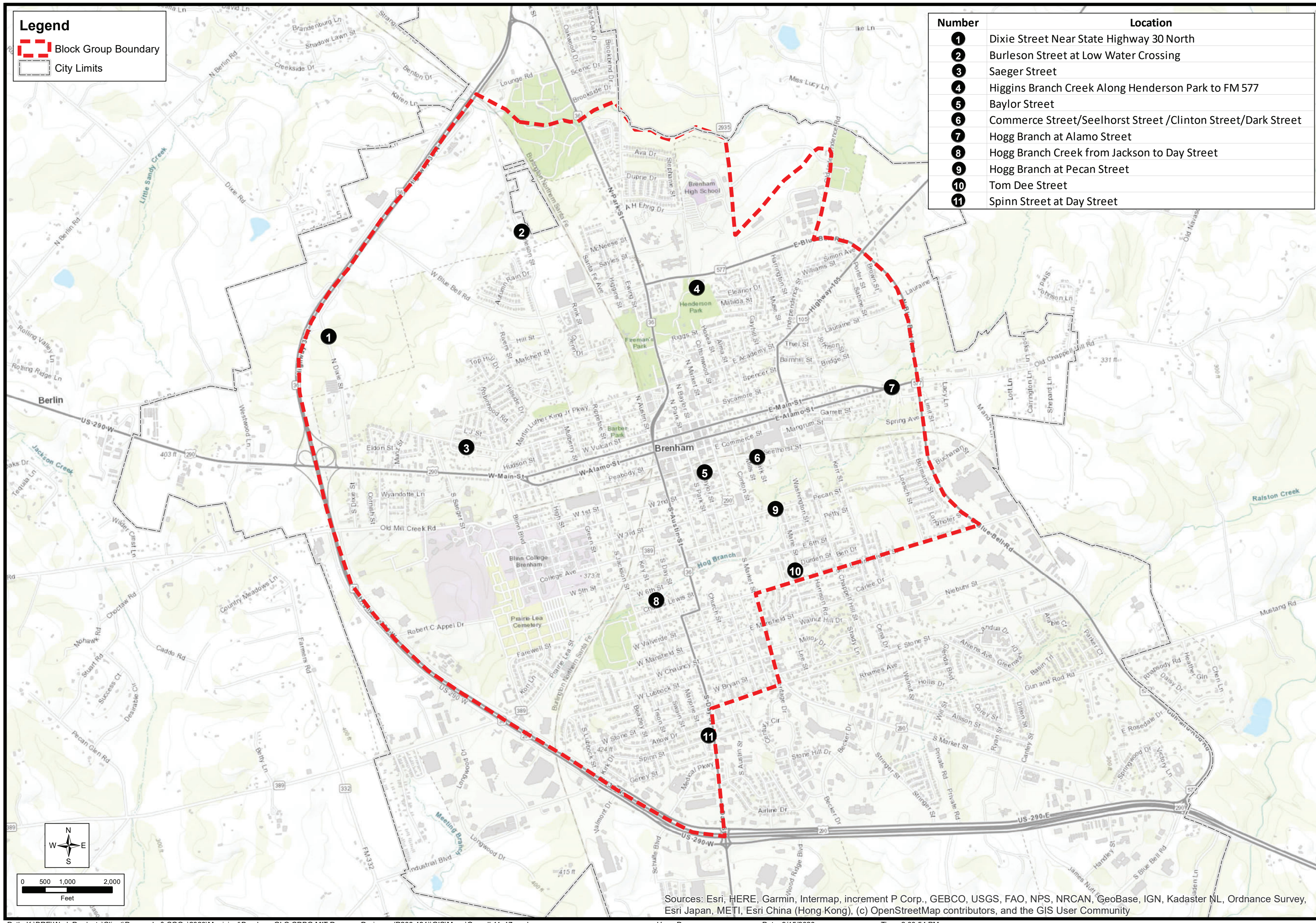
7. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, fair housing, and civil rights requirements.

Passed and approved this 15th day of October 2020.

____
Milton Y. Tate, Jr.
Mayor

ATTEST:

____
Jeana Bellinger, TRMC, CMC
City Secretary



Number	Location
1	Dixie Street Near State Highway 30 North
2	Burleson Street at Low Water Crossing
3	Saeger Street
4	Higgins Branch Creek Along Henderson Park to FM 577
5	Baylor Street
6	Commerce Street/Seelhorst Street /Clinton Street/Dark Street
7	Hogg Branch at Alamo Street
8	Hogg Branch Creek from Jackson to Day Street
9	Hogg Branch at Pecan Street
10	Tom Dee Street
11	Spinn Street at Day Street

PROJECT LOCATION SITE MAP

GLO CDBG-MIT PROGRAM - INFRASTRUCTURE PROJECTS
CITY OF BRENHAM
WASHINGTON COUNTY, TEXAS

STRAND ASSOCIATES®

Path: K:\BRE\Work Products\Client\Proposals & SOQs\2020\Municipal\Brenham-GLO CDBG MIT Program-Drainage (P200.494)\GIS\Maps\Overall 11x17.mxd User: Danc Date: 9/15/2020 Time: 2:00:54 PM

Strand Associates, Inc.®
1906 Niebuhr Street
Brenham, TX 77833
(P) 979.836.7937

Brenham Community Development Block Grant (CDBG)–Mitigation (MIT)
Hurricane Harvey Project Description
City of Brenham, Texas (City)

Hazard and Risk Description

Portions of the City have a history of experiencing significant impacts from flooding and drainage issues. Several tributaries throughout the City are heavily wooded, eroded, and silted, restricting the amount of stormwater conveyance traveling out of the City. It is noted that several undersized and/or damaged drainage facilities within the City are in need of rehabilitation. Past drainage issues in the City and proposed flood mitigation recommendations are documented in the "Comprehensive City Plan," dated September 19, 2019.

Hazard Mitigation Actions

The proposed drainage improvement activities include implementation of capital projects, such as storm sewers, culverts, and streambank stabilization measures, that will each serve to reduce flooding hazards. The proposed projects in this application will further enhance the past projects conducted by the City, which include several drainage improvement projects, such as the Louanna Estates Subdivision storm sewer upsizing, Park Street downtown improvements, and channel restoration west of Jackson Street. Furthermore, the proposed projects in this application will satisfy the need for reducing the risk of flooding with regional storm water management improvements outlined in the 2019 City Comprehensive Plan.

Provide a Project Summary

North Dixie Street Drainage Improvements–There is a section of North Dixie Street that floods during rainfall events, thus depositing debris and silt and causing erosion along the roadway and channel. The proposed project will include the construction of new twin 3-foot by 5-foot box culverts to replace the existing undersized single corrugated metal pipe. The improvements will safely allow flood waters to pass below the roadway and no longer overtop the roadway during rainfall events, thus eliminating debris and potential for erosion. This project is depicted as numeral one (1) on the Project Location Site Map.

Burleson Street Low Water Crossing–There is an existing low water crossing of a tributary of Little Sandy Creek over Burleson Street that, during even minor rainfall events, floods the roadway to depths that result in the roadway being impassable to vehicular traffic, including emergency vehicles. The proposed project will include the construction of new twin 4-foot by 5-foot box culverts and considerably raising the elevation of the roadway at this location. These improvements would safely convey flood waters through the culverts, thus no longer impeding traffic through this area. This project is depicted as numeral two (2) on the Project Location Site Map.

North Saeger and West Jefferson Streets–Beginning at 106 North Saeger Street and proceeding north, the driveways along the east side of North Saeger Street are level with or slope downward away from the edge of the street. Even though the valley gutters at each driveway have some elevation rise up from the gutter flow line, stormwater manages to build up, flow into the driveways, and through the yards. To prevent stormwater from entering these driveways, curb inlets need to be installed upstream of these driveways, intercept the stormwater flow, and take it underground into a new storm sewer system. There is no existing storm sewer system along North Saeger Street. The closest storm sewer system downstream of this area of concern is on Jefferson Street at its intersection with LJ Street. The improvements will include adding the above-mentioned along with installing a new storm sewer along the north side of West Jefferson Street to tie into the North Saeger Street Improvements. This project is depicted as numeral three (3) on the Project Location Site Map.

Higgins Branch Creek along Henderson Park to Farm-to-market (FM) 577–Sections of Higgins Branch Creek toward North Park Street have been armored with reinforced concrete-sloped paving while the middle section of this channel has been reinforced with vertical walls consisting of split-faced block. The downstream section leading up to FM 577 has been armored with a combination of reinforced concrete sloped-paving and vertical walls consisting of split-faced block. There is approximately a 700-linear foot section of Higgins Branch Creek just south of FM 577 and East Blue Bell Road, between these armored sections, that remains mostly in its natural state and has had no armoring put in place. This area has been subjected to substantial erosion along its banks and the existing storm sewer pipes entering the channel have been severely undermined. The goal of this project is to remove debris and accumulated sedimentation and re-establish the eroded sections of the channel. The regraded streambanks and streambed will be armored with permanent articulated concrete stabilization measures, which are equipped with open cells and backfilled with soil that allow for native vegetation to be established. This project is depicted as numeral four (4) on the Project Location Site Map.

Baylor Street Drainage Improvements–Localized drainage and flooding issues are currently experienced within the mixed residential and commercial areas located adjacent to the City's downtown area because of insufficient drainage infrastructure. The goal of this project is to install a new storm sewer, which include curb inlets and piping for conveyance of the stormwater to alleviate the current flooding in this area. This project is depicted as numeral five (5) on the Project Location Site Map.

Commerce Street/Seelhorst Street/Clinton Street/Dark Street–Repetitive flood damage has historically occurred at the Woodsons Lumber Company east property line along Commerce Street and the existing grate inlets at the south property line along Seelhorst Street. This causes localized street flooding. The goal of this project activity is the addition of a new storm sewer, which includes new curb inlets, piping, and junction boxes, for an overall system that will outfall south of the cul-de-sac along Dark Street into Hogg Branch Creek. This project will minimize the flooding of infrastructure and roadways. This project is depicted as numeral six (6) on the Project Location Site Map.

Hogg Branch Creek at Alamo Street–The existing downstream infrastructure has failed and is inadequate, leading to severe streambank erosion and undermining of the pavement. The goal of this project activity is the addition of a concrete flume, concrete apron, and erosion control along Hogg Branch Creek to prevent future and further erosion. This project is depicted as numeral seven (7) on the Project Location Site Map.

Hogg Branch Creek from Jackson Street to Day Street–The existing concrete slope paving at this location has aged, is disintegrating, and does not convey the stormwater runoff as efficiently over time. The goal of this project activity is the replacement of the existing concrete slope paving with regraded streambanks. These regraded streambanks and streambed will be armored with permanent articulated concrete stabilization measures, which are equipped with open cells and backfilled with soil that allow for native vegetation to be established. This project is depicted as numeral eight (8) on the Project Location Site Map.

Hogg Branch Creek at Pecan Street–The existing infrastructure underneath Pecan Street at the Hogg Branch Creek crossing is experiencing deterioration because of multiple historical rain events. The goal of this project activity is the replacement of the existing structures with twin 10-foot by 10-foot concrete box culverts, new concrete headwalls, a curb inlet, and channel restoration. The road section will be reestablished with a new guard fence. This project is depicted as numeral nine (9) on the Project Location Site Map.

Tom Dee Street–Localized flood damage has historically occurred at an existing residence located along the east side of Tom Dee Street because of insufficient drainage infrastructure. The goal of this project activity is to install new storm sewer improvements at Tom Dee Street that will route underground through drainage easements to intersect an existing storm sewer at the intersection of Durden Street and Marie Street. This will consist of piping, a junction box, and inlets. This project will reduce future residence flooding. This project is depicted as numeral ten (10) on the Project Location Site Map.

Spinn Street at Day Street–The existing concrete slope paving at this location has aged and does not convey the stormwater runoff as efficiently over time. The goal of this project activity is to install a new recessed curb inlet along with 3-foot by 5-foot concrete box culverts. By increasing storm sewer capacity, the stormwater will be conveyed more efficiently. This project is depicted as numeral eleven (11) on the Project Location Site Map.

STRAND ASSOCIATES, INC.®

September 25, 2020
Kelly M. Hajek, P.E. Date

KMH:cdj\Initials\K:\BRE\Work Products\Client\Proposals & SOQs\2020\Municipal\Brenham-GLO CDBG MIT Program-Drainage (P200.494)_APPLICATION\To Public Management\Harvey\BRENHAM Harvey Project Description Attachment.09242020.docx

October 7, 2020

Mayor and Council
City of Brenham
200 W. Vulcan
Brenham, Texas 77833

RE: Brenham CDBG-MIT (Harvey) Application

Dear Mayor and Council:

Please allow this letter, and the detail contained within, to serve as the basis for discussion for the City's application in the upcoming Community Development Block Grant – Mitigation (CDBG-MIT-Harvey) competition. The project consists of major drainage improvements in the central area of the City. The final application budget is presented below:

Activity	Grant	Match	Total
Construction	$3,987,543.00	$50,017.00	$4,037,560.00
Engineering	$610,100.00	$0.00	$610,100.00
Acquisition	$30,000.00	$0.00	$30,000.00
Administration	$374,000.00	$0.00	$374,000.00
Total	$5,001,643.00	$50,017.00	$5,051,660.00

Please note, the 1% local match commitment has been allocated to the construction activity and will be expected to be expended at the start of construction.

In addition, the following items are included for final approval and authorization to submit this application to the Texas General Land Officer on or before October 28, 2020:

- Application Resolution
- SF-424 Form (requires signature)
- Local Certification (requires signature)

The approved application resolution and the forms requiring signatures will need to be completed and sent back to me for inclusion with the official application material.

Respectfully,

Nic Houston

View Burden Statement

OMB Number: 4040-0004
Expiration Date: 12/31/2022

Application for Federal Assistance SF-424

* 1. Type of Submission: ☐ Preapplication ☒ Application ☐ Changed/Corrected Application	* 2. Type of Application: ☒ New ☐ Continuation ☐ Revision	* If Revision, select appropriate letter(s): * Other (Specify):

* 3. Date Received: 10/28/2020

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: City of Brenham

* b. Employer/Taxpayer Identification Number (EIN/TIN): 76-6000404

* c. Organizational DUNS: 0741649220000

d. Address:

* Street1:	200 W. Vulcan
Street2:	
* City:	Brenham
County/Parish:	
* State:	TX: Texas
Province:	
* Country:	USA: UNITED STATES
* Zip / Postal Code:	77833-0000

e. Organizational Unit:

Department Name: City of Brenham

Division Name: Administration

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:	Mr.
* First Name:	Milton
Middle Name:	Y.
* Last Name:	Tate
Suffix:	Jr.

Title: Mayor

Organizational Affiliation: Administration

* Telephone Number: 979-377-7200

Fax Number:

* Email: mtate@cityofbrenham.org

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

C: City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

United States Department of Housing and Urban Development

11. Catalog of Federal Domestic Assistance Number:

14.228

CFDA Title:

Community Development Block Grant - Mitigation (CDBG-MIT)

*** 12. Funding Opportunity Number:**

FR-6109-N-02

* Title:

Community Development Block Grant - Mitigation (CDBG-MIT)

13. Competition Identification Number:

N/A

Title:

N/A

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment | Delete Attachment | View Attachment

*** 15. Descriptive Title of Applicant's Project:**

Flood & Drainage Activities. Area wide Benefit.

Attach supporting documents as specified in agency instructions.

Add Attachments | Delete Attachments | View Attachments

Application for Federal Assistance SF-424

16. Congressional Districts Of:

* a. Applicant: 10

* b. Program/Project: CDBG

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment | Delete Attachment | View Attachment

17. Proposed Project:

* a. Start Date: 11/01/2021

* b. End Date: 10/31/2027

18. Estimated Funding ($):

* a. Federal	5,001,643.00
* b. Applicant	50,017.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	5,051,660.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on ________.

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☒ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment | Delete Attachment | View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr.

* First Name: Milton

Middle Name: Y.

* Last Name: Tate

Suffix: Jr.

* Title: Mayor

* Telephone Number: 979-377-7200

Fax Number:

* Email: mtate@cityofbrenham.org

* Signature of Authorized Representative:

* Date Signed:

Each Applicant for Community Development Block Grant Mitigation ("CDBG-MIT") funding must complete Federal Assistance Standard Form 424 (SF-424) and certify that local certifications included in this application guide were followed in the preparation of any CDBG-MIT program application. Additionally, Applicant must certify that it will continue to follow local certifications in the event that funding is awarded and Applicant is reclassified as a Subrecipient.

Each Applicant/Subrecipient must comply with the provisions of the National Environmental Policy Act ("NEPA"), the Council on Environmental Quality ("CEQ") regulations, the requirements set forth in Title 24 of the Code of Federal Regulations ("CFR") part 58, and applicable Texas General Land Office policy directives.

Each Applicant/Subrecipient must comply with all applicable federal and state laws, including environmental, labor (Davis-Bacon Act), the procurement procedures and contract requirements found at 2 C.F.R. §200.318 – §200.326, and all civil rights requirements.

Each Applicant/Subrecipient certifies, as outlined in 84 FR 45838 (August 30,2019), the following:

A. The Applicant/Subrecipient certifies that it has in effect and if following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with CDBG-MIT funds.

B. The Applicant/Subrecipient certifies its compliance with restrictions on lobbying as required by 24 C.F.R. part 87, together with disclosure forms, if required by part 87.

C. Any entity or entities designated by the subrecipient, and any contractor, subrecipient, or designated public agency carrying out an activity with CDBG-MIT funds, possess(es) the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and the federal register notice. The subrecipient certifies that activities to be undertaken with CDBG-MIT funds are consistent with the Action Plan.

D. The Applicant/Subrecipient certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Act ("URA"), as amended, and implementing regulations at 49 CFR part 24, except where waivers or alternative requirements are provided for CDBG-MIT funds.

E. The Applicant/Subrecipient certifies that it will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u) and implementing regulations at 24 C.F.R. part 135.

F. The Applicant/Subrecipient certifies that it is following a detailed citizen participation plan that satisfies the requirements of 24 CFR §91.115 or §91.105 (except as provided for in notices providing waivers and alternative requirements for this grant). Also, each local government receiving assistance from a state grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR §570.486 (except as provided for in notices providing waivers and alternative requirements for this grant).

G. The Applicant/Subrecipient certifies that it is complying with each of the following criteria:

1) Funds will be used solely for necessary expenses related to mitigation activities, as applicable, in the most impacted and distressed areas for which the President declared a major disaster in 2015, 2016, or 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. §5121 et seq.).

2) With respect to activities expected to be assisted with CDBG-MIT funds, the relevant action plan has been developed to give priority to activities that will benefit low- and moderate-income families.

3) The aggregate use of CDBG-MIT funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 50 percent (or another percentage permitted by HUD in a waiver published in an applicable Federal Register notice) of the CDBG-MIT grant amount is expended for activities that benefit such persons.

4) The Applicant/Subrecipient will not attempt to recover any capital costs of public improvements assisted with CDBG-MIT funds by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

i. CDBG-MIT funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or

ii. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (a).

H. The Applicant/Subrecipient certifies that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d), the Fair Housing Act (42 U.S.C. §3601-§3619), and implementing regulations, and that it will affirmatively further fair housing.

I. The Applicant/Subrecipient certifies that it has adopted and is enforcing the following policies, and, in addition, must certify that they will require local governments that receive grant funds to certify that they have adopted and are enforcing:

1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations;

2) A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

J. The Applicant/Subrecipient certifies that it (and any administering entity) currently has or will develop and maintain the capacity to carry out mitigation activities, as applicable, in a timely manner and that the subrecipient has reviewed the respective requirements of this notice.

K. The Applicant/Subrecipient certifies that it will not use CDBG-MIT funds for any activity in an area identified as flood prone for land use or hazard mitigation planning purposes by the state, local, or tribal government or delineated as a Special Flood Hazard Area (or 100-year floodplain) in FEMA's most current flood advisory maps, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain, in accordance with Executive Order 11988 and 24 C.F.R. part 55. The relevant data source for this provision is the state, local, and tribal government land use regulations and hazard mitigation plans and the latest-issued FEMA data or guidance, which includes advisory data (such as Advisory Base Flood Elevations) or preliminary and final Flood Insurance Rate Maps.

L. The Applicant/Subrecipient certifies that its activities concerning lead-based paint will comply with the requirements of 24 CFR part 35, subparts A, B, I, K, and R.

M. The Applicant/Subrecipient certifies that it will comply with environmental requirements at 24 CFR part 58.

N. The Applicant/Subrecipient certifies that it will comply with applicable laws.

WARNING: ANY PERSON WHO KNOWLINGLY MAKES A FALSE CLAIM OR STATEMENT TO HUD MAY BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES UNDER 18 U.S.C. §287; 18 U.S.C. §1001, AND 31 U.S.C. § 3729.

Except as otherwise provided under federal law, any person who knowingly and willfully falsifies, conceals, or covers up a material fact by any trick, scheme or device or who makes any materially false, fictitious, or fraudulent statement or representation or who makes or uses any false writing or document knowing the writing or document to contain materially false, fictitious, or fraudulent statement or entry shall be prosecuted under Title 18, United States Code, §1001.

Milton Y. Tate, Jr., Mayor

_______________________________________ ____________________

Printed Name of Authorized Signatory *Date*

____

Signature of Authorized Signatory

PROFESSIONAL ENGINEERING SERVICES FOR MITIGATION PROJECTS UNDER THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

THE City of Brenham, Texas, (the "Subrecipient") and Strand Associates, Inc.®, Tax Identification Number 39-1020418 ("Provider"), each a "Party" and collectively, "the Parties," enter into the following contract as of August 6, 2020,for professional engineering services (the "Contract") pursuant to the Professional Services Procurement Act, TEX. GOVT. CODE 2254 and 2 C.F.R. Part 200.

WHEREAS, the Subrecipient has applied for U.S. Department of Housing and Urban Development Community Development Block Grant–Mitigation ("CDBG-MIT") Hurricane Harvey funds, administered by the Texas General Land Office ("GLO") for mitigation assistance; and

WHEREAS, the CDBG-MIT program is funded under the Housing and Urban Development, Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018, Division B, Subdivision 1 of the Bipartisan Budget Act of 2018, Pub. L. No. 115-123.

NOW, THEREFORE, the Parties agree to the following terms and conditions:

I. DEFINITIONS/INTERPRETIVE PROVISIONS/PROJECT DESCRIPTION

1.01 DEFINITIONS

"Activity" means a defined class of works or services authorized to be accomplished using CDBG-MIT grant funds. Activities are specified in Subrecipient Budgets as 'Category,' and the terms are interchangeable under this Contract.

"Administrative and Audit Regulations" means the regulations included in Title 2, CFR, Part 200. Chapter 321 of the Texas Government Code; Subchapter F of Chapter 2155 of the Texas Government Code; and the requirements of Article VII herein. With regard to any federal funding, agencies with the necessary legal authority include: the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of Inspector General, and any of their authorized representatives. In addition, state agencies and/or designee's with the authority to audit and inspect include, the Subrecipient, the GLO, the GLO's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office and the Texas Comptroller of Public Accounts.

"Attachment" means documents, terms, conditions, or additional information physically added to this Contract following the execution page, or incorporated by reference, as if physically.

"Benchmark" or "Billing Milestone" means a clearly defined set of incremental services that must be performed; or an interim level of accomplishment that must be met by Provider in order to receive periodic incremental and final reimbursement for services under this Contract.

"CDBG—MIT" means the Community Development Block Grant—Mitigation Program administered by the U.S. Department of Housing and Urban Development, in cooperation with the GLO.

"Certificate of Construction Completion" means a document submitted by an engineer or, if none, a construction contractor, to a Subrecipient which, when executed by the Subrecipient, indicates acceptance of the non-housing project, as built.

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

"Contract Period" means the period of time between the effective date of a contract and its expiration or termination date.

"Deliverable" means a unit or increment of work to include, any item, report, data, document, photograph, or other submission required to be delivered under the terms of this Contract, in whatever form.

"Federal Assurances" means Standard Form 424B (Rev. 7-97 (non-construction projects; or Standard Form 424D (Rev. 7-97 (construction projects, in **Attachment A**, attached hereto and incorporated herein for all purposes.

"Federal Certifications" means U.S. Department of Commerce Form CD-512 (12-04, "Certifications Regarding Lobbying – Lower Tier Covered Transactions," also in **Attachment A**, attached hereto and incorporated herein for all purposes.

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

"GAAP" means "Generally Accepted Accounting Principles." "GASB" means the Governmental Accounting Standards Board.

"General Affirmations" means the statements in **Attachment B**, attached hereto and incorporated herein for all purposes, which Provider affirms by executing this Contract.

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

"HSP" means HUB Subcontracting Plan, as outlined by Chapter 2161 of the Texas Government Code.

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

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

"Mentor Protégé" means the Comptroller of Public Accounts' leadership program found at: http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/

"Non-housing" refers to a project involving the restoration and/or repair of infrastructure facilities and the economic revitalization activities approved under a CDBG-MIT program grant.

"Performance Statement" means Provider's detailed project summary hereby incorporated for all purposes as **Attachment C**.

"Project" means the professional engineering services described in **SECTION 1.03** of this Contract and in any applicable Attachments.

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

"Project Implementation Manual" means a set of guidelines for the CDBG-MIT Program, incorporated herein by reference for all purposes in its entirety.

"Project Period" means the stated time for completion of a Project assigned by Work Order, if any.

"Prompt Pay Act" means Chapter 2251, Subtitle F of Title 10 of the Texas Government Code.

"Provider" means Strand Associates, Inc, selected to provide the services under this Contract, if any.

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

"Quarterly Report" means a document submitted by Provider to a Subrecipient for approval and submission to the GLO as a condition of reimbursement, as discussed in **SECTION 1.05** and **ARTICLE III**, below.

"RFQ/RFP" means the Subrecipient's Request for Qualifications/Proposals, or the Solicitation, as defined below.

"Scope of Services" means Provider's detailed scope of services hereby incorporated for all purposes as **Attachment H and I.**

"Solicitation" means Subrecipient's Request for Qualifications/Proposals, including any Addenda.

"Solicitation Response" means Provider's full and complete response to the Solicitation, including any Addenda.

"State of Texas TexTravel" means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

"Subcontractor" means an individual or business that signs a contract to perform part or all of the obligations of Provider under this Contract.

"Subrecipient" means City of Brenham, Texas, a local governmental body or political subdivision that receives funds under HUD's CDBG—MIT Program for non-housing projects.

"Subrecipient Agreement" means the contractual agreement for a CDBG-MIT non-housing grant between the GLO and the Subrecipient for which Provider performs services assigned by the Subrecipient, if any.

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

1.02 INTERPRETIVE PROVISIONS

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms;

(b) The words "hereof," "herein," "hereunder," and similar words refer to this Contract as a whole and not to any particular provision, section, attachment, work order, or schedule of this Contract unless otherwise specified;

(c) The term "including" is not limiting and means "including without limitation" and, unless otherwise expressly provided in this Contract, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent that such amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation;

(d) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract;

(e) All attachments within this Contract, including those incorporated by reference, and any amendments are considered part of the terms of this Contract;

(f) This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each shall be performed in accordance with its terms;

(g) Unless otherwise expressly provided, reference to any action of the Subrecipient or by the Subrecipient by way of consent, approval, or waiver shall be deemed modified by the phrase "in its/their sole discretion." Notwithstanding the preceding sentence, any approval, consent, or waiver required by, or requested of, the Subrecipient shall not be unreasonably withheld or delayed;

(h) Time is of the essence in this Contract.

(i) In the event of conflicts or inconsistencies between this contract and its attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: Signed Contract; Attachments to the Contract: Attachment A, Attachment B, Attachment C, Attachment D, Attachment E, Attachment F, Attachment G and Attachment H. Solicitation Documents; and Provider's Response to Solicitation.

1.03 PROJECT

Provider shall perform, or cause to be performed, professional engineering services as required for disaster recovery projects in the City of Brenham, Washington County, Texas, authorized under GLO Contract No. TBD as ("Subrecipient's Contract"), as may be amended from time to time, and as outlined in detail in the Performance Statement, attached hereto and incorporated herein for all purposes as **Attachment C** ("the Project").

Provider is responsible for obtaining Subrecipient's most current performance statement and Implementation Schedule, Budget ("Subrecipient's Documents"), and any other documentation which may be required to accomplish the Project that is the subject of this Contract. Such documents are incorporated herein by reference in their entirety for all purposes.

No services may begin and no charges may be incurred prior to the effective date of Subrecipient's Contract and/or Amendment, to which this Contract is related, with the exception of assistance to Subrecipient in completing the grant application as necessary, and other pre-execution services authorized by prior, written approval of the GLO, if any. Subrecipient Documents may be obtained from the Subrecipient or the Subrecipient's Grant Administrator, and their effective date and status as executed documents must be confirmed by Provider prior to commencement of any services.

1.04 REPORTING REQUIREMENTS

Provider shall assist the Subrecipient to timely submit all reports and documentation that are required under this Contract and any Subrecipient Contract.

MONTHLY REPORTS–APPLICABLE TO NON-HOUSING AND HOUSING PROJECTS:

MONTHLY REPORTS ARE REQUIRED AS A CONDITION OF REIMBURSEMENT TO ALL SUBRECIPIENTS. It is incumbent upon Provider to facilitate the submission of each Monthly Report in a timely manner. Each Monthly Report shall include progress made since the prior reporting period, current Benchmarks achieved, projected quantities, problems encountered and detailed plans to correct them, goals to be accomplished in the subsequent reporting period, and any other information as may be required by the GLO.

The GLO may review the Monthly Report(s) and may request revisions to be made. Provider shall make itself aware of such revision requests and shall assist the Subrecipient in making appropriate revisions. Upon acceptance of the Monthly

Report and submission of a properly prepared invoice, appropriate payment may be made to Subrecipient and to Provider.

Provider shall facilitate the timely submission to the GLO of such additional information by the Grant Recipient.

Reimbursement may be withheld if a Monthly Report is delinquent or deficient, in the sole discretion of the GLO.

Provider shall submit to the Subrecipient all reports, drawings, surveys, designs, and such other work products as required by the Scope of Services in **<u>Attachments H and I</u>** of this Contract and Subrecipient's Contract, and in accordance with the Project Implementation Manual, and any Technical Guidance Letters or Revisions issued by the GLO, if any.

FINAL DOCUMENTATION: By the close of business no later than thirty (30) days after completion of a construction project, Provider shall submit to the Subrecipient and to Subrecipient's Grant Administration Provider, if any, a copy of the executed Certificate of Construction Completion ("COCC") for the project which must include a final, **' as built"** report of quantities, drawings, and specifications used during the course of the project, with justification as to why any variances from original plans, approved pursuant to **SECTION 1.04(c)** of Provider's Contract, were required. **Notwithstanding the preceding** the GLO, in its sole discretion, may approve extensions to this Deliverable due date. Such approvals must be in writing, and may be delivered by regular mail, electronic mail, or facsimile transmission.

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II. TERM

2.01 DURATION

This Contract shall be effective as of the date of award and shall terminate after closing of project with GLO. Any extensions will be subject to terms and conditions mutually agreeable to both parties.

2.02 ABANDONMENT OR DEFAULT

If the Provider defaults on the Contract, the Subrecipient reserves the right to cancel the Contract without notice and either re-solicit or re-award the Contract to the next best responsive and responsible vendor qualified under the Solicitation. The defaulting provider will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of services, unless the specification or scope of services significantly changed. The period of suspension will be determined by the Subrecipient based on the seriousness of the default.

2.03 TERMINATION OF CONTRACT FOR CAUSE

If the Provider fails to fulfill in a timely and proper manner its obligations under this Contract, or if the Provider violates any of the covenants, conditions, agreements, or stipulations of this Contract, the Subrecipient shall have the right to terminate this Contract by giving written notice to the Provider of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Provider pursuant to this Contract shall, at the option of the Subrecipient, be turned over to the Subrecipient and become the property of the Subrecipient. In the event of termination for cause, the Provider shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Provider shall not be relieved of liability to the Subrecipient for damages sustained by the Subrecipient by virtue of any breach of the Contract by the Provider, and the Subrecipient may set-off the damages, upon notification to Provider, it incurred as a result of the Provider's breach of the contract from any amounts it might otherwise owe the Provider.

2.04 TERMINATION FOR CONVENIENCE OF THE CITY/COUNTY

Subrecipient may at any time and for any reason terminate Provider's services at Subrecipient's convenience upon providing written notice to the Provider specifying the extent of termination and the effective date. Upon receipt of such notice, Provider shall, unless the notice directs otherwise, immediately discontinue the services and placing of orders for materials, facilities and supplies in connection with the performance of this Contract.

Upon such termination, Provider shall be entitled to payment only as follows: (1) the actual cost of the services completed in conformity with this Contract; plus, (2) such other costs actually incurred by Provider as are permitted by this contract and approved by Subrecipient; (3) plus ten percent (10%) of the cost of the services referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Provider prior to the date of the termination of this Contract. Provider shall not be entitled to any claim or claim of lien against Subrecipient for any additional compensation or damages in the event of such termination and payment.

2.05 CHANGES

The Subrecipient may, from time to time, request changes in the services the Provider will perform under this Contract. Such changes, including any increase or decrease in the amount of the Provider's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Contract.

2.06 RESOLUTION OF PROGRAM NON-COMPLIANCE AND DISALLOWED COSTS

In the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or CDBG-MIT program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Contract and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

2.07 PERSONNEL

a. The Provider represents that he/she/it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Subrecipient.

b. All of the services required hereunder will be performed by the Provider or under its supervision and all personnel engaged in the services shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

c. None of the services covered by this Contract shall be subcontracted without the prior written approval of the Subrecipient. Any services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

2.08 ASSIGNABILITY

The Provider shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the Subrecipient thereto; provided, however, that claims for money by the Provider from the Subrecipient under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Subrecipient.

2.09 REPORTS AND INFORMATION

The Provider, at such times and in such forms as the Subrecipient may require, shall furnish the Subrecipient such periodic reports as it may request pertaining to the services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

2.10 RECORDS AND AUDITS

The Subrecipient shall maintain fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to 2 CFR 200.300-.309, 24 CFR 570.490, and this Contract. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Contract. The Subrecipient shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Contract or the period required by other applicable laws and regulations.

2.11 FINDINGS CONFIDENTIAL

All of the reports, information, data, etc., prepared or assembled by the Provider under this contract are confidential and the Provider agrees that they shall not be made available to any individual or organization without the prior written approval of the Subrecipient.

2.12 COPYRIGHT

No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Provider.

2.13 COMPLIANCE WITH LOCAL LAWS

The Provider shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Provider shall save the Subrecipient harmless with respect to any damages arising from any tort related to Provider's negligence in performing any of the services embraced by this Contract.

2.14 CONFLICTS OF INTEREST

a. Governing Body. No member of the governing body of the Subrecipient and no other officer, employee, or agent of the Subrecipient, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of CDBG-MIT award between GLO and the Subrecipient, shall have any personal financial interest, direct or indirect, in the Provider or this Contract; and the Provider shall take appropriate steps to assure compliance.

b. Other Local Public Officials. No other public official, who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the CDBG-MIT award between GLO and the Subrecipient, shall have any personal financial interest, direct or indirect, in the Provider or this Contract; and the Provider shall take appropriate steps to assure compliance.

c. The Provider and Employees. The Provider warrants and represents that it has no conflict of interest associated with the CDBG-MIT award between GLO and the Subrecipient or this Contract. The Provider further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the CDBG-MIT award between GLO and the Subrecipient or in any business, entity, organization or person that may benefit from the award. The Provider further agrees that it will not employ an individual with a conflict of interest as described herein.

2.15 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

The Provider certifies, by entering into this Contract, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term "principal" for purposes of this Contract is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Provider. The Provider understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

2.16 EQUAL OPPORTUNITY CLAUSE (APPLICABLE TO CONTRACTS AND SUBCONTRACTS OVER $10,000).

- The Provider will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- The Provider will, in all solicitations or advertisements for employees placed by or on behalf of the Provider, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- The Provider will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- The Provider will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Provider's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- The Provider will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity," and of the rules, regulations, and relevant orders of the Secretary of Labor.

- The Provider will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- In the event of the Provider 's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Provider may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- The Provider will include the portion of the sentence immediately preceding paragraph

(a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Provider will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Provider becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Provider may request the United States to enter into such litigation to protect the interests of the United States.

2.17 CIVIL RIGHTS ACT OF 1964

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

2.18 SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

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

2.19 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The Provider agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.

2.20 AGE DISCRIMINATION ACT OF 1975

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

2.21 BYRD ANTI-LOBBING AMENDMENT (31 U.S.C. 1352) (IF CONTRACT GREATER THAN OR EQUAL TO $100,000)

The Provider certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining this contract. The Provider shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

2.22 EXTENT OF CONTRACT

This Contract, which includes Parts I-VIII, and Attachments A - H represents the entire and integrated agreement between the Subrecipient and the Provider and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by authorized representatives of both Subrecipient and the Provider.

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III. CONSIDERATION

3.01 CONTRACT LIMIT, FEES, AND EXPENSES

The application will be completed at $__________ amount. (To be amended and added with funding.)

Provider will be compensated on a negotiated fee basis, for a not to exceed 15% for the maximum amount available for such services as prescribed by the Subrecipient Contract, the GLO, HUD or any governing law, for the term of this Contract. Shall be reimbursable in increments as shown in the Benchmarks in **Attachment C** for the type of services to be performed. The Subrecipient agrees to pay Provider in accordance with The Prompt Pay Act, Tex. Govt. Code Ch. 2251.

Grant funds must not be commingled between or among HUD funding rounds; nor between or among Non-Housing and Housing assignments.

Reimbursement for services may be requested based on the Benchmarks**,** according to the type of services authorized, contingent upon Provider's facilitation of the timely submission of each Monthly Report required, as discussed in **SECTION 1.04** above.

At a minimum, invoices must clearly reflect:

(a) Provider's Contract Number;

(b) Service Period

(c) the name and GLO Contract Number (12 digits) of the Subrecipient Contract to which services have been provided;

(d) the current amount being billed;

(e) the cumulative amount billed previously;

(f) the balance remaining to be billed; and

(g) an itemized statement of services performed, including documentation as required under the Contract, such as invoices, receipts, statements, stubs, tickets, time sheets, and any other which, in the judgment of the Subrecipient, provides full substantiation of reimbursable costs incurred.

Subject to the maximum Contract amount authorized herein, upon specific, prior, written approval by the Subrecipient, lodging, travel, and other incidental direct expenses may be reimbursed under this Contract for professional or technical personnel who are (a) away from the cities in which they are permanently assigned; (b) conducting business specifically authorized by the Subrecipient; and (c) performing services not originally contemplated in the Scope of Services.

NOTICE TO PROVIDER:

Failure to include all of the information required in **SECTION 3.01** with each invoice may result in a significant delay in processing payment for the invoice.

Not-To-Exceed Draw Percentages	
Milestones	**Engineering Funds**
Engineering Notice to Proceed	30%
100% Design Approval	60%
Bid Advertisement	70%
Construction Notice to Proceed	85%
Record Drawings/COCC/FWCR	100%

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IV. PROVIDER'S WARRANTY, AFFIRMATIONS, AND ASSURANCES

4.01 PERFORMANCE WARRANTY

Provider represents that all services performed under this Contract will be performed in a manner consistent with a degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Provider represents that all work product, including Deliverables if any, under this Contract shall be completed in a manner consistent with standards in the applicable trade, profession, or industry; shall conform to the specifications set forth in the incorporated Attachments (if any). If Provider fails to submit Deliverables timely or to perform satisfactorily under conditions required by this Contract, the Subrecipient may require Provider, at its sole expense, to the extent such defect or damage is caused by the negligence of Provider, to (a) repair or replace all defective or damaged Deliverables; (b) refund any payment received for all defective or damaged Deliverables and, in conjunction therewith, require Provider to accept the return of such Deliverables; and/or (c) take necessary action so that future performance and Deliverables conform to the Contract requirements.

4.02 GENERAL AFFIRMATIONS

To the extent that they are applicable, Provider further certifies that the General Affirmations in **Attachment B** have been reviewed, and that Provider is in compliance with each of the requirements reflected therein.

4.03 FEDERAL ASSURANCES

To the extent that they are applicable, Provider further certifies that the Federal Assurances in **Attachment A** have been reviewed and that Provider is in compliance with each of the requirements reflected therein. The Federal Assurance form must be executed by Provider's authorized signatory.

4.04 FEDERAL CERTIFICATIONS

To the extent that they are applicable, Provider further certifies that the Federal Certifications also in **Attachment A** have been reviewed, and that Provider is in compliance with each of the requirements reflected therein. The Federal Certifications form must be executed by Provider's authorized signatory.

In addition, Provider certifies that it is in compliance with any other applicable federal laws, rules, or regulations, as they may pertain to this Contract including, those listed in Attachment D.

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V. FEDERAL AND STATE FUNDING, RECAPTURE OF FUNDS, AND OVERPAYMENT

5.01 FEDERAL FUNDING

(a) Funding for this Contract is appropriated under the Housing and Urban Development, and the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018, Pub. L. 115-123) enacted on February 9, 2018. It is to mitigate disaster risk and reduce future losses, and allow grantees the opportunity to transform state & local planning, and to affirmatively further fair housing in accordance with Executive Order 12892, in areas affected by the 2015, 2016 & Hurricane Harvey (2017) Floods, which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The Fulfillment of the Contract is based on those funds being made available to the GLO as the lead administrative state agency. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the CDBG-MIT Program, and any other applicable laws. Further, Provider acknowledges that all funds are subject to recapture and repayment for non-compliance.

(b) All participants in the CDBG-MIT grant program must have a data universal numbering system (DUNS) number, as well as a Commercial and Government Entity (CAGE) Code.

(c) The DUNS number and CAGE Code must be reported to the GLO for use in various grant reporting documents, and may be obtained by visiting the Central Contractor Registration web site at:

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

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

5.02 STATE FUNDING

(a) This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, it is understood that all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, the Subrecipient, in its sole discretion, may terminate this Contract. In that event, the parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.

(b) Furthermore, any claim by Provider for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Provider, under the annual budget in effect at the time of the breach. Nothing in this provision shall be construed as a waiver of sovereign immunity.

5.03 RECAPTURE OF FUNDS

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

5.04 OVERPAYMENT

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

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VI. OWNERSHIP

6.01 OWNERSHIP AND THIRD PARTY RELIANCE

(a) The Subrecipient shall own, and Provider hereby assigns to the GLO, all right, title, and interest in all services to be performed; all goods to be delivered; and/or all other related work product prepared, or in the course of preparation, by Provider (or its subcontractors) pursuant to this Contract, together with all related worldwide intellectual property rights of any kind or character (collectively, the "Work Product"). Under no circumstance will any license fee, royalty, or other consideration not specified in this Contract be due to Provider for the assignment of the Work Product to the GLO or for the GLO's use and quiet enjoyment of the Work Product in perpetuity. Provider shall promptly submit all Work Product to the GLO upon request or upon completion, termination, or cancellation of this Contract for any reason, including all copies in any form or medium.

(b) Provider and the Subrecipient shall not use, willingly allow, or cause such Work Product to be used for any purpose other than performance of Provider's obligations under this Contract without the prior written consent of either party and the GLO. Work Product is for the exclusive use and benefit of, and may be relied upon only by the Parties. Prior to distributing any Work Product to any third party, other than the GLO, the parties shall advise such third parties that if it relies upon or uses such Work Product, it does so entirely at its own risk without liability to the GLO, Provider, or the Subrecipient.

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VII. RECORDS, AUDIT, RETENTION, CONFIDENTIALITY, PUBLIC RECORDS

7.01 BOOKS AND RECORDS

Provider shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the Subrecipient, the GLO, the State of Texas Auditor's Office, the United States Government, and/or their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes.

7.02 INSPECTION AND AUDIT

(a) Provider agrees that all relevant records related to this Contract and any Work Product produced in relation to this Contract, including the records and Work Product of its Subcontractors, shall be subject to the Administrative and Audit Regulations. Accordingly, such records and Work Product shall be subject, at any time, to inspection, examination, audit, and copying at any location where such records and Work Product may be found, with or without notice from the Subrecipient, the GLO, HUD, or other government entity with necessary legal authority. Provider agrees to cooperate fully with any federal or state entity in the conduct of inspection, examination, audit, and copying, including providing all information requested. Provider will ensure that this clause concerning federal and state entities' authority to inspect, examine, audit, and copy records and Work Product, and the requirement to fully cooperate with the federal and state entities, is included in any subcontract it awards.

(b) Provider understands that acceptance of state funds under this Contract acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. Provider further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Provider will ensure that this clause concerning the State Auditor's Office's authority to audit state funds and the requirement to fully cooperate with the State Auditor's Office is included in any subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Provider relating to the Contract for any purpose. HUD, the Comptroller General, the General Accounting Office, the Office of Inspector General, or any authorized representative of the U.S. Government shall also have this right of inspection. **PROVIDER SHALL ENSURE THAT ALL SUBCONTRACTS AWARDED REFLECT THE REQUIREMENTS OF THIS SECTION 7.02, AND THE REQUIREMENT TO COOPERATE.**

(c) Provider will be deemed to have read and have knowledge of all applicable federal, state, and local laws, regulations, and rules including, but not limited to those identified in **Attachment D**, governing audit requirements pertaining to the Project.

7.03 PERIOD OF RETENTION

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

7.04 CONFIDENTIALITY

To the extent permitted by law, Provider and the Subrecipient agree to keep all information confidential, in whatever form produced, prepared, observed, or received by Provider or the Subrecipient to the extent that such information is: (a) confidential by law; (b) marked or designated "confidential" (or words to that effect) by Provider or the Subrecipient; or (c) information that Provider or the Subrecipient is otherwise required to keep confidential by this Contract. Furthermore, Provider will not advertise that it is doing business with the Subrecipient, use this Contract as a marketing or sales tool, or make any press releases concerning services under this Contract without the prior written consent of the Subrecipient.

7.05 PUBLIC RECORDS

Information related to the performance of this Contract may be subject to the Public Information Act ("PIA") and will be withheld from public disclosure or released only in accordance therewith. Provider shall make any information required under the PIA available to the Subrecipient in portable document file (".pdf") format or any other format agreed between the Parties. Failure of Provider to mark as "confidential" or a "trade secret" any information that it believes to be excepted from disclosure waives any and all claims Provider may make against the Subrecipient for releasing such information without prior notice to Provider. Provider shall notify the Subrecipient within twenty-four (24) hours of receipt of any third party written requests for information, and forward a copy of said written requests to the Subrecipient. If the request was not written, Provider shall forward the third party's contact information to the Subrecipient.

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VIII. MISCELLANEOUS PROVISIONS

8.01 INSURANCE

Provider shall acquire for the duration of this Contract insurance with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount and in the form required by **Attachment E** of this Contract**, REQUIRED INSURANCE AND FORM**. Furthermore, Provider shall submit a certificate of liability insurance as required under this Contract, including (if requested) a schedule of coverage (or "underwriter's schedules") establishing to the satisfaction of the Subrecipient the nature and extent of coverage granted by each policy.

Provider shall submit certificates of insurance and endorsements electronically, in the manner requested by the Subrecipient. In the event that any policy is determined to be deficient to comply with the terms of this Contract, Provider shall secure such additional policies or coverage as the Subrecipient may reasonably request or that are required by law or regulation.

Provider will be responsible for submitting renewed certificates of insurance and endorsements, as evidence of insurance coverage throughout the term of this Contract. Provider may not be actively working on behalf of the Subrecipient if the insurance coverage does not adhere to insurance requirements. Failure to submit required insurance documents may result in the cancellation of this Contract.

8.02 TAXES/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE

PROVIDER AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, PROVIDER SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF PROVIDER'S AND PROVIDER'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. PROVIDER AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE SUBRECIPIENT SHALL NOT BE LIABLE TO THE PROVIDER, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/ OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER. 2) PROVIDER AGREES TO INDEMNIFY AND HOLD HARMLESS THE SUBRECIPIENT, THE GLO, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. PROVIDER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE SUBRECIPIENT NAMED AS A DEFENDANT IN

ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE SUBRECIPIENT. PROVIDER AND THE SUBRECIPIENT AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

8.03 LEGAL OBLIGATIONS

Provider shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Provider to provide the goods or services required by this Contract. Provider will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Provider agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

8.04 INDEMNITY

EXCEPT FOR DAMAGES DIRECTLY OR PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OF THE SUBRECIPIENT OR THE GLO, PROVIDER SHALL INDEMNIFY AND HOLD HARMLESS THE SUBRECIPIENT, THE STATE OF TEXAS, THE GLO, AND THE OFFICERS, REPRESENTATIVES, AGENTS, AND EMPLOYEES OF THE SUBRECIPIENT, THE STATE OF TEXAS, AND THE GLO FROM ANY LOSSES, CLAIMS, SUITS, ACTIONS, DAMAGES, OR LIABILITY (INCLUDING ALL COSTS AND REASONABLE EXPENSES OF DEFENDING AGAINST ALL OF THE AFOREMENTIONED) ARISING IN CONNECTION WITH:

- **ANY NEGLIGENT, ACTS, OMISSION, OR MISCONDUCT IN THE PROVIDER'S PERFORMANCE OF THE SERVICES REFERENCED HEREIN; OR**

- **ANY CLAIMS OR AMOUNTS ARISING OR RECOVERABLE UNDER FEDERAL OR STATE WORKERS' COMPENSATION LAWS, THE TEXAS TORT CLAIMS ACT, OR ANY OTHER SUCH LAWS.**

PROVIDER SHALL BE RESPONSIBLE FOR THE SAFETY AND WELL BEING OF ITS EMPLOYEES, CUSTOMERS, AND INVITEES. THESE REQUIREMENTS SHALL SURVIVE THE TERM OF THIS CONTRACT UNTIL ALL CLAIMS HAVE BEEN SETTLED OR RESOLVED AND SUITABLE EVIDENCE TO THAT EFFECT HAS BEEN FURNISHED TO THE SUBRECIPIENT.

8.05 ASSIGNMENT AND SUBCONTRACTS

Provider shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the prior written consent of the Subrecipient. Notwithstanding this provision, it is mutually understood and agreed that Provider may subcontract with others for some or all of the services to be performed. In any approved subcontracts, Provider shall legally bind such subcontractor to perform and make such subcontractor subject to all the duties, requirements, and obligations of Provider as specified in this Contract. Nothing in this Contract shall be construed to relieve Provider of the responsibility for ensuring that the goods delivered and/or the services rendered by Provider and/or any of its subcontractors comply with all the terms and provisions of this Contract. Provider will provide written notification to the Subrecipient of any such subcontractor performing fifteen percent (15%) or more of the services under this Contract, including the name and taxpayer identification number of subcontractor, the task(s) being performed, and the number of subcontractor employees expected to work on the task.

8.06 RELATIONSHIP OF THE PARTIES

Provider is associated with the Subrecipient only for the purposes and to the extent specified in this Contract, and, with respect to Provider's performance pursuant to this Contract, Provider is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its services under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the Subrecipient or the GLO any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Provider or any other party. Provider shall be solely responsible for, and the Subrecipient shall have no obligation with respect to:

(a) withholding of income taxes, FICA, or any other taxes or fees;

(b) industrial or workers' compensation insurance coverage;

(c) participation in any group insurance plans available to employees of the State of Texas;

(d) participation or contributions by the State to the State Employees Retirement System;

(e) accumulation of vacation leave or sick leave; or

(f) unemployment compensation coverage provided by the State.

8.07 COMPLIANCE WITH OTHER LAWS

In the performance of this Contract, Provider shall comply with all applicable federal, state, and local laws, ordinances, and regulations. Provider shall make itself familiar with and at all times shall observe and comply with all applicable federal, state, and local laws, ordinances, and regulations that in any manner affect performance under this Contract including, those attached hereto and incorporated herein for all purposes as **Attachment D**. Provider will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.

8.08 NOTICES

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

Subrecipient
City of Brenham
P.O. Box 1059
Brenham, TX 77834
Attention: Honorable Milton Y. Tate, Jr., Mayor

Provider
Strand Associates, Inc.®
1906 Niebuhr Street
Brenham, Texas 77833
Attention: Kelly M. Hajek, P.E.

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

8.10 GOVERNING LAW AND VENUE

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit between Subrecipient and Provider under this Contract shall be in a court of competent jurisdiction in Washington County, Texas. Provider irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

8.11 SEVERABILITY

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

8.12 FORCE MAJEURE

Except with respect to the obligation of payments under this Contract, if either of the parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; pandemic; or similar events that are beyond the control of the affected party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected party's obligation to comply with such covenant shall be suspended, and the affected party shall not be liable for damages for failure to comply with such covenant. In any such event, the party claiming Force Majeure shall promptly notify the other party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Provider.

8.13 ENTIRE CONTRACT AND MODIFICATION

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

8.14 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall together constitute but one and the same Contract. If the Contract is not executed by the GLO within thirty (30) days of execution by the other party, this Contract shall be null and void. In the sole discretion of the GLO, Work Orders issued, if any, may be executed by the parties in counterparts exchanged by electronic mail.

8.15 THIRD-PARTY BENEFICIARY

The Parties agree that the GLO, as the administrator of the CDBG-MIT program, is a third-party beneficiary to this Contract and that the GLO shall have the right to enforce any provision of this Contract. Provided, however, that GLO shall only enforce a provision Contract after notifying the Parties, in writing, of a potential breach or default of the Contract and allowing the Provider sixty (60) days to cure the breach or default. Venue of any suit under this Section 8.17 shall be in a court of competent jurisdiction in Travis County, Texas. Provider irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto. **NOTHING IN THIS**

CONTRACT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.

8.16 PROPER AUTHORITY

Each party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Provider acknowledges that this Contract is effective for the period of time specified in the Contract. Any services performed by Provider before this Contract is effective or after it ceases to be effective are performed at the sole risk of Provider.

8.17 REQUIRED CONTRACT PROVISIONS FOR CONTRACTS USING FEDERAL FUNDS

Attachment F

8.18 CERTIFICATE OF INTEREST PARTIES

Provider shall visit https://www.ethics.state.tx.us/filinginfo/1295/ and fill out Certificate of Interested Parties (FORM 1295) **Attachment G.**

SIGNATURE PAGE FOLLOWS

IN WITNESSETH WHEREOF, the parties have executed this Agreement by causing the same to be signed on this _____ day of _______________, ______.

SUBRECIPIENT:		PROVIDER:	
CITY OF BRENHAM		STRAND ASSOCIATES, INC.®	
Milton Y. Tate, Jr.	Date	Joseph M. Bunker	Date
Mayor		Corporate Secretary	

0MB Approval No. 0348-0042

ASSURANCES - CONSTRUCTION PROGRAMS

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

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

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

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

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will not dispose of, modify the use of, *or* change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.

4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.

5. Will provide and maintain competent and adequate engineering services at the construction site to review that the completed 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. In furnishing observation services, Provider's efforts will be directed toward determining for Subrecipient that the completed project will, in general, conform to the Contract Documents; but Provider will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents.

6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

10. Will comply with all Federal statutes relating to non-discrimination . These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color *or* national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975. as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse: (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, U) 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 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.

14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

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 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

THIS FORM MUST BE EXECUTED

FORM **CD-512**
(REV 12-04)

U.S. DEPARTMENT OF COMMERCE

CERTIFICATION REGARDING LOBBYING LOWER TIER COVERED TRANSACTIONS

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

LOBBYING

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

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

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

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

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

Statement for Loan Guarantees and Loan Insurance

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

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

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

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

NAME OF APPLICANT	AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

THIS FORM MUST BE EXECUTED

DISCLOSURE OF LOBBYING ACTIVITIES

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

Approved by OMB
0348-0046

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	a. bid/offer/application b. initial award c. post-award	a. initial filing b. material change **For Material Change Only:** year _________ quarter _________ date of last report ______________

4. Name and Address of Reporting Entity: ☐ **Prime** ☐ **Subawardee** Tier ______, *if known*: **Congressional District**, *if known*: 4c	**5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:** **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____________
8. Federal Action Number, *if known*:	**9. Award Amount,** *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: ______________________ Print Name: ______________________ Title: ______________________ Telephone No.: ______________ Date: __________
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

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

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

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizationallevel below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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

GENERAL AFFIRMATIONS

Provider agrees without exception to the following affirmations:

1. Provider certifies that he/she/it has not given, offered to give, nor intends to give at anytime hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.

2. Provider certifies that neither Provider nor any firm, corporation, partnership, or institution represented by Provider or anyone acting for such firm, corporation, partnership, or institution has (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or federal antitrust laws; or (2) communicated the contents of the Contract or proposal either directly or indirectly to any competitor or any other person engaged in the same line of business during the procurement process for the Contract or proposal.

3. Provider certifies that if its business address shown on the Contract is a Texas address, that address is the legal business address of Provider and Provider qualifies as a Texas Resident Bidder under Texas Administrative Code, Title 34, Part 1, Chapter 20.

4. Section 2155.004 of the Texas Government Code prohibits the award of a contract that includes proposed financial participation by a person who received compensation from the Subrecipient to participate in preparing the specifications or request for proposals on which the Contract is based. Under Section 2155.004, Government Code, the vendor [Provider] certifies that the individual or business entity named in this bid or Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.

5. Under Texas Family Code section 231.006, a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under a contract to provide property, materials, or services. Under Section 231.006, Texas Family Code, the vendor or applicant [Provider] certifies that the individual or business entity named in this Contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

6. Provider agrees that any payments due under the Contract will be applied towards any debt, including but not limited to delinquent taxes and child support, Provider owes to the State of Texas.

7. The Subrecipient is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism and any subsequent changes made to it. The Subrecipient will cross-reference Providers/vendors with the federal System for Award Management (https://www.sam.gov/), which includes the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

8. Provider certifies: 1) that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity; 2) that Provider is in compliance with the State of Texas statutes and rules relating to procurement; and 3) that Provider is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at https://www.sam.gov/.

9. Under Section 2155.006(b) of the Texas Government Code, the Subrecipient may not enter into a contract that includes proposed financial participation by a person who, during the five year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, Provider certifies that the individual or business entity named in the Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.

10. The state auditor may conduct an audit or investigation of any entity receiving state funds directly under the Contract or indirectly through a subcontract under the Contract. Acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Provider shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Provider and the requirement to cooperate is included in any subcontract it awards.

11. Provider understands that the neither the Subrecipient nor the GLO tolerate any type of fraud. The Subrecipient's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Providers are expected to report any possible fraudulent or dishonest acts, waste, or abuse affecting any transaction with the GLO to the GLO's Internal Audit Director at 512.463.5338 or to tracey.hall@glo.texas.gov.

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

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Attachment C

Performance Statement

To Be Determined and Added once funding has occurred & contract is approved between state and entity

NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

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

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

GENERALLY

The Acts and Regulations specified in this Contract;

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

The Housing and Community Development Act of 1974 (12 U.S.C. § 5301 *et seq*.);
Cash Management Improvement Act regulations (31 C.F.R. Part 205);
Community Development Block Grants (24 C.F.R. Part 570);

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);

Disaster Recovery Implementation Manual; Plan for Disaster Recovery

CIVIL RIGHTS

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

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

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

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

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

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

LABOR STANDARDS

The Davis-Bacon Act, as amended (originally, 40 U.S.C. 276a-276a-5 and re-codified at 40 U.S.C. 3141-3148); 29 C.F.R. Part 5;

The Copeland "Anti-Kickback" Act (originally, 18 U.S.C. 874 and re-codified at 40 U.S.C. 3145): 29 C.F.R. Part 3;

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (originally, 40 U.S.C. § 327A and 330 and re-codified at 40 U.S.C. 3701-3708);

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

Federal Executive Order 11246, as amended;

EMPLOYMENT OPPORTUNITIES

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

The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212); and Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688); and

Federal Executive Order 11246, as amended;

GRANT AND AUDIT STANDARDS

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

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for

Federal Awards (2 C.F.R. Part 200);

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

Title 1 Texas Administrative Code § 5.167(c);

LEAD-BASED PAINT

Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) and the procedures established by TDRA thereunder.

HISTORIC PROPERTIES

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

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

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

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

ENVIRONMENTAL LAW AND AUTHORITIES

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

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

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

FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION

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

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

COASTAL ZONE MANAGEMENT

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

SOLE SOURCE AQUIFERS

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

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

ENDANGERED SPECIES

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

WILD AND SCENIC RIVERS

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

AIR QUALITY

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

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

FARMLAND PROTECTION

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

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

HUD ENVIRONMENTAL STANDARDS

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

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

ENVIRONMENTAL JUSTICE

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

SUSPENSION AND DEBARMENT

Use of debarred, suspended, or ineligible contractors or subrecipients (24 C.F.R. Section 570.609);

General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and Nonprocurement Suspension and Debarment (2 C.F.R. Part 2424).

OTHER REQUIREMENTS

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

ACQUISITION / RELOCATION

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

FAITH-BASED ACTIVITIES

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

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REQUIRED INSURANCE

GENERALLY. Provider shall, at its sole expense, acquire, maintain, and keep in force for the duration of this Contract, insurance in the amounts attached herein and under the requirements specified herein. Furthermore, unless specified or otherwise agreed to by the Subrecipient, the required insurance shall be in effect prior to the commencement of services by Provider and shall continue in full force until the earlier as appropriate of (i) the expiration of this Contract; or (ii) such time as the Subrecipient notifies Provider that such insurance is no longer required. Any insurance or self-insurance available to the Subrecipient shall be in excess of, and non-contributing with, any insurance required from Provider. Provider's insurance policies shall apply on a primary basis. If, at any time during the Contract, an insurer or surety fails to provide insurance to Provider or otherwise fails to comply with the requirements of this Contract, Provider shall immediately notify the Subrecipient and replace such insurance or bond with an insurer meeting such requirements. General aggregate limits of Provider's Commercial General Liability policy shall apply per project. Provider's auto insurance policy shall apply to "any auto."

Approval. Prior approval of the insurance policies by the Subrecipient shall be a condition precedent to any payment of consideration under this Contract and insurance must be submitted for review and approval by the GLO prior to the commencement of services. Any failure of the Subrecipient to timely approve or failure to disapprove the insurance furnished by Provider shall not relieve Provider of Provider's full responsibility to provide the insurance required by this Contract.

Continuing Coverage. The Subrecipient's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent to this Contract.

Renewal. Provider shall provide the Subrecipient with renewal or replacement certificates no less than thirty (30) days before the expiration or replacement of the required insurance.

Additional Insured Endorsement. The Subrecipient, the GLO, and each entity's officers, employees, and authorized agents shall be named as additional insureds for all liability arising under this Contract except on Workers' Compensation and Professional Liability policies. **An original additional insured endorsement signed by an authorized insurance company representative must be submitted to the Subrecipient to evidence the endorsement of the Subrecipient as an additional insured on all policies, and the certificate(s) must reference the related Subrecipient Contract Number.**

Subrogation. Each liability insurance policy, except Professional Liability, shall provide for a waiver of subrogation as to the Subrecipient, the State of Texas, the GLO, and their officers, employees, and authorized agents, and shall be issued by insurance companies authorized to do business in the State of Texas, and currently rated by A.M. Best as "A-" or better.

Policy Cancellation Endorsement. Except for ten (10) days' notice for non-payment of premium, each insurance policy shall be endorsed to specify that without 30 days' prior written notice to the Subrecipient, the policy shall not be canceled, non-renewed, or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to the address specified in this Contract. A copy of this signed endorsement must be attached to this Contract.

Alternative Insurability. Notwithstanding the requirements of this Attachment, the Subrecipient reserves the right to consider reasonable alternative methods of insuring the contract in lieu of the insurance policies and/or bonds required. It will be Provider's responsibility to recommend to the Subrecipient alternative methods of insuring the Contract. Any alternatives proposed by Provider should be accompanied by a detailed explanation regarding Provider's inability to obtain insurance coverage as described in this Contract. The GLO shall be the sole and final judge as to the adequacy of any substitute form of insurance coverage.

INSURANCE REQUIRED:

$1 MILLION COMMERCIAL GENERAL LIABILITY (EACH OCCURRENCE)
$2 MILLION COMMERCIAL GENERAL LIABILITY (AGGREGATE LIMIT)
$1 MILLION CSL AUTOMOBILE INSURANCE
$1 MILLION PROFESSIONAL LIABILITY
STATUTORY WORKERS' COMPENSATION & EMPLOYERS LIABILITY
- $1 MILLION EACH ACCIDENT
- $1 MILLION DISEASE EACH EMPLOYEE
- $1 MILLION DISEASE POLICY LIMIT
STATUTORY U.S. LONGSHORE AND HARBOR WORKERS' INSURANCE

NOTE: Insurance certificates must be in the form approved by the Texas Attorney General, a sample of which follows this page.

Insurance Certificates must:

(a) be submitted the Subrecipient;
(b) prominently display Subrecipient Contract No. TBD
(c) Name the Subrecipient and the General Land Office as an additional insured

Failure to submit required insurance forms as instructed may significantly delay the start of services under the Contract.

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REQUIRED FORM OF CERTIFICATE FOLLOWS THIS PAGE

Contract No. TBD

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DDIYYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER($), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the tenns and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No, Ext):	fAJC Nol: FAX
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A:	
INSURED	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS-MADE OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC						EACH OCCURRENCE	$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$
							PRODUCTS - COMP/OP AGG	$
								$
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					WC STATU-TORY LIMITS / OTH-ER	
							E.L. EACH ACCIDENT	$
							EL DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS/ LOCATIONS/ VEHICLES (Attach ACORD 101, Addillonat Remarks Schedule, If more space Is required)

CERTIFICATE HOLDER	CANCELLATION
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

REQUIRED CONTRACT PROVISIONS (CONTRACTS USING FEDERAL FUNDS)

Italics – Explanatory; NOT CONTRACT LANGUAGE

THRESHOLD	PROVISION	CITATION
None	H) Debarment and Suspension (Executive Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMS guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Camp., p. 189) and 12689 (3 CFR Part 1989 Camp., p, 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.	2 CFR 200 APPENDIX II (H)
None	Grantees or subgrantees must retain all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.	2 CFR 200.333 (former 24 CFR (85.36(i) {11))
>$10,000	*B) All contracts in excess of $10, 000 must address termination for cause and for convenience by the non-• Federal entity including the manner by which it will be affected and the basis for settlement.* **Termination for Cause:** If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor violates any of the covenants, conditions, agreements, or stipulations of this Agreement. The City/County shall have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the City/County, be turned over to the City/County and become the property of the City/County. In the event of termination for cause, the Contractor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination. Notwithstanding the above. The Contractor shall not be relieved of liability to the City/County for damages sustained by the City/County by virtue of any breach of contract by the Contractor, and the City/County may set-off the damages it incurred as a result of the Contractor's breach of contract from any amounts it might otherwise owe the Contractor. **Termination for Convenience of the City/County:** City/County may at any time and for any reason terminate Contractor 's services and work at City/County's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by City/County; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against City/County for any additional compensation or damages in the event of such termination and payment.	2 CFR 2:00 APPENDIX II (B)

>$50,000	*(A) Contracts for more than $50,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.* Use the following language for contracts > $50,000: **Resolution of Program Non-compliance and Disallowed Costs:** In the event of any dispute, claim, question, or disagreement - arising from or relating to this agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or TxCDBG program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate and attempt to reach a just and equitable solution satisfactory to both parties. If the matter IS not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally.	2 CFR 200 APPENDIX II (A)
Equal Opportunity Clause for Construction Contracts > $10K, including administration & engineering contracts associated with construction contracts.		
≥$10,000	2 CFR 200 Appendix II (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60 all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the Equal Opportunity. Clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part. 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity, "and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." **§60-1.4(b) Equal opportunity clause:** *(b) Federally assisted construction contracts. Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract. loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:* *The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract loan, insurance, or guarantee, the following equal opportunity clause:* During the performance of this contract, the contractor agrees as follows: (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places. Available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.	41 CFR §60-1.4 (b) and 2 CFR 200 APPENDIX II (C)

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This Provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled , terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence Immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however. That in the event a contractor becomes involved in. or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations. and relevant

	orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24 , 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order . In addition, the applicant agrees that if it fails or refuses to comply with these undertakings. the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan. insurance. guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings. (c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts. (d) Incorporation by reference. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate. (e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written (f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings. [43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997; 79 FR 72993, Dec. 9, 2014; 80 FR 54934, September 11. 2015]	
CONSTRUCTION CONTRACTS		
>$2,000 for Davis Bacon and Copeland "Anti-Kickback" Act; >$100,000 for Contract Work Hours and Safety Standards Act	*Federal labor standards provisions include:* 1. *Davis Bacon Act (40 U.S.C. 3141 et seq) as supplemented by DOL regulations (29 CFR part 5);* 2. *Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3): and* 3. *Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq)*	

>$2,000	*Compliance with the Davis-Bacon Act (40 U.S.C. 3141 et seq.) as supplemented by Department of Labor regulations (29 CFR part 5) and with the Copeland Anti-Kickback" Act (18 U.S.C. 874: 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR part 3)* (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation. All prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act 40 U.S.C. 3141-3144 and 3146-3148 as supplemented by Department of Labor regulations {29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland ''Anti-Kickback " Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations {29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency	2 CFR 200 APPENDIX II (D)
>$100,000	(E) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award of $100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.	2 CFR 200 APPENDIX II (I) and 24 CFR §570.303
>$100,000	(F) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.	2 CFR 200 APPENDIX II (E)
>$150,000	(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).	*2 CFR 200 APPENDIX II (G)*

CERTIFICATE OF INTERESTED PARTIES

FORM **1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:

Date Filed:

Date Acknowledged:

1 **Name of business entity filing form, and the city, state and country of the business entity's place of business.**

2 **Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

3 **Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

4

Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary

5 **Check only if there is NO Interested Party.** ☐

6 **AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

____
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said ____________________________________, this the ____________ day of ______________, 20________, to certify which, witness my hand and seal of office.

____

Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

TEXAS GENERAL LAND OFFICE ENGINEERING SCOPE OF WORK

SCOPE OF SERVICES REQUESTED

Providers will help the GLO fulfill State and Federal Community Development Block Grant Disaster Recovery ("CDBG-DR") statutory responsibilities related to disaster recovery for presidentially declared disasters in Texas. Providers will assist the GLO and grant recipients in the completion of CDBG qualified housing or non-housing projects. Provider may be qualified to provide Engineering services for housing projects, non-housing projects, or both. Engineering services must be performed in compliance with the U.S. Department of Housing and Urban Development ("HUD") and guidelines issued by the GLO. Providers will be bound to specific terms and conditions found in the sample general terms and conditions.

DESCRIPTION OF SERVICES AND SPECIAL CONDITIONS

Provider will be required to show the ability to provide all the Engineering services described below. Provider shall then provide a detailed description of how they meet the requirement, describing their knowledge and experience, as well as providing discrete examples of previous work where applicable.

General Requirements

(a) Coordinate, as necessary, between subrecipient and its service providers (i.e., Engineer, Environmental, Contracted Construction Company, Grant Administrator, etc.) and GLO. regarding project design services.

(b) Provide monthly project status updates.

(c) Funding release will be based on deliverables identified in the contract.

Initial Engineering and Design Support

Provider will be required to show the ability to provide all the Engineering services described below:

(a) Assist with the development of grant applications, as necessary.

(b) Provide all project information necessary to ensure timely execution of the environmental review.

(c) Provide preliminary engineering, investigations, and drawings sufficient to achieve the preliminary design milestone, including at a minimum:

i. Cross sections/elevations

ii. Project layout/staging areas

iii. General notes

iv. Special notes

v. Design details

vi. Specifications

vii. Utility relocation designs

viii. Construction limits, including environmentally sensitive areas that should be avoided during construction

ix. Required permits

x. Quantities

xi. Estimate of construction costs to within +/- 25%

xii. Schedules for design, permitting, acquisition and construction

(d) Design surveying, topographic and utility mapping.

(e) Perform subsurface explorations for project sites, as necessary.

(f) Prepare horizontal alignments/layouts for all proposed project alternatives necessary to fully describe the project scope, anticipated limitations, and potential project impacts.

(g) Recommend value engineering options (alternative design, construction methods, procurement, etc.) that may improve efficiency, expedite the schedule, or reduce project costs for the subrecipient.

(h) Identify, acquire and submit all necessary permits and approvals required for design approval and construction.

(i) Submit all necessary deliverables to the appropriate entity for review and comment. Adjust project and/or design to satisfactorily address any comments, as necessary.

(j) Prepare plans and profiles, including vertical design information for the selected alternative.

(k) Identify and address potential obstacles to project implementation (i.e., pipelines, easements, permitting, environmental, etc.) prior to moving forward with the final design.

(l) Support subrecipient with acquisition or property/servitudes/right-of-way documentation as required by the City to facilitate the project, preparing right of way surveys and/or property boundary maps and legal descriptions of parcels to be acquired.

(m) Provide project schedules from cradle to grave in MS Project format or equal as approved by the subrecipient based on GLO guidance.

Engineering and Final Design Support

Provider will be required to show the ability to provide all the Engineering services described below as they relate to final design support:

(a) Prepare plans and profiles, including necessary design information for the selected alternative sufficient to achieve all detailed design milestones. Examples include, but are not limited to:

i. Cross sections/elevations

ii. Project layout/staging areas

iii. General notes

iv. Special notes

v. Design details

vi. Specifications

vii. Utility relocation designs

viii. Construction limits, including environmentally sensitive areas that should be avoided during construction

ix. Required permits

x. Quantities

xi. Estimate of construction costs to within +/- 20%

xii. Schedules for design, permitting, acquisition and construction

(b) Provide information to appropriate individuals for the development of environmental fund release reports and floodplain maps.

(c) Identify, acquire and submit all necessary permits and approvals required for design approval and construction.

(d) Provide hard copy, if necessary, reproducible plan drawings and bid documents, in addition to electronic copies to the subrecipient, upon design completion, and as requested during design. Electronic copies should be in the native format (AutoCAD DWG) along with PDF packages and should contain all corresponding references, databases, or files associated with the completed design documents.

(e) Assist the subrecipient and any service provider related to the project with all necessary documentation to ensure compliance with all Program requirements and regulations.

Bid and Award Support

Provider will be required to show the ability to provide all the Engineering services described below as they relate to bid and award support.

(a) Submit appropriate items and support subrecipient in the development of complete bid package.

(b) Prepare and assist subrecipient in the advertisements for bid solicitation.

(c) Support development and issuance of bid-related documents necessary to complete bid process (e.g., bid proposal form, bid addenda and supporting documentation).

(d) Attend and support subrecipient at pre-bid conference and bid opening.

(e) Support subrecipient with ongoing communication during bid process.

(f) Support subrecipient to complete bid tabulation and evaluation of responses and provide recommendation for award.

(g) Support subrecipient to negotiate and finalize contract documents, including issuance of the Notice to Proceed, in accordance with program and subrecipient requirements.

(h) Support subrecipient in the conducting of a preconstruction conference.

Contract Management and Construction Observation

Provider will be required to show the ability to provide all the Engineering services described below as they relate to contract management and construction oversight.

(a) Ensure delivery of subrecipient project in accordance with contract.

(b) Provide ongoing Construction Oversight Reports detailing the status of construction for subrecipient project.

(c) Review all service provider submittals to ensure compliance with construction contract documents and provide recommendations to subrecipient.

(d) Provide periodic and final inspections and tests reports, as required for the project.

(e) Provide observation of construction activities at a minimum on a bi-weekly basis or as directed by the GLO or subrecipient. In furnishing observation services, provider's efforts will be directed toward determining for subrecipient that the completed project will, in general, conform to the Contract Documents; but provider will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents.

(f) Review Construction Change Orders and provide recommendation to subrecipient as to appropriate action.

(g) Review invoice/draw requests and provide recommendation to subrecipient as to appropriate action, in compliance with the construction contract documents. Provider's review of Payment Requests from contractor(s) will not impose responsibility to determine that title to any of the work has passed to subrecipient free and clear of any liens, claims, or other encumbrances. Any such service by Provider will be provided through an amendment to this Agreement.

(h) Obtain independent cost estimates for validation purposes, as required.

(i) Review and respond to requests for information/clarification.

(j) Support subrecipient with issue identification and claims resolutions.

(k) Enter all requisite information into the GLO system of record in accordance with established policies and procedures.

(l) Develop a final "as built" report of quantities, drawings, and specifications.

(m) Issue to the subrecipient, for execution, a Certificate of Construction Completion within 30 days of final inspection approval.

(n) Deliver "as-built" drawings to the subrecipient within 30 days of project completion.

(o) Host and/or attend project coordination meetings in person, by phone, or by video conference, which may or may not fall during normal business hours.

(p) Perform other contract management and construction oversight duties as required to ensure success of the subrecipient project.

(q) Provide necessary certifications to regulatory agencies of project completion and compliance (ex. TCEQ).

(r) Submit all final invoices within 60 days after contract or work order expiration.

Specialized Services

Provider will be required to show the ability to provide all the Engineering services described below as they relate to specialized services.

(a) Provide Geotechnical Investigations as may be required for a project.

(b) Provide Detailed Surveying as may be required for a project.

(c) Provide Site Specific Testing as may be required for a project.

(d) Provide Archeological Studies as may be required for a project.

(e) Provide Planning Studies as may be required for a project.

(f) Provide Feasibility Studies as may be required for a project.

(g) Provide Legal documentation for property and/or easements to be acquired (i.e., field notes, etc.).

(h) Provide Phase I and Phase II environmental site assessments as requested.

The Texas General Land Office Engineering Scope of Work is clarified as follows.

Scope of Services:

Grant Application Services

1. Assist with the development of grant applications, including preparation of the following:

    a. Project maps providing project location and site plan,
    b. Opinions of Probable Construction Cost,
    c. Project schedules,
    d. Beneficiary justification memo, and
    e. Mitigation justification memo.

2. Provide project information to be used by others as they perform environmental reviews.

Design, Bidding-Related, and Construction-Related Services

To be determined and added by amendment once funding has occurred and contract is approved between State and Entity.

Regular City Council
AGENDA ITEM 9.

Agenda Item: **Discuss and Possibly Act Upon an Ordinance on Its First Reading Providing for Increased Prior and Current Service Annuities in the Texas Municipal Retirement System ('TMRS') for Retirees and Beneficiaries of Deceased Retirees of the City of Brenham and Electing to Make Current Service and Prior Service Contributions to the City's TMRS Benefit Accumulation Fund at the Actuarially Determined Rate of Total Employee Compensation**

Meeting Type: Regular Meeting-October 15, 2020

Department: Human Resources

Staff Contact: Susan Nienstedt

Classification: Regular

SUMMARY STATEMENT:

For many years, City Council has approved, on an annual basis, an ordinance providing for an increase in retirement annuities of 70% of the CPI as provided through the Texas Municipal Retirement System. In order to make any changes in the City's plan provisions, an Ordinance must be approved by Council each year. The applicable TMRS ordinance for 2021 is presented for discussion and approval.

The change in the City's contribution rate is shown on the TMRS Plan Change Study. The funding rate for the City of Brenham will increase from 10.01% to 10.38% which is included in the FY20-21 budget.

ATTACHMENTS:

(1) TMRS Ordinance
(2) TMRS Rate Letter
(3) Brenham Plan Change Study

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

Approve an Ordinance on its first reading providing for increased prior and current service annuities in the Texas Municipal Retirement System ('TMRS') for retirees and beneficiaries of deceased retirees of the City of Brenham and electing to make current service and prior service contributions to the City's TMRS Benefit Accumulation Fund at the actuarially determined rate of total employee compensation and related provisions effective January 1, 2021 and authorize the Mayor to execute any necessary documentation

TMRS-CPI

TEXAS MUNICIPAL RETIREMENT SYSTEM

AN ORDINANCE PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE CITY OF BRENHAM, AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS:

Increase in Retirement Annuities.

(a) On the terms and conditions set out in Section 854.203 of Subtitle G of Title 8, Government Code, as amended (hereinafter referred to as the "TMRS Act"), the City hereby elects to allow and to provide for payment of the increases below stated in monthly benefits payable by the System to retired employees and to beneficiaries of deceased employees of the City under current service annuities and prior service annuities arising from service by such employees to the City. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by **70%** of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the increase under this Section.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation hereunder does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed hereunder.

(e) The amount by which an increase under this Section exceeds all previously granted increases to an annuitant is an obligation of the City and of its account in the Benefit Accumulation Fund of the System.

Effective Date. Subject to approval by the Board of Trustees of the System, this ordinance shall be and become effective on the 1st day of January 2021.

Passed and approved this the ____ day of ___________________, 20___.

ATTEST: **APPROVED:**

_______________________________ City Secretary or Clerk

_______________________________ Mayor

TEXAS MUNICIPAL RETIREMENT SYSTEM

August 3, 2020

Via E-Mail

Ms. Carolyn D. Miller, CPA
Chief Financial Officer
City of Brenham
P.O. Box 1059
Brenham, TX 77834-1059

Dear Carolyn:

We are pleased to enclose a model ordinance for your city to adopt:

70% CPI Increases to Annuitants
Ad Hoc (one time only basis)

This provision allows for annuity increases for your city's retirees and is based on a percentage of the Consumer Price Index (inflation index).

With the adoption of this additional benefit your city's contribution for 2021 will be **10.38%.**

We will appreciate receiving a copy of this ordinance as soon as possible after its adoption.

Please feel free to contact me at 1-800-924-8677 if you need additional information or assistance.

Sincerely,

Eric W. Davis
Executive Director

TMRS
P.O. Box 149153
Austin, Texas 78714-9153

www.TMRS.com

512.476.7577
Toll-Free 800.924.8677
Fax 512.476.5576

Plan Change Study

00176 Brenham

GRID 2021
For Informational Purposes Only
Effective Date - January 1, 2021
Report Date - August 3, 2020

		Proposed Plans
Plan Provisions	**Current**	**1**
Deposit Rate	5.00%	5.00%
Matching Ratio	2 to 1	2 to 1
Updated Service Credit	100% (Repeating)	100% (Repeating)
Transfer USC **	Yes	Yes
Annuity Increase	0%	70%
20 Year/Any Age Ret.	Yes	Yes
Vesting	5 years	5 years
Contribution Rates	**2021**	**2021**
Normal Cost Rate	4.91%	4.91%
Prior Service Rate	5.10%	5.47%
Retirement Rate	**10.01%**	**10.38%**
Supplemental Death Rate	0.00% (None)	0.00% (None)
Total Rate	**10.01%**	**10.38%**
Unfunded Actuarial Liability	$5,282,989	$5,653,712
Amortization Period	20 years	20 years
Funded Ratio	89.6%	89.0%
Phase-In Total Rate	N/A	N/A

**This is the addition to the Initial Prior Service Rate for USC for transfers. There were 7 eligible transfer employees on the valuation date.

Regular City Council
AGENDA ITEM 10.

Agenda Item: **Discuss and Possibly Act Upon an Amendment to the Gas Sales Contract Between WTG Gas Marketing, Inc. and the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation**

Meeting Type: Regular Meeting-October 15, 2020

Department: Public Utilities

Staff Contact: Donald Reese

Classification: Regular

SUMMARY STATEMENT:

The City of Brenham and WTG entered into a contract for gas supply on November 16, 2016. The initial term was for one year and could continue on an annual basis. WTG has held their current price with the City of Brenham while at the same time absorbing increases from the pipeline transport company. The existing contract is commonly referred to as a "bundled" contract as it passes the transport costs through the gas supplier to the City via one agreement.

WTG recently asked the City for a price increase as they could no longer keep absorbing the increases from the transport company.

The amended terms of the agreement as proposed, would change the "Price to Buyer at Delivery Point" from the Houston Ship Channel Gas First of the Month Price to the Houston Ship Channel Gas Daily Midpoint Price.This means that the price will fluctuate daily rather than monthly leaving much more room for volatility. The other change proposed would increase the per MMBtu price from $.525 to $.90.

Collectively, depending on how cold the upcoming winter months are, the changes mentioned above could have an increase between $150,000.00 and $370,000.00. The Finance Department has reviewed the proposed increases and feels that they could be absorb a portion of the increase with over-collection balance in the Gas Fund.

However, it is staff's recommendation, that the City enter into a professional services agreement with a consulting company, as soon as possible, that could then negotiate directly with the transport company to help secure a better long-term rate for FY 2022. This would allow us to "un-bundle" the transport portion of the agreement from the supply agreement and secure lower costs going forward. Due to recent legislative changes, the supply agreement would then have to be competitively bid.

ATTACHMENTS:

(1) Amendment to Exhibit A effective 11.1.20
(2) Gas Sales Contract between WTG Gas Marketing and City of Brenham dated 2016

RELEVANCE TO COMPREHENSIVE PLAN:

N/A

RECOMMENDED ACTION:

Approve the Agreement as amended (Exhibit 'A') for a term of one year and authorize the Mayor to execute any necessary documentation.

EXHIBIT "A"

To the Gas Sales Contract
Dated
November 1, 2016
by and between

WTG GAS MARKETING, INC.
And
CITY OF BRENHAM, TEXAS

This Nomination Notice sets out the agreement of the parties for the purchase and sale of natural gas pursuant to that certain Gas Sales Contract between the parties, as stated above, and become a part of and subject to the terms and conditions of such Contract.

TERM OF DELIVERY: Beginning November 1, 2020 through October 31, 2021

MONTHLY BASE LOAD <u>QUANTITY</u>	<u>PRICE TO BUYER AT DELIVERY POINT</u>
Buyers Requirement	Equal to 101% of the East Texas - Houston Ship Channel Gas Daily Midpoint Price as posted for the actual day of delivery, plus 90¢ per MMBtu.

WTGGM will agree to provide the East Texas – Houston Ship Channel Gas Daily Midpoint Price to the City on a daily basis for the above stated Term of Delivery.

Effective Date of this Exhibit A:	November 1, 2020
Supersedes Exhibit A Effective:	November 1, 2016

WTG GAS MARKETING, INC.	**CITY OF BRENHAM, TEXAS**
By:______________________	By:______________________
Title:____________________	Title:____________________

GAS SALES CONTRACT

BETWEEN

WTG GAS MARKETING, INC.

"SELLER"

AND

CITY OF BRENHAM, TEXAS

"BUYER"

GAS SALES CONTRACT

This CONTRACT, made and entered into effective the first day of November, 2016, hereinafter referred to as "Effective Date", by and between **WTG GAS MARKETING, INC.**, a Texas Corporation, hereinafter referred to as "Seller", and the **CITY OF BRENHAM, TEXAS**, a political subdivision of the state of Texas, hereinafter referred to as "Buyer".

WITNESSETH

THAT WHEREAS, Buyer owns and operates a gas distribution system at or near the City of Brenham, Texas, and its adjoining environs, and requires a supply of gas in and for the operation of said Facilities; and WHEREAS, Seller, has a supply of gas which is available for sale to Buyer; and WHEREAS, Seller desires to sell to Buyer and Buyer desires to purchase from Seller such gas under the terms and conditions hereinafter set forth; Now, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the parties covenant and agree as follows:

ARTICLE I
DEFINITIONS

As used herein, the following terms shall be construed to have the following scope and meaning:

1. "Day: shall mean the twenty-four (24) hour period commencing at 9:00 a.m. local time on any calendar day and ending at 9:00 a.m. local time on the following calendar day.

2. "Month" shall mean the period commencing at 9:00 a.m. local time on the first (1st) day of a calendar month and ending at 9:00 a.m. local time on the first (1st) day of the next succeeding calendar month.

3. "Year" shall mean a period of three hundred sixty-five (365) consecutive days commencing and ending at 9:00 a.m. local time; provided, however, that any such year which contains the date of February 29 shall consist of three hundred sixty-six (366) consecutive days.

4. "Gas" shall mean natural gas, including gas well gas, casinghead gas or the residue gas resulting from processing either casinghead gas or gas well gas.

5. "Cubic foot of gas" shall mean the volume of anhydrous gas contained in one (1) cubic foot of space at a standard pressure of fourteen and seventy-three hundredths (14.73) psia and a standard temperature of sixty (60) degrees Fahrenheit, hereinafter called "F".

6. "Mcf" shall mean one thousand (1,000) cubic feet.

7. "British Thermal Unit", hereinafter called "BTU", shall mean the amount of heat required to raise the temperature of one (1) avoirdupois pound of pure water, hereinafter called "H2O", one (1) degree F from fifty-eight and five-tenths (58.5) degrees F at a constant pressure of fourteen and seventy-three hundredths (14.73) psia.

8. "Gross Heating Value" shall mean the number of Btus produced by the complete combustion, at a constant pressure, of the amount of gas which would occupy a volume of one (1) cubic foot at a temperature of sixty (60) degrees F, if saturated with water vapor and at a constant pressure of fourteen and seventy-three hundredths (14.73) psia and under standard gravitational force (acceleration 980.655 centimeters per second) with air of the same temperature and pressure as the gas when the products of combustion are cooled to the initial temperature of the gas and air when the water formed by combustion is condensed to the liquid state. The gross heating value so determined shall be corrected from the conditions of testing to that of the actual condition of the gas as delivered expressed in Btu per cubic foot and reported at a pressure base of fourteen and seventy-three hundredths (14.73) psia; provided, however, if the gas delivered contains seven (7) pounds of water vapor or less per one million (1,000,000) cubic feet, such gas shall be deemed to be anhydrous.

9. "MMBtu" shall mean one million (1,000,000) Btus.

10. "Psi" shall mean pounds per square inch.

11. "Psia" shall mean pounds per square inch, absolute.

12. "Psig" shall mean pounds per square inch, gauge.

13. "MAOP" shall mean maximum allowed operating pressure.

14. "RRC" shall mean Railroad Commission of Texas.

15. "Facilities" shall mean Buyer's natural gas distribution system serving the City of Brenham, Texas, and its adjoining environs, as such system may be enlarged or extended.

ARTICLE II
QUANTITY

1. Subject to the terms and conditions hereof, commencing with the Effective Date and continuing throughout the term hereof, Seller agrees to deliver and sell, and Buyer agrees to accept, purchase and pay for the entire quantity of gas required by Buyer in and for the operation of the Facilities.

2. Buyer shall not resell any gas sold and purchased hereunder except solely in and for the operation of the Facilities.

3. Subject to Article IX of this Contract, if Seller interrupts, suspends or curtails delivery of gas pursuant to the laws, rules, regulations or orders of any governmental agency, court or authority having jurisdiction, such interruption, suspension or curtailment shall be without liability to Seller.

ARTICLE III
POINT(S) OF DELIVERY & DELIVERY PRESSURE

1. The Point(s) of Delivery for gas sold and purchased hereunder shall be at the outlet side of Oasis Pipeline, LP metering station (City of Brenham, Texas town border station), which is the existing measuring facilities located at Buyer's Facilities. Title

to all gas sold and delivered hereunder shall pass from Seller to Buyer at the Point(s) of Delivery.

2. The measuring and related facilities at the Point(s) of Delivery, that are existing and connected to Seller's, or Seller's designee's, system, shall be owned, maintained and operated by Seller, or Seller's designee.

3. The parties hereto, or their respective designee, shall at all reasonable times have access to the premises of each other insofar as such premises are directly connected with any matter or thing covered hereby, for inspection, operation, installation, removal, repair and testing of equipment, but the operation of measuring equipment and changing of charts shall be done only by the employees or agents of Seller or Seller's designee.

4. Buyer may, at its option, install check measurement equipment for checking Seller's, or its designee's, metering facilities at the Point(s) of Delivery, same to be so installed as not to interfere with the operation of Seller's or Seller's designee's, metering facilities at such Point(s) of Delivery.

5. The Pressure at which Seller, or Seller's designee, shall deliver gas hereunder at the Point(s) of Delivery shall be as may be necessary to enter Buyer's Facilities but not in excess of the pressure Seller, or its designee, may have existing and available from time to time in Seller's or Seller's designee's, pipeline at the Point(s) of Delivery.

ARTICLE IV
MEASUREMENT

For purposes of billing hereunder, Buyer and Seller agree to rely upon the information submitted by Oasis Pipeline, LP as to the quantity of gas measured at the Delivery Point, provided that accepted industry standards relating to gas measurement are adhered to.

ARTICLE V
QUALITY

All gas tendered for sale under this Contract shall meet the quality specifications of Oasis Pipeline, LP. All specifications, definitions, and terms of Oasis Pipeline, LP relating to the delivery of gas are incorporated herein by reference. If the gas fails to meet said standards of quality, then either party may suspend delivery immediately as its sole remedy, and shall provide written notice for such suspension to the other party as soon as practicable. Seller shall not be obligated to odorize the gas and Buyer shall hold Seller harmless from any and all claims, losses, damages and expense associated with adverse claims arising from the odorization or failure to odorize the gas delivered hereunder.

ARTICLE VI
PRICE

Commencing on the Effective Date, Buyer shall pay Seller for volumes delivered by Seller hereunder under the terms and conditions and at a price per MMBtu as set forth on Exhibit "A" attached hereto.

ARTICLE VII
INVOICING, PAYMENT, INTEREST & AUDIT

1. Invoicing – On or before the twentieth (20th) day of each calendar month, Seller shall mail unto Buyer at Buyer's address, as reflected in Article XVI hereof, an invoice reflecting the quantity of gas sold and purchased during the preceding calendar month at the price as defined in Article VI.

2. Payment – Within thirty (30) days after the Buyer's receipt of an invoice from Seller, in accordance with Chapter 2251, Texas Government Code, Buyer shall pay to Seller, the amount due pursuant to this Contract for deliveries during the preceding calendar month. The remittance address for Seller shall be such address as reflected on Seller's invoice from time to time.

3. Interest – If Buyer shall fail to pay any amount due, then interest thereon shall accrue at the rate allowed by Chapter 2251, Texas Government Code, so long as such rate does not exceed the then legal usury rate, from the date due until the date of actual payment; provided, however, that if presentation of the invoice by Seller is delayed after the twentieth (20th) day of the month, then the time of payment shall be extended accordingly, unless Buyer is responsible for said delay. If Buyer shall fail to pay any amount due to Seller hereunder when the same is due and should said failure continue for twenty (20) days, Seller may, by giving Buyer seven (7) days written notice, suspend deliveries of gas hereunder and said suspension shall be in addition to any and all other remedies available hereunder; provided, however, if such overdue payment is received by Seller within such seven (7) day period, suspension of deliveries of gas will not be invoked.

4. Adjustment of Errors – In the event an error is discovered in any statement or payment hereunder, such error shall be adjusted within sixty (60) days of the determination thereof; provided, however, that the claim therefor shall have been made within two (2) years from the date of such statement or payment.

5. Audit – Each party hereto shall have, at its expense, the right at all reasonable times, to examine the books and records of the other party to the extent necessary to verify the accuracy of any statement, charge, computation or demand made under or pursuant to this Contract. Each party agrees to keep records and books of account in accordance with generally accepted accounting principles and practices in the industry. Any statement shall be final as to both parties unless questioned within two (2) years after the date of the statement.

ARTICLE VIII
TERM

1. This Contract shall become effective on the Effective Date hereof and shall continue in full force and effect for an initial period ending October 31, 2017. This Contract shall continue year to year thereafter with written notice of termination to the other which shall be received at least sixty (60) days prior to the expiration date of the initial term or any automatic extensions.

2. This Contract may otherwise terminate as provided in Paragraph 2. Of Article XV hereof.

ARTICLE IX
FORCE MAJEURE & LIABILITY

1. Seller and Buyer, as to each other, each assumes full responsibility and liability for the maintenance and operation of their, or their designee's, respective properties, if any.

2. Seller shall not be liable to Buyer for its failure to deliver gas, and Buyer shall not be liable to Seller for its failure to receive gas, when such failure on the part of either party shall be due to accident to or breakage of Seller's, or Seller's designee's, or Buyer's pipelines, machinery or equipment, or if caused by fire, floods, storms, weather conditions, strikes, riots, legal interference, failure of gas supply, interruption of transportation service, acts of God or public enemy, shutdowns for necessary repairs and maintenance, or without limitation by enumeration, any other cause beyond the reasonable control of the party failing to deliver or receive gas, as the case may be, provided such party shall promptly and diligently take such action as may be necessary and practicable under the then existing circumstances to remove the cause of failure and resume the delivery or receipt of gas, as the case may be.

ARTICLE X
NON-WAIVER OF FUTURE DEFAULT

No waiver by either Seller or Buyer of any one or more defaults by the other in performance of any of the provisions of this Contract shall operate or be construed as a waiver of any other existing or future default or defaults, whether of a like or of a different character.

ARTICLE XI
SUCCESSORS AND ASSIGNS

Any party which shall succeed Seller by purchase, merger, consolidation or other business requirement to the properties and obligations, substantially as an entirety, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Contract. No assignment of this Contract by Buyer or Seller, or any of the rights or obligations thereunder, shall be made unless there first shall have been obtained the express written consent thereto of the other, which consent shall not be unreasonably withheld. Seller or Buyer may pledge or assign their respective right, title and interest in and to and under this Contract to a trustee or trustees, individual or corporate, as security for bonds or other obligations or securities without the necessity of any such trustee or trustees becoming in any respect obligated to perform the obligations of the assignor under this Contract and if any such trustee be a corporation, without it being required to qualify to do business in any State in which performance of this Contract may occur.

ARTICLE XII
WARRANTY OF TITLE

Seller warrants the title to all gas delivered by Seller hereunder and agrees to indemnify Buyer from all suits, actions, debts, accounts, damages and losses arising from or out of adverse claims by any and all persons to said gas or to royalties, or to any charges against said gas.

ARTICLE XIII
RESPONSIBILITY

1. Seller shall be in control and/or possession of the gas sold hereunder and responsible for any damage or injury caused thereby until the same shall have been delivered to Buyer at the Point(s) of Delivery.

2. Buyer shall be in control and possession of the gas purchased hereunder and responsible for any damage or injury caused thereby after the same shall have been received by Buyer at the Point(s) of Delivery.

ARTICLE XIV
TAXES

Buyer shall provide Seller with the applicable state tax exemption certificate regarding purchases hereunder, if applicable, and shall be liable for payment of all applicable sales and use, excise, gross receipts or other transaction taxes, or taxes based upon heat content, including any applicable penalties and/or interest (regardless of when, how, or against which party such tax, penalty and/or interest is imposed) by any federal, state, or local government or instrumentality thereof, upon the sale, transfer, or delivery of all gas sold, transferred, or delivered by Seller pursuant to this Contract, or upon the Buyer's purchase, possession, storage, use, or consumption thereof. This provision shall survive termination of this Contract.

ARTICLE XV
REGULATORY BODIES

1. This Contract is subject to all valid orders, rules and regulations of any State, Federal or other regulatory body having jurisdiction over the purchase, sale or use of the gas sold hereunder and the parties agree to comply with such orders, rules and regulations. Should either of the parties, by law or regulation, be ordered or required to do any act inconsistent with the provisions of this Contract, this Contract shall be deemed to be modified to conform with such law or regulation.

2. Notwithstanding anything to the contrary contained herein, if at any time during the term hereof, any State, Federal or other regulatory body having jurisdiction shall take any action which is designed or otherwise subjects this Contract, or the transportation agreement(s) required to deliver gas hereunder, to any greater or different regulation or jurisdiction than that existing on the Effective Date (or thereafter as such regulation or jurisdiction may have change and been accepted by Seller), then upon written notice given to Buyer, and subject to Article IX, Seller may cancel and terminate this Contract on the effective date of such governmental action.

3. Each of the parties understands that should the RRC, or other governmental regulatory body, require approval of, or that certain actions be taken for the approval of, the sale, purchase or transportation of gas under this Contract, presently or in the future, then each of the parties will make any necessary applications or filings, will take other necessary actions, and will submit any records or data to the regulatory body so that requisite regulatory authorization may be obtained or granted. In the event that such authority is not obtained or granted, and subject to Article IX, then the parties understand that their mutual obligations under this Contract as expressed hereinafter will have no force or effect as to the sale and purchase of gas and there will be no liability on the part of either of the parties.

ARTICLE XVI
NOTICES

Any notice or request provided for in this Contract shall be mailed or delivered to the party to whom given at such party's address as follows:

BUYER:	SELLER:
City of Brenham, Texas 200 W. Vulcan Brenham, Texas 77833 Telephone: (979) 337-7200 Facsimile:	WTG Gas Marketing, Inc. 211 North Colorado Midland, Texas 79701 Telephone: (432) 682-6311 Facsimile: (432) 682-4024

Or at such other address as such party shall from time to time designate as the address for such purpose, by letter addressed to the other party. The mailing of notice by first-class mail shall constitute service of notice hereunder.

ARTICLE XVII
MISCELLANEOUS

1. This Contract constitutes the entire understanding of the parties relating to the sale and purchase of gas hereunder and there shall be no modification or waiver hereof except by writing, signed by the party claimed to be bound thereby.

2. The descriptive heading of the provisions of this Contract are formulated and used for convenience only and shall not be deemed to affect the meaning or construction of any such provision.

3. This Contract shall be construed and governed by the laws of the state of Texas, with exclusive venue fixed in Washington County, Texas.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed in multiple counterparts by their respective personnel thereunto duly authorized, as of the Effective Date.

BUYER:

CITY OF BRENHAM, TEXAS

By: Milton Y. Tate, Jr.
Print Name: Milton Y. Tate, Jr.
Title: Mayor

SELLER:

WTG GAS MARKETING, INC.

By:
Print Name: J.J. King
Title: Vice President - Gas Marketing

EXHIBIT "A"

To the Gas Sales Contract
Dated
November 1, 2016
by and between

WTG GAS MARKETING, INC.
And
CITY OF BRENHAM, TEXAS

This Nomination Notice sets out the agreement of the parties for the purchase and sale of natural gas pursuant to that certain Gas Sales Contract between the parties, as stated above, and become a part of and subject to the terms and conditions of such Contract.

TERM OF DELIVERY: Beginning November 1, 2016 through October 31, 2017

MONTHLY BASE LOAD <u>QUANTITY</u>	<u>PRICE TO BUYER AT DELIVERY POINT</u>
Buyers Requirement	Equal to 101% of the first of the month East Texas – Houston Ship Channel index price, as published in Platts, S&P Global, <u>Inside FERC's Gas Market Report</u>, under the table entitled "Monthly Bidweek Spot Gas Prices", plus 52.5¢ per MMBtu.

Effective Date of this Exhibit A: November 1, 2016

Supersedes Exhibit A Effective: This is an original Exhibit A

WTG GAS MARKETING, INC.

By: [signature]

Title: Vice President - Gas Marketing

CITY OF BRENHAM, TEXAS

By: Milton Y. Tate, Jr.

Title: Mayor

c:mword/brenhamcontract

Regular City Council
AGENDA ITEM 11.

Agenda Item: **Discuss and Possibly Act Upon an Amendment to the System Water Availability Agreement Between Brazos River Authority (BRA) and the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation**

Meeting Type: Regular Meeting-October 15, 2020

Department: Public Utilities

Staff Contact: Donald Reese

Classification: Regular

SUMMARY STATEMENT:

On September 1, 2019, an agreement was entered into by and between Brazos River Authority (BRA), a river authority of the State of Texas, and the City of Brenham (Purchaser). BRA made available and Purchaser agreed to purchase 774 acre-feet of raw water per fiscal year for municipal purposes. The intent of this agreement was to secure additional water to sustain long-term future growth for the City of Brenham. The term of the Agreement began September 1, 2019 and shall end on August 31, 2045. Purchase price of the 774 acre-feet was $79/acre-foot or $61,146.00 annually. The 774 acre-feet of water is in addition to the City's primary water availability agreement for 4,200 acre-feet, of which, 2,777 acre-feet are used annually on average. While securing this water for future use is prudent, the additional water is not needed at this time.

Section 33 of the Agreement allows Purchaser to elect to resell excess water on a temporary basis to a third party (Resale Purchaser) with prior approval of the BRA, in compliance with the BRA's Water Policy. To facilitate the resale, Purchaser requires the addition of temporary diversion points from which Resale Purchaser may access water made available under the Agreement and the authorization to use the water for industrial purposes.

This is the same amendment that was approved by Council on May 7th, 2020. If approved, staff will come back to Council for consideration of an agreement between the City and Dow Chemical for the resale of the raw water.

ATTACHMENTS:

(1) Temporary Resale Amendment to System Water Availability Agreement

RELEVANCE TO COMPREHENSIVE PLAN:

N/A

RECOMMENDED ACTION:

Approve an Amendment to the System Water Availability Agreement between the City of Brenham and Brazos River Authority for the Temporary Resale of Water and Authorize the Mayor to Execute any necessary documentation.

TEMPORARY RESALE AMENDMENT TO SYSTEM WATER AVAILABILITY AGREEMENT BETWEEN BRAZOS RIVER AUTHORITY AND CITY OF BRENHAM

This Temporary Resale Amendment ("Amendment") is entered into to be effective as of the ____ day of _______________, 2020 ("Effective Date"), by and between Brazos River Authority ("BRA"), a river authority of the State of Texas, City of Brenham ("Purchaser"), and The Dow Chemical Company ("Resale Purchaser"), (collectively, the "Parties").

RECITALS

WHEREAS, BRA and Purchaser entered into a System Water Availability Agreement ("Agreement") with an effective date of September 1, 2019, whereby BRA agreed to make available and Purchaser agreed to purchase 774 acre-feet of raw water per Fiscal Year for municipal purposes; and

WHEREAS, in accordance with Section 33 of the Agreement, Purchaser has requested to temporarily resell 774 acre-feet of raw water made available under the Agreement to Resale Purchaser; and

WHEREAS, to facilitate this resale, Purchaser requires the addition of temporary diversion points from which Resale Purchaser may access water made available under the Agreement and the authorization to use the water for industrial purposes.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to temporarily amend the Agreement as follows:

AMENDMENTS

1. The BRA hereby consents to the temporary resale of 774 acre-feet of water under the Agreement to the Resale Purchaser. Unless terminated earlier consistent with the terms of this Amendment, this consent shall be effective from the Effective Date to August 31, 2021 (the "Termination Date").

2. Until the Termination Date, Resale Purchaser may divert raw water made available under the Agreement at the locations shown on Exhibit "A-1", attached hereto and incorporated by reference herein.

3. Resale Purchaser may utilize the water for industrial purposes.

4. Until the Termination Date, any reference to Exhibit "A" in the Agreement shall also be deemed a reference to Exhibit "A-1".

5. Resale Purchaser hereby agrees to abide by all of the terms and conditions contained in the Agreement and accepts any and all liability for any failure to do so.

6. Resale Purchaser shall be responsible for all coordination with BRA and the Brazos Watermaster related to ordering and stopping releases, coordinating run-of-river diversions if applicable, as well as reporting, metering, and notification requirements under the Agreement, and notwithstanding the foregoing, Resale Purchaser agrees to comply

with all BRA water reporting requirements, water conservation plans, drought contingency plans and TCEQ Brazos Watermaster requirements.

7. This Amendment shall in no way relieve Purchaser from any of its obligations, including payment, under the Agreement, and Purchaser shall be responsible for ensuring that Resale Purchaser complies with all the terms and conditions contained therein and accepts any and all liability for any failure to do so.

8. BRA reserves the right to withdraw its consent of the resale at any time and for any cause without penalty or liability. Upon receipt of such written withdrawal of consent from BRA, Resale Purchaser shall immediately cease diverting BRA water made available under this Amendment.

9. In the event the amount of water made available to Purchaser under the Agreement is reduced for any reason, Resale Purchaser agrees that such reduction shall also result in a reduced amount available under this Amendment.

10. The address for Resale Purchaser, for the purposes of Section 28 of the Agreement, shall be as follows:

    The Dow Chemical Company
    2301 Brazosport Boulevard
    B-3501
    Freeport, Texas 77541

11. Capitalized terms used but not defined herein shall have the respective meanings given to them in the Agreement.

12. This Amendment shall commence on the Effective Date and shall continue until the Termination Date. This Amendment shall no longer be of any force or effect after the Termination Date, and the terms and conditions of the Agreement shall be as they were prior to the execution of this Amendment, and Exhibit "A-1" shall be deleted in its entirety. Following the Termination Date, BRA and Purchaser shall be the only parties to the Agreement.

This Amendment shall be deemed a part of the Agreement and shall be binding on the parties. Except as amended herein, the terms and conditions of the Agreement remain in full force and effect.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed, intending to be bound thereby.

BRAZOS RIVER AUTHORITY

By: ______________________
DAVID COLLINSWORTH

Title: **GENERAL MANAGER/CEO**

Date: ______________________

Attest: ______________________

CITY OF BRENHAM

By: ______________________

Title: ______________________

Date: ______________________

Attest: ______________________

THE DOW CHEMICAL COMPANY

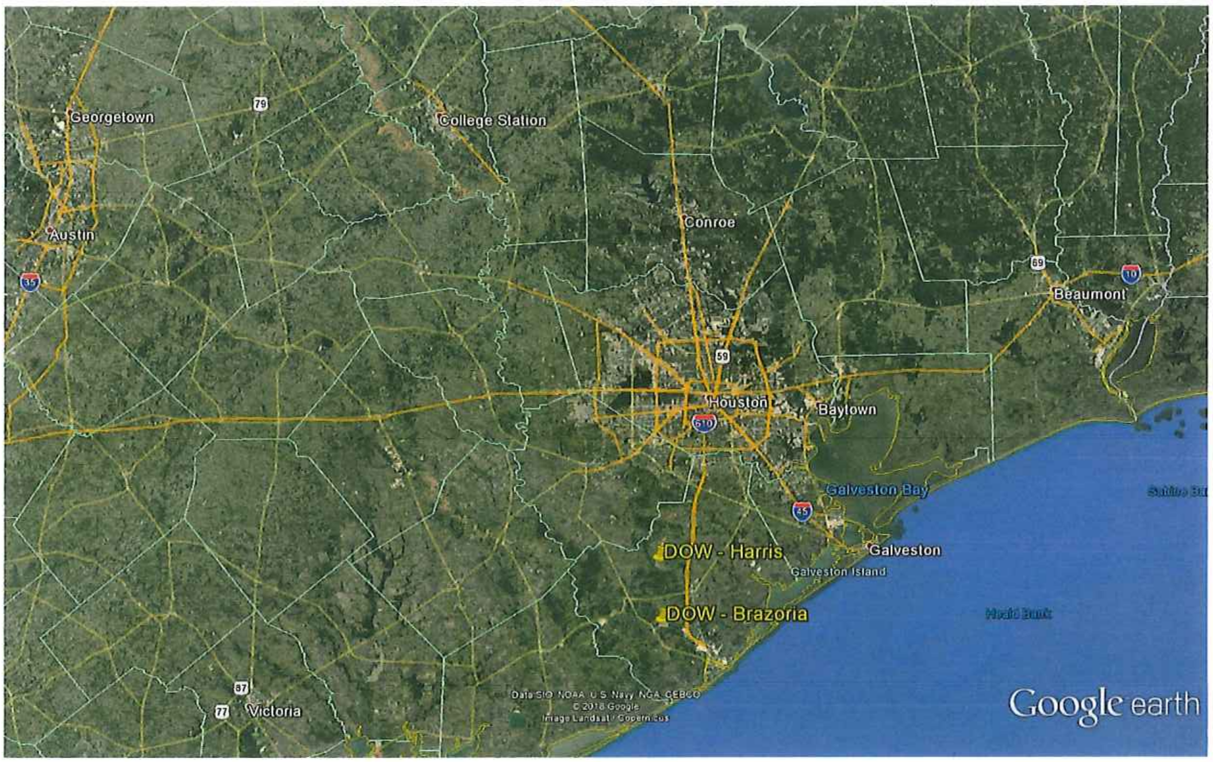
By: ______________________

Title: ______________________

Date: ______________________

Attest: ______________________

EXHIBIT A-1



RESALE with CITY OF BRENHAM

EXHIBIT A-1: DOW CHEMICAL COMPANY, 774-ACFT (IN)

Contract ID: BRENHAM-DOW 20

Diversion ID: BRENHAM-DOW 20

BRENHAM – DOW - Brazoria

N29.052426 W95.552414, ROST2 ROST2 (1110), Main Stem Brazos River Lower Basin, Brazoria County, WAP Reach: Richmond Gage to Gulf – Dow Brazoria

BRENHAM – DOW - Harris

N29.243325 W95.562173, ROST2 ROST2 (1110), Main Stem Brazos River Lower Basin, Brazoria County, WAP Reach: Richmond Gage to Gulf – Dow Harris

Prepared by: Julie Andress, Water Accounting Specialist, 9/17/2020

Regular City Council
AGENDA ITEM 12.

Agenda Item: **Discuss and Possibly Act Upon the City Manager's Employment Agreement and Related Issues and Authorize the Mayor to Execute Any Necessary Documentation**

Meeting Type: Regular Meeting-October 15, 2020

Department: Administration

Staff Contact: James Fisher

Classification: Regular

SUMMARY STATEMENT:

ATTACHMENTS:

None

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

As discussed in Executive Session at the October 15, 2020 Special Meeting.