

MEMORIAL CITY
REDEVELOPMENT AUTHORITY,
TIRZ No. 17,
City of Houston



Agenda and Agenda Materials
Meeting of the Board of Directors

June 1, 2021

**JOINT MEETING OF THE BOARD OF DIRECTORS OF THE
TIRZ 17 REDEVELOPMENT AUTHORITY/MEMORIAL CITY REDEVELOPMENT AUTHORITY
and TAX REINVESTMENT ZONE NUMBER SEVENTEEN
HOUSTON, TEXAS**

NOTICE is hereby given that the Board of Directors of the TIRZ 17 Redevelopment Authority (aka the Memorial City Redevelopment Authority) and the Tax Reinvestment Zone Number Seventeen, City of Houston, Texas, will hold a joint meeting on **Tuesday, June 1, 2021**, at **10:00 a.m.** via Zoom videoconference at:

<https://us02web.zoom.us/j/86599314878?pwd=eWRKdU12eXFnaUtPZk5EMHdway8rdz09>; or via

teleconference at: (346) 248-7799; Meeting ID: **865 9931 4878**; Password: **855173**; open to the public, to consider, discuss, and adopt such orders, resolutions or motions, and take direct actions as may be necessary, convenient, or desirable, with respect to the following matters:

AGENDA

1. Establish quorum and call meeting to order.
2. Receive public comments. (A statement of no more than 3 minutes may be made on items of general relevance. There will be no yielding of time to another person. State law prohibits the Board Chair or members of the Board from deliberating a topic without an appropriate agenda item being posted in accordance with the Texas Open Meetings Law; therefore, questions or comments will not be addressed. Engaging in verbal attacks or comments intended to insult, abuse, malign or slander any individual shall be cause for termination of time privileges).
3. Approve Interlocal Agreement with City of Houston regarding detention project cost share, phase 1.
4. Adjournment.



Executive Director for Authority

As a result of the current COVID-19 virus epidemic emergency, the convening at one location of a quorum of the Board is difficult or impossible. Therefore, the Board will conduct this meeting by videoconference rather than by physical quorum pursuant to Texas Government Code Sec. 551.125 and guidance of the Governor of the State of Texas. Members of the public are entitled to participate and address the Board during the videoconference meeting. In all respects, this meeting will be open to the public and compliant with applicable law and guidance of the Governor of the State of Texas. An electronic copy of the agenda packet (which consists of the regular reports presented to the Board by its consultants) can be found at: <http://houstontirz17.org/meetings/>

**TIRZ 17 DETENTION PROJECT COST SHARE
INTERLOCAL AGREEMENT**

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS §

THIS AGREEMENT is made and entered into pursuant to the Interlocal Cooperation Act (TEX. GOV'T CODE ANN. Ch. 791) by and between the **CITY OF HOUSTON**, a municipal corporation and home-rule municipality under the laws of the State of Texas (the "City"), and the **TIRZ 17 MEMORIAL CITY REDEVELOPMENT AUTHORITY**, a local government corporation, organized and existing under the laws of the State of Texas (the "Authority"), acting by and through its governing body, the Board of Directors, on behalf of **REINVESTMENT ZONE NUMBER SEVENTEEN, CITY OF HOUSTON, TEXAS**, a reinvestment zone created by the City pursuant to Chapter 311 of the Texas Tax Code ("TIRZ 17"). The City and the Authority are each a "Party" to this Agreement and may collectively be referred to herein as the "Parties." This Agreement shall become effective ("Effective Date") as of the date that is has been executed by all Parties hereto.

WITNESSETH:

WHEREAS, the State of Texas, through the Texas Division of Emergency Management, an agency of the State of Texas ("TDEM"), has entered into a Grant Agreement with the Federal Emergency Management Agency ("FEMA") to receive federal funding (the "Grant Funds") for cost-effective post-disaster projects under the Hazard Mitigation Grant Program, pursuant to Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

WHEREAS, the City desires to design and construct a detention basin and the necessary and related conveyance network improvements to provide maximum regional flood reduction benefits in the Memorial City area (the "TIRZ 17 Detention Project") as shown on attached **EXHIBIT "A"**; and

WHEREAS, in order to complete the TIRZ 17 Detention Project, the City must first undertake and complete the necessary engineering design and environmental permitting actions (the "Phase I Activities") for which the Parties estimate a total cost not to exceed **THREE MILLION EIGHT HUNDRED FIFTY THOUSAND and NO/100 (\$3,850,000.00)**; and

WHEREAS, the City has submitted an application for federal assistance to TDEM to receive an award of the Grant Funds and TDEM has approved the application and authorized a grant award of **THREE MILLION EIGHT HUNDRED FIFTY THOUSAND and NO/100 (\$3,850,000.00)** for the completion of Phase I of the TIRZ 17 Detention Project (the "Phase I Grant Award"); and

WHEREAS, TDEM and the City have entered into a Sub-Grant Agreement for the Phase I Activities (the “Phase I Sub-Grant Agreement”), as of April 26, 2021, being Contract No. FC78816, pursuant to Ordinance No. 2021-0292, attached hereto as an **EXHIBIT “B”**, obligating the City to distribute and make eligible use of the Grant Award for the Phase I Activities, pursuant to the terms of the Phase I Sub-Grant Agreement, and to contribute TWO MILLION ONE HUNDRED TWENTY FIVE THOUSAND EIGHT HUNDRED SEVENTY SEVEN and 39/100 (\$2,125,877.39) of the Grant Award as its “Local Cost Share” (therein defined) for the Phase I Activities (the “Phase I Local Cost Share”); and

WHEREAS, the Parties agree that completion of the TIRZ 17 Detention Project will provide a desired public benefit within the boundaries of TIRZ 17, and the Authority shall contribute the full amount of the Local Cost Share for the Phase I Activities (the “Authority’s Contribution”) to facilitate the completion of the TIRZ 17 Detention Project and further prevent area flooding; and

WHEREAS, the Parties agree that, upon completion, the detention basin will be added to the Houston Public Works inventory for operations and maintenance, the maintenance requirements associated with the detention structure will be a function of the final design, and Houston Public Works shall ensure maintenance capacity is available as design options are considered.

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to the Parties herein named, the Parties agree as follows:

**ARTICLE I.
DUTIES OF THE CITY**

A. COMPLIANCE WITH SUB-GRANT AGREEMENT

1.1 City’s Obligation to Comply with Terms of Sub-Grant Agreement. The Parties acknowledge and agree that the City shall complete the Phase I Activities pursuant to the terms and conditions of this Agreement and the Sub-Grant Agreement, as incorporated herein. The City shall be responsible for completing the Phase I Activities in conformity with all applicable laws, rules, regulations, orders, standards, and program guidelines referenced therein, including the terms, provisions, and requirements set forth in the Exhibits of that Sub-Grant Agreement. Specifically, the Authority acknowledges and agrees that the City may contract with one or more contractors or private entities for the completion of the Phase I Activities and that the City shall cause such contractors to agree that any work done for and on behalf of the Phase I Activities by themselves and/or their subcontractors will comply with the terms of the Sub-Grant Agreement and that all such contracts entered into and funded by the Sub-Grant Agreement will include all federally required contractual provisions and comply with the terms of the Sub-Grant Agreement in all other respects.

B. PHASE I ACTIVITIES

1.2 Scope of Phase I Activities. The Parties acknowledge and agree that the Phase I Activities shall

consist solely of the scope identified in the Sub-Grant Agreement.

1.3 City's Management Obligations. The Parties acknowledge and agree that the City shall manage the Phase I Activities through completion which shall include, without limitation, the authority to: (i) procure the necessary service providers; (ii) establish timelines for the production and delivery of materials; (iii) issue directives in the resolution of day-to-day design and permitting tasks; (iv) make all other material decisions, including selecting contract terms, managing form and content of submissions, evaluating sufficiency of the materials produced, and implementing any necessary time or cost-reduction measures.

1.4 Delivery of the Plans. Notwithstanding the preceding provision, the City will design and deliver 30%, 60%, 90%, and 100% plans (the "Plans") for the Phase I Activities to the Authority for review and comments. Should the Authority have concerns over the plans, it shall, within fourteen (14) days of receipt from the City ("Comment Period"), deliver written comments for the City's consideration. The City agrees to work cooperatively with the Authority to resolve any concerns; provided, however, the City's oversight, management, and decision with regard to the sufficiency and desirability of the Plans shall be superior and final. Failure to comment within the Comment Period will be treated as the Authority's having no objection to the submitted Plans. The City shall then submit 100% plans to the Authority which shall be reviewed, commented on, and approved in the same manner and subject to the City's same superior oversight rights as the 30%, 60%, and 90% plans.

1.5 Authority's Access to Phase I Activities Documents. The Authority shall have access to and the right to be furnished with, at any time and upon request, documents relevant to the completion of the Phase I Activities, including, but not limited to, relevant drawings, specifications, agreements, permits, approvals, permissions, letters, denials, and any other relevant documents and correspondence concerning the completion of the Phase I Activities. The City agrees to permit the Authority to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

1.6 Audit, Records, and Reports.

- (a) The City shall, upon the request of the Chair of the Authority's Board of Directors, or his/her respective designee, make available to the Authority at the City's principal office, or other location as agreed upon by both Parties, all records, reports, and other information and data, including financial records sufficient to ensure proper accounting and disbursements relating to the Phase I Activities. The City agrees to allow the Authority to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. This Article I(B), Section 1.6(a) shall survive the expiration or earlier termination of this Agreement for a period of three (3) years.
- (b) In compliance with the Disaster Recovery Reform Act of 2018, the Parties acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

1.7 Period of Performance. The Parties understand that the Sub-Grant Agreement identifies a Period of Performance by which the work covered under the Sub-Grant Agreement must be completed. The City agrees to fulfill its obligation in accordance with the Period of Performance.

1.8 Unused Funds. The Parties acknowledge and agree that FEMA or TDEM may recover unused funds, or funds otherwise due as a result of later refunds, corrections, or other transactions during and after the closeout of the Sub-Grant Agreement. The Parties agree that the City will reimburse FEMA or TDEM in a sum equivalent to the amount of any funds determined to be subject to such a reimbursement. This section shall survive the expiration or earlier termination of this Agreement.

1.9 Good Faith Cooperation. Should the City decide to appeal any adverse decision tendered by TDEM, the City shall advise the Authority in writing and the Authority shall, to the extent permitted by law, cooperate in good faith with any and all reasonable inquiries undertaken by or on behalf of the City in connection therewith, at no cost to the City. This section shall survive the expiration or earlier termination of this Agreement.

ARTICLE II. DUTIES OF THE AUTHORITY

2.1 Authority's Obligation to Pay for Phase I Local Cost Share. The Authority agrees to pay the City for the full amount of the Phase I Local Cost Share for the Phase I Activities, in the amount of TWO MILLION ONE HUNDRED TWENTY-FIVE THOUSAND EIGHT HUNDRED SEVENTY SEVEN and 39/100 (\$2,125,877.39), by remitting the Authority's Contribution to the City within thirty (30) days of the execution of this Agreement.

2.3 Pro Rata Reimbursements. If any portion of the Local Cost Share is not expended toward the completion of the Phase I Activities, the City shall reimburse the Authority for its appropriate pro rata share.

ARTICLE III. INSURANCE

3.1 Insurance. The City shall require that each contractor hired in connection with the Phase I Activities provide those levels of insurance customary for the size and scope of the Phase I Activities. All insurance policies, except Workers' Compensation and Professional Liability, shall name the City as an additional insured. Each policy must also contain an endorsement to the effect that the issuer shall give at least forty-five (45) days' written notice to the City before the policy may be canceled, materially changed, non-renewed, or reduced in coverage.

**ARTICLE IV.
TERM & TERMINATION**

4.1 Agreement Term. This Agreement shall become effective on the date that it is fully executed by both Parties hereto (the “Effective Date”). Unless otherwise terminated in accordance with this Agreement, the term of this Agreement (the “Agreement Term”) shall expire on the ninetieth (90th) day from the end of the Period of Performance as identified in the Sub-Grant Agreement.

The Director and the Authority may mutually agree, by written agreement between the Parties, to extend the Agreement Term or the time of performance for any of the City’s obligations set forth in this Agreement. Such right to extend this Agreement is hereby delegated to the Director without necessitating the need of further approval by the City Council.

4.2 Termination for Convenience. The City may terminate this Agreement, at any time, by giving thirty (30) days’ written notice to the Authority. Upon such termination, the City shall be relieved of all further obligations hereunder except as follows: the City shall return to the Authority any portion of the Authority’s Contribution that the City has not (a) expended or (b) encumbered to pay its obligations for Phase I Activities under an existing Service Contract (hereinafter defined) at the time of such termination. The Authority may terminate this Agreement at any time, and without cause, and shall be relieved of all further obligations hereunder, by providing thirty (30) days’ written notice to the City until the City awards a contract for the Phase I Activities (“Service Contract”). **TERMINATION OF THIS AGREEMENT IS THE PARTIES’ ONLY REMEDY FOR TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. THE PARTIES WAIVE ANY CLAIMS THEY MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM TERMINATION FOR CONVENIENCE.**

4.3 Termination for Cause. Either Party may terminate its performance under this Agreement if the other Party defaults and fails to cure such default after receiving written notice of it. Default occurs if a Party fails to perform one or more of its material duties under this Agreement. If a default occurs, the injured Party shall deliver a written notice to the defaulting Party describing the default and the proposed termination date. The proposed termination date must be at least fourteen (14) days after receipt of such notice. The injured Party, at its sole option, may extend the proposed termination date to a later date. If the defaulting Party cures the default before the proposed termination date, the proposed termination is ineffective. If the defaulting Party does not cure the default before the proposed termination date, the injured Party may terminate its performance under this Agreement on the termination date.

**ARTICLE V.
WARRANTIES & REPRESENTATIONS**

5.1 Representation of the City. The City hereby represents to the Authority that as of the date hereof:

- (a) The City has the power, authority, and legal right under the laws of the State of Texas to enter into and perform this Agreement and the execution, delivery, and performance hereof (i) will not, to the best of its knowledge, violate any applicable judgement, order, law, or regulation, and (ii) do not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Authority under any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.
- (b) Any and all information, reports, papers, and other data (including, without limitations, any and all balance sheets, statements of income or loss, reconciliation of surplus and financial data of any other kind) heretofore furnished, or to be furnished, to the Authority by or on behalf of the City are, or when delivered will be, true and correct in all material respects; all financial data has been, or when delivered will have been, prepared in accordance with generally accepted accounting principles consistently applied and fully and accurately present, or will present, the financial condition of the subjects thereof as of the dates thereof; and with respect to the financial data heretofore furnished, no materially adverse change has occurred in the financial condition reflected therein since the dates thereof.
- (c) No Obligation by Federal Government.
 - i. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, the City, contractor, or any other party pertaining to any matter resulting from the contract.
- (d) This is an acknowledgement, such acknowledgement being the absolute essence of this Agreement, that FEMA financial assistance will be used to fund all or a portion of the activities referenced by this Agreement. The City will comply with all applicable laws, rules regulations, executive orders, standards, and program guidelines, including without limitation, Federal and FEMA laws, rules, policies, procedures, and directives.

5.2 Representations of the Authority. The Authority hereby represents to the City as of the date hereof:

- (a) That it is not currently an excluded or disqualified party under 2 C.F.R. pt. 180 or 2 C.F.R. pt. 3000. If, during the term of this Agreement, the Authority becomes aware that it has been categorized as an excluded or disqualified party under either of the above-referenced provisions and by way of its involvement with this or any other federally funded projects, it will notify the City in writing as soon as reasonably practicable. The Authority further agrees that, throughout the term of this Agreement, it will provide any other information that may be necessary for the City to monitor its own compliance with federal debarment and suspension requirements, if applicable.

**ARTICLE VI.
TEXAS PUBLIC INFORMATION ACT**

6.1 Notice to City of Request. The Parties expressly acknowledge that this Agreement is subject to the Texas Public Information Act, Tex. Gov't Code Ann. §§ 552.001 et seq., as amended (the "Act"), and that any Party may release any and all information necessary to comply with Texas law without obtaining the prior written consent of any other Party; provided, however, that in the event the Authority receives a written request for information pertaining to this Agreement then the Authority shall promptly notify the City, in writing, of such request.

**ARTICLE VII.
NOTICE**

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, or delivered to the City at the following address:

City of Houston, Houston Public Works
611 Walker, 20th Floor
Houston, Texas 77002
Attention: Adam Eaton, Engineer
Maureen Crocker, Assistant Director

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, or delivered to the Authority at the following address:

TIRZ 17 Memorial City Redevelopment Authority
c/o Hawes Hill & Associates LLP
P.O. Box 22167
Houston, Texas 77227
Attention: Scott Bean, Executive Director

Notice shall be deemed delivered on the earlier of the date of actual receipt or the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed and addressed to the respective other party at the address prescribed in this section or at such other address as the receiving party may have theretofore prescribed by written notice to the sending party.

**ARTICLE VIII.
MISCELLANEOUS**

8.1 The recitals set forth in this Agreement are, by reference, incorporated into and deemed a part of this Agreement.

8.2 The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

8.3 Each and every agreement contained in this Agreement is, and shall be construed as, a separate and independent agreement. If any provision of this Agreement should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

8.4 One or more waivers of any covenant, term or condition of this Agreement by either Party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by either Party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by either Party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

8.5 Neither Party shall be held liable for any loss or damage due to delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such causes may include acts of God, acts of civil or military authority, government regulations (except those promulgated by the party seeking the benefit of this section), embargoes, pandemics, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, other major environmental disturbances or unusually severe weather conditions.

8.6 Unless otherwise specified in this Agreement, all remedies of the Parties under this Agreement are cumulative, and the election of any remedy by a Party shall not foreclose that Party from pursuing any other equitable or legal remedy.

8.7 This Agreement is not intended to and shall not create a joint enterprise between the City and the Authority. It is understood and agreed that the Authority and Authority's personnel shall not be considered employees, agents, partners, joint venturers, or servants of the City. It is also understood and agreed that the City and the City's personnel shall not be considered employees, agents, partners, joint venturers, or servants of the Authority.

8.8 The Parties are undertaking governmental functions or services under this Agreement and the purpose hereof is solely to further the public good, rather than any pecuniary purpose.

8.9 Notwithstanding anything contained in the Agreement to the contrary, it is expressly understood and agreed that in the execution of this Agreement, neither Party waives nor shall be deemed to waive any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

8.10 This Agreement shall be construed and interpreted in accordance with the applicable laws of

the State of Texas and City of Houston. Venue for any disputes relating in any way to this Agreement shall lie exclusively in Harris County, Texas.

8.11 Neither Party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other Party. This instrument contains the entire Agreement between the Parties relating to the rights herein granted and the obligations herein assumed. Any modifications concerning this instrument shall be of no force or effect, excepting a subsequent modification in writing signed by both Parties hereto. Each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.

8.12 Should any provision of this Agreement require judicial interpretation, the Parties hereto stipulate that the court interpreting or considering the same shall not apply the presumption that the terms hereof shall be more strictly construed against a Party by reason of any rule or conclusion that a document should be construed more strictly against the Party who prepared the same, it being agreed that all parties hereto have participated in the preparation of this Agreement and that each party had full opportunity to consult legal counsel of its choice before the execution of this Agreement.

[SIGNATURE PAGES FOLLOW]

The Parties have executed this Agreement in multiple copies, each of which is an original. IN WITNESS HEREOF, it has on the ____ day of _____, 2021, been executed on behalf of the **CITY OF HOUSTON**.

CITY OF HOUSTON

APPROVED:

By: _____
SYLVESTER TURNER
Mayor

By: _____
CAROL E. HADDOCK, P.E.
Director, Houston Public Works

ATTEST/SEAL:

COUNTERSIGNED BY:

By: _____
Acting,
City Secretary

By: _____
CHRIS B. BROWN
City Controller

APPROVED AS TO FORM:

DATE COUNTERSIGNED:

By: _____
HOLLAND SAMANTHA BANKS
Assistant City Attorney

By: _____

It has on the ____ day of _____, 2021, been executed on behalf of the **TIRZ 17 MEMORIAL CITY REDEVELOPMENT AUTHORITY.**

APPROVED AS TO FORM:

**TIRZ 17 MEMORIAL CITY
REDEVELOPMENT AUTHORITY**

By: _____

By: _____

Name: _____

Name: _____

By: _____

By: _____

EXHIBIT "A"
TIRZ 17 DETENTION PROJECT

SCOPE OF WORK

Project Description

1. *General Project Description:* The TIRZ 17 Detention and Conveyance Project (the "Project") is located in west Houston at the junction of Interstate 10 and Beltway 8. The Project consists of the construction of a sub-surface detention basin located in the Memorial Middle School sports complex and conveyance system improvements connecting the new detention capacity to Harris County Flood Control Ditch W151-00-00, thereby improving the area drainage capacity that currently drains to Harris County Flood Control Ditch W153-00-00. At the completion of the sub-surface detention basin construction, the existing sports amenities at the Memorial Middle School sports complex will be restored. *Project Location, start and finish:* 29.78089, -95.55262 (Sports Complex Detention Basin); 29.77859, -95.53999 (End of W151 Conveyance Improvement).

The preliminary engineering analysis for the Project was performed by Lockwood, Andrews & Newman, Inc. (LAN)¹. LAN analyzed 7 design alternatives for runoff improvements, which varied in scope, cost, and anticipated beneficial outcomes. The City of Houston (COH) selected Alternative 4 as the most cost-effective alternative and submitted the Hazard Mitigation Grant Program (HMGP) Application in December of 2018.

The selected detention basin site is part of an existing sports complex located to the north of the Memorial Middle School. The property is owned by the Spring Branch Independent School District (SBISD) and leased to the Spring Branch Memorial Sports Association (SBMSA) for the sport amenities. The construction of the sub-surface detention basin involves the excavation of the current soccer/football field and will have runoff storage capacity of 110 acre-feet. An image of the Sports Complex site is shown below.

¹ "Draft; Preliminary HMGP Grant Investigations - TIRZ 17" dated 8/23/2018. Lockwood, Andrews & Newman, Inc. (LAN)

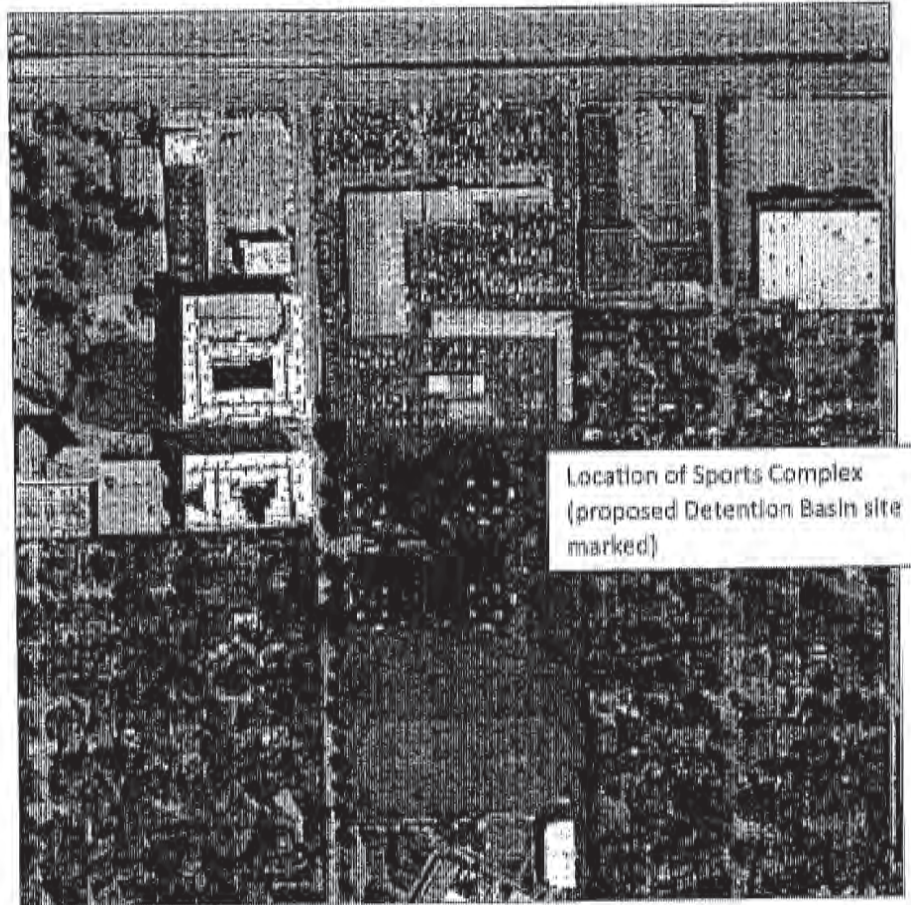


Figure 1: Sports Complex site (proposed location of Detention Basin shown)

Because the location of the Detention Basin shown in Figure 1 is currently an active sports facility for Spring Branch ISD, the COH will acquire the property from Spring Branch ISD for the construction of the sub-surface detention basin, and upon completion of the detention basin construction, restore any of the disturbed sports amenities and provide an easement to Spring Branch ISD for the use of the facility. The property acquisition and restoration of sports amenities is including in this grant application.

In addition to the construction of the detention basin, conveyance improvements (both replacements and new infrastructure) are included as part of this project. Improvements to the existing infrastructure will ensure that the detention basin is utilized to capacity. As part of the project, a new 9'x7' box culvert will be installed within existing COH right-of-way. The box culvert will convey flow from the detention basin to drainage ditch W151-00-00. New drainage systems would be installed to divert flow to and from the basin, and existing downstream conveyance systems (pipes and culverts) would get replaced in

order to handle the increased capacity. The conveyance system was undersized to suit the needs of the drainage area, so the improvements are needed to help convey water through the region.

The project improves upon the existing storm sewer system upstream by installing a conveyance system connection to the sub-surface detention basin that would act as a relief storm water system by diverting runoff from the overcapacity Ditch W151-00-00 to Ditch W153-00-00. Phase I will encompass design completion and required permitting within a 12-month period followed immediately by the Phase II which is a 24-month period for construction.

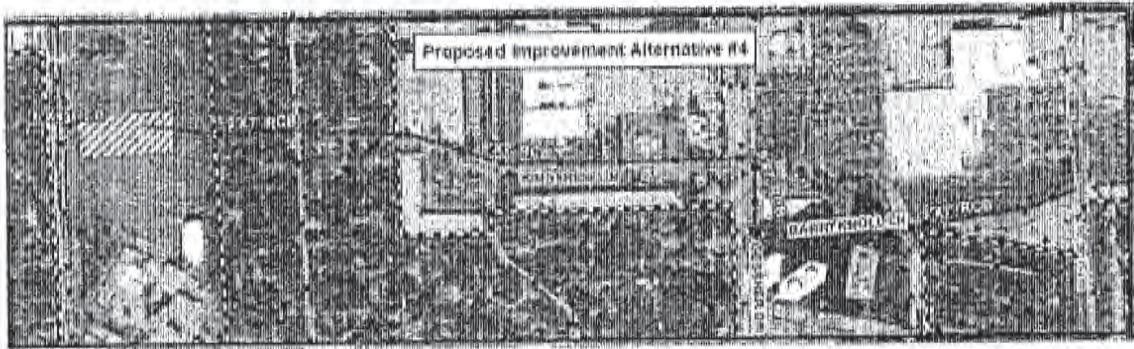


Figure 2: Proposed Project (conveyance to be constructed in existing COH right-of-way)

Areas within and adjacent to the Memorial City TIRZ 17 have been impacted by repetitive flooding as a result of various storm events and the disproportionate amount of impervious surfaces at the Interstate 10/TX-8 Sam Houston Tollway interchange. Current studies indicate many storm sewers within the area do not have the capacity to carry runoff flow from larger storm events. Additionally, inadequate connections and conveyance paths do not allow for effective flow of runoff into channels with added capacity. The enhancements proposed as part of this project will quickly convey storm water runoff away from structures and roadways in surrounding neighborhoods and into the detention basin and larger channels. The conveyance from W151-00-00 to the sports complex detention basin will allow for connectivity between the watersheds and reduce peak flow in W151-00-00, which will further reduce flood damage. In this way, connecting the HCFCD W153-00-00 and HCFCD W151-00-00 watersheds maximizes the flood reduction benefits. The land use in this area is fully developed with high-density single- and multi-family residential buildings. Within the model extents there are roughly 11 structures removed from the 100-year flood extents. Impacts of flooding in this area

include the potential to damage structures and their contents, while also limiting access to the area due to street inundation.

The City of Houston has collaborated and is coordinating with multiple local partners to accomplish the project. These partners have committed funds to the project and other forms of cooperation and technical assistance, including property acquisition, design development, and phasing and staging project elements. Project partners include the City of Houston, Harris County Flood Control District (HCFCD) for coordination with existing flood control systems and conveyances, and Tax Increment Reinvestment Zone (TIRZ) 17² for additional Local Share funding. A breakdown of funding contributions from project partners as well as the proposed level of HMGP funding can be found in the Project Objectives - Outcome, Level of Effort and Milestones section of this application.

The project will be implemented as a phased project per FEMA's requirements outlined in the "Hazard Mitigation Assistance Guidance" dated February 27, 2015. Phase I includes engineering, design, hydrologic and hydraulic modeling, permitting, and other associated tasks; Phase II is construction of the project. The phases are outlined below, and a milestone schedule can be found at in this scope of work.

The schedule presented in this scope includes contingencies to account for potential delays due to environmental permit approvals and property acquisition. The City of Houston will be responsible for purchasing the property from the school district and provide an easement for use of the area post-project. Upon completion of project construction, the soccer/football field will be repaired to its pre-existing capacity and the school district will have rights to the surface, while the City of Houston will own the sub surface detention basin. Design and construction of the project may take longer than the 36-month Period of Performance. If so a time extension will be requested.

- Phase I: Project Design and Permitting of the Sports Complex Detention Basin and W151 Conveyance Relief
- Phase II: Property Acquisition, Project Procurement, Construction, and Closeout of the Sports Complex Detention Basin and W151 Conveyance Relief

2. *Hazards Addressed by Project:* Areas within and adjacent to the Memorial City TIRZ 17 have been impacted by repetitive flooding as a result of various storm events and the disproportionate number of impervious surfaces at the Interstate 10/TX-8 Sam Houston

² The Tax Increment Reinvestment Zone (TIRZ) is a zone designated by City of Houston City Council to provide tax incentives and promote development in a designated area. Any taxes that are collected are utilized to fund public improvements within the zone. TIRZ-17 has agreed to finance portions of the proposed detention basin and conveyance as part of their commitment to public infrastructure improvements.

Tollway interchange. Current studies indicate many storm sewers within the area do not have the capacity to carry runoff flow from larger storm events. Additionally, inadequate connections and conveyance paths do not allow for effective flow of runoff into channels with added capacity. The enhancements proposed as part of this project will quickly convey storm water runoff away from structures and roadways in surrounding neighborhoods and into the detention basin and larger channels. The conveyance from W151-00-00 to the sports complex detention basin will allow for connectivity between the watersheds and reduce peak flow in W151-00-00, which will further reduce flood damage. In this way, connecting the HCFCD W153-00-00 and HCFCD W151-00-00 watersheds maximizes the flood reduction benefits. The land use in this area is fully developed with high-density single- and multi-family residential and commercial buildings. Impacts of flooding in this area include the potential to damage structures and their contents, while also limiting access to the area due to street inundation. Although the number of structures removed from the floodplain is relatively low, the project has overall benefits that include reduction in flood depths for many properties throughout this area.

| Storm Event | Number of Flooded Structures – Pre-Project | Number of Flooded Structures – Post-Project | Structures Removed from the Floodplain |
|-------------|--|---|--|
| 50% | 7 | 5 | (2) |
| 10% | 31 | 25 | (6) |
| 1% | 102 | 92 | (10) |

3. *Project Type:* This project will improve the drainage conveyance of subwatershed W151-00-00, which runs through a densely-populated neighborhood in Memorial City TIRZ 17 with approximately 7,500 residents. The proposed conveyance to the sports complex detention basin will reduce peak flow in W151-00-00 and flooding caused by runoff going over the flood control channel banks. Additionally, the new storm sewer system will allow for storm water runoff to be conveyed more quickly away from structures and roads. In tandem with the proposed detention basins, risk of repetitive flooding and structural damage can be reduced for various storm events.
4. *Major Elements of the Project:* This project is proposed to be phased in accordance with FEMA's HMA Guidance. Phase 1 includes completion of design and permitting (including regulatory approvals and modelling), and Phase 2 includes construction, final inspection, and commissioning (permit closure).

Phase I

- 1) Procure design consultants. Update and completion of contract drawings, specifications and bid documents.
- 2) Submit environmental, cultural and construction permits
- 3) Finalize Project Delivery Method and Schedule

Phase II

- 4) Acquisition of property
- 5) Preconstruction, Procurement, Mobilization, and Demolition
- 6) Construction of the project elements
- 7) Construction management and inspection of the project elements
- 8) Project close-out (include preparation of as-built drawings and maintenance agreements)

Project accomplishment during period of performance (36 months):

- a. Design of the project will be the initial element and will take approximately 12 months. This will include additional hydrologic and hydraulic modeling and updates to the assessment of cost-effectiveness to submit for Phase 2 award.
- b. Environmental assessments and regulatory permit approvals are also part of the critical path and will take approximately 6-12 months. These activities will overlap and run concurrently to project design and property acquisition in order to expedite the timeline.
- c. Designing the project, acquiring land, submitting permits, and construction of the project require the highest level of effort. It is anticipated that design, acquisition, permitting will be completed during the period of performance and that each of project elements will commence construction during the period of performance.
- d. Construction management and inspection of the project elements will be part of the construction schedule.

Project Objectives - Problem Solutions/Hazard Reduction:

1. This project addresses the problem of multiple occurrences of flood damage from frequent storms to structures within the W151-00-00 and W153-00-00 watersheds, which are fully developed and primarily contains high-density single family residential and commercial buildings. This project will reduce flood related damages to affected structures and inundation of streets in the neighborhoods, improving access for emergency vehicles and residents during periods of flooding.
2. This project protects structures at all levels of water surface elevation. The project does not give complete protection for each of the designated storms (2-yr, 10-yr, and 100-yr), but it does give additional protection for each of these storms so the overall effect for a

history of storms is to reduce the number of damaged facilities and the severity of the damage sustained by the buildings. The design storms presented above were utilized in the BCA analysis due to their use in the analysis developed by LAN. Following their process allowed for a more time efficient method of verification of their model.

3. The project provides beneath-surface storm water capture devices and improved conveyance between collection areas, which, during large storm events, provides a reduction in water surface elevations in the vicinity of the project. The lower water surface will produce fewer flooded structures and prevent streets from flooding, improving access in the area during emergency situations.
4. The analysis to determine the number of affected structures used the output from a hydrologic and hydraulic simulation using the HEC-RAS model software. The analysis was performed using existing HEC-RAS models, which were provided by Harris County Flood Control District (HCFCD). A hydraulic analysis of the model by LAN led to a Corrected Effective HEC-RAS model, which utilized storm events in 2015 and 2016 to calibrate the existing model. This analysis was done as a collaboration with HCFCD. Finally, the model was run with the Sports Complex Basin, and collection area relief included. The water surface elevations between the Existing, Corrected Effective, and Proposed models were evaluated. Once the differential in water surface elevations and flood levels were established, the cross sections were used to determine the limits of the water surface elevation. This elevation differential was applied to a GIS database which contained the structure information from Harris County Appraisal district. A LiDAR model on elevations was used to sort which structures flooded pre-project and which would flood post-project. Based on this analysis, 10 homes did not flood, with the addition of 1 commercial property based on the three flood events which were analyzed.

Project Objectives - Outcome, Level of Effort and Milestones:

The total budget for this project is estimated to be \$56,528,154. Please see major milestone description and schedule below, and Budget Worksheet Phase I through Phase II (attached) for additional details.

Project Funding

| | |
|--|---------------------|
| Local Share – From City of Houston/TIRZ-17 | \$30,000,000 |
| Federal Share | \$26,528,154 |
| Project Total | \$56,528,154 |

Major Milestones**Phase I: Design**

1. Update and complete contract drawings, specifications and bid documents. This milestone requires the engineer of record to complete the required documents to publicly bid the project. Upon completion of project documents and updated engineer's estimate of cost, the benefit cost analysis will be revised with updated project costs and benefits and an updated BCA report and technical memo will be presented to FEMA to determine the eligibility and technical feasibility of Phase II Construction. Note that the updated BCA results will be synthesized with data from the completed preliminary design and environmental assessment of the two project elements to confirm the continued cost-effectiveness of the systemic approach of the project.
2. Submit all required permits for environmental and cultural work, as well as overall construction of the project. The City will complete a total boundary and utility survey and a geotechnical investigation during this milestone. A draft integrated PR&G and EA will be provided to FEMA for review in Phase I to finalize the draft EA for public notice so that a finding of no significant impact (FNSI) will be completed by the end of Phase I.
3. Finalize Project Delivery Method and Schedule. Determine how the project will be procured and finalize the projected schedule that contractors will need to adhere to.

Phase II: Construction

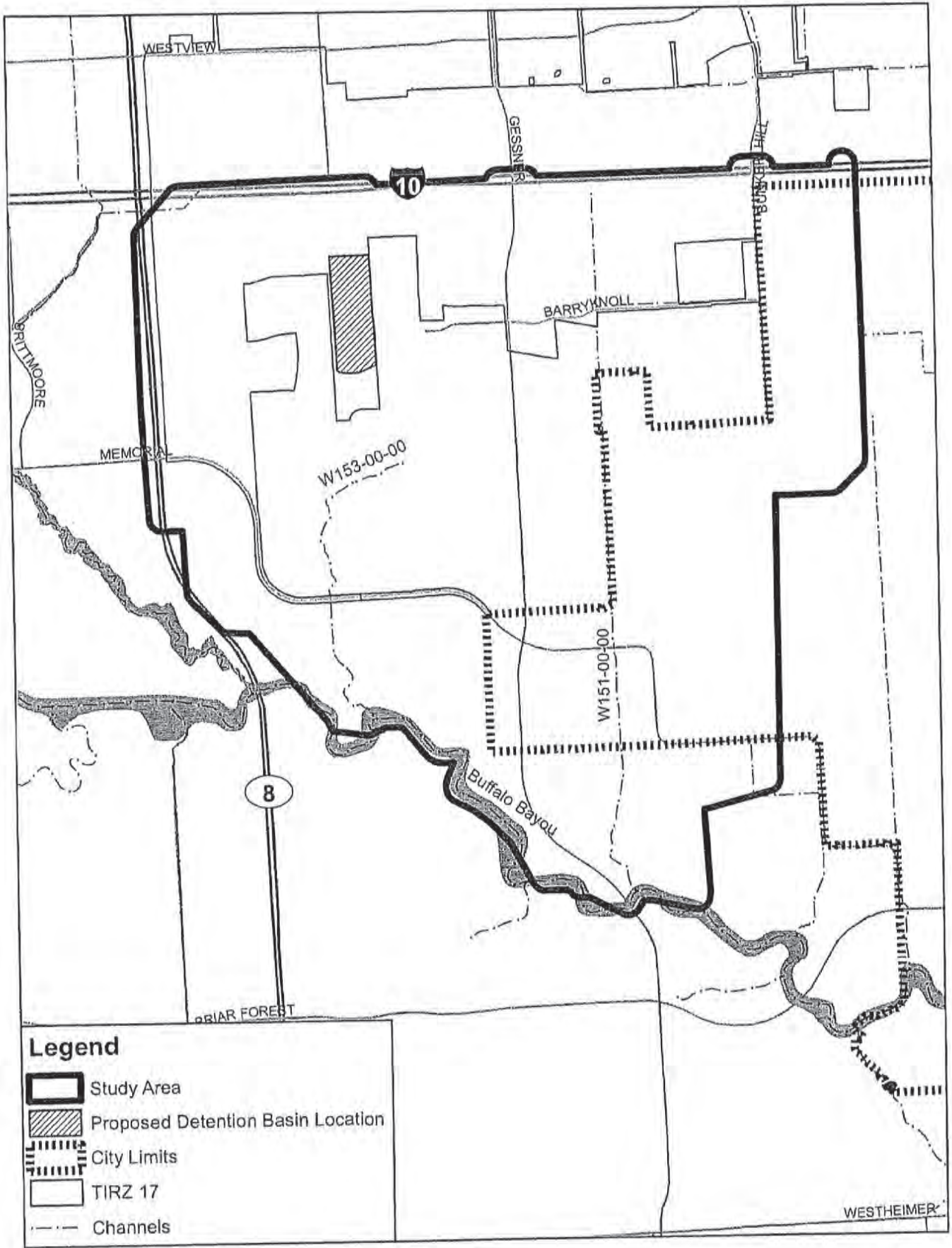
4. Acquisition of property at the site location for the Sports Complex Detention Basin. Additional tasks to be completed and incorporated into final design with the acquisition of property is a more thorough site assessment and geotechnical investigation to ensure the stability of the project site.
5. Advertisement for bid for the construction of the Sports Complex Detention Basin project element and award of construction contract to low responsive bidder. This will be a standard advertised project for the City of Houston and will follow the City's local procurement ordinances and policies and supplemented by 2 CFR 200 requirements. This milestone is met when all bids are opened, reviewed for completeness and accuracy and the engineer of record makes a recommendation to award. This milestone also includes the approval and signing of all the contract documents.
6. Construction of the project elements. This portion of the construction is to be completed in a single phase and will be the major time element in the project.
7. Construction management and inspection of the project elements. This activity will run for the duration of construction and will assure the project is completed according to the engineer's design of the project and approved budgets. Confirmation of materials and elevations specified in contract documents will be conducted through ongoing third-party inspections to ensure the project meets all stated objectives and standards.

8. Project closeout and completion. This activity will begin during the final phases of construction and will ensure all necessary project documentation (as-built drawings, surveys, operating and maintenance agreements) and scope and cost reconciliation are completed as efficiently and effectively as possible.






Milestones/Timeline:

| Milestone | Starting Month | Months to Complete |
|---|----------------|--------------------|
| Phase I: Design | | |
| 1. Update and completion of contract drawings and documents | 1 | 12 |
| 2. Acquisition of permits for construction* | 6 | 6 |
| 3. Finalize project delivery method and schedule | 9 | 3 |
| Phase II: Construction | | |
| 4. Land acquisition | 12 | 3 |
| 5. Procurement ³ | 12 | 3 |
| 6. Construction of the project elements | 15 | 24 |
| 7. Construction management and inspection | 15 | 24 |
| 8. Project close-out | 39 | 3 |

³ Phase 2 re-application/award is anticipated to take six-months and will be performed concurrent to Procurement. The City of Houston acknowledges the risk of non-award of Phase 2 and the potential for Procurement or other costs to be non-reimbursable.



Legend

-  Study Area
-  Proposed Detention Basin Location
-  City Limits
-  TIRZ 17
-  Channels

WESTHEIMER

EXHIBIT "B"
SUB-GRANT AGREEMENT FOR PHASE I ACTIVITIES



September 22, 2020

The Honorable Sylvester Turner
Mayor, City of Houston
611 Walker Street
10th Floor
Houston, TX 77002-4903

RE: Sub-Grant Award

Dear Mayor Turner:

The Texas Division of Emergency Management (TDEM) has issued a sub-grant for the Hazard Mitigation Grant Program (HMGP). The following is the information related to this award:

Sub-Recipient Information:

DUNS Number: 158939277
TINS Number: 74-6001164
FIPS Number: 201-35000-00

Award Information:

Catalog of Federal Domestic Assistance: 97.039
FEMA Award Identification Number: DR-4332-0355
Project Title: City of Houston TIRZ 17 Detention Project Approval Phase 1
Period of Performance (POP): September 9, 2020 through September 9, 2021

| Version / Amendment | Date | Total Subgrant Amount | Federal Cost Share Percentage | Federal Cost Share Amount | Local Cost Share Percentage | Local Cost Share Amount |
|---------------------|------------|-----------------------|-------------------------------|---------------------------|-----------------------------|-------------------------|
| 0 | 09-09-2020 | \$3,850,000.00 | 44.78% | \$1,724,122.61 | 55.22% | \$2,125,877.39 |

Please Note: This award is not for research or development as defined in 2 Code of Federal Regulations (C.F.R.) § 200.87.

The eligible management costs for a reimbursement request are calculated by multiplying the eligible direct project costs submitted by the percentage of obligated management costs (5%) for the project. In some cases, the management costs submitted for a reimbursement will exceed the eligible management cost amount. In this instance, the management costs will be trapped until additional eligible direct project costs are submitted for reimbursement.

| TOTAL ELIGIBLE MANAGEMENT COSTS | | | | | | |
|---------------------------------|------------|------------------------|-------------------------------|---------------------------|-----------------------------|-------------------------|
| Version / Amendment | Date | Total Management Costs | Federal Cost Share Percentage | Federal Cost Share Amount | Local Cost Share Percentage | Local Cost Share Amount |
| 0 | 09-09-2020 | \$33,156.00 | 100% | \$33,156.00 | 0% | \$0 |

The approved Scope of Work (SOW) follows and the terms and conditions of this award are attached. It is important that the sub-recipient read, understand and comply with the SOW and all terms and conditions. It is also vital that this information be disseminated to sub-recipient's staff and contractors involved in work related to this project.

This grant will fund a detention and conveyance project which will be in west Houston at the junction of Interstate 10 and Beltway 8. The project consists of the construction of a sub-surface detention basin located in the Memorial Middle School sports complex and conveyance system improvements connecting the new detention capacity to Harris County Flood Control Ditch W151-00-00, thereby improving the area drainage capacity that currently drains to Harris County Flood Control Ditch W153-00-00. At the completion of the sub-surface detention basin construction, the existing sports amenities at the Memorial Middle School sports complex will be restored.

The Sub-recipient shall deliver to FEMA, through the Recipient, for review and comment the following:

- Revised Scope of Work (SOW) and Work Schedule for Phase 2 Construction.
- Revised Budget Estimate and Budget Narrative.
- Benefit Cost Analysis (BCA) zip file based on the Hydraulic and Hydrologic (H&H) Study with support documents.
- H&H Study with Calculations and any upstream and downstream impacts. (See H&H Submittal Requirement attached)
- Sizes and locations of all drainage structures being installed or replaced.
- Complete set of Signed and Sealed Engineering Construction Plans (100%). Indicate staging areas on the plans, sizes and locations of all drainage structures being installed or replaced, and dimensions of areas of ground disturbance, including path.
- Principles Requirement and Guidelines (PRG) analysis.
- USACE Permits including but not limited to all Clean Water Act 404 permits or correspondence with USACE indicating no permitting is required.
- Location of final deposition of any excavated material.
- State Historic Preservation Office (SHPO) response for all three Phase 2 Scope of Work Components.

Signing and returning this award letter indicates sub-recipient's acceptance of the scope of work of the sub-award, the ability to pay the local cost share and all grant terms and conditions outlined in the attached documents.

The sub-recipient must ensure that:

1. The initial quarterly progress report for the project is submitted at the end of the approving quarter. Please include the project number (provided above) in your future quarterly reports. Note that 44 C.F.R. § 206.438(c) indicates the State must provide a quarterly progress report to FEMA indicating the status and completion date for each project funded. The report must include any problems or circumstances affecting completion dates, SOW, or project cost that may result in non-compliance with the approved grant conditions.
2. In accordance with HMGP rules and policy, TDEM requires the submittal of all closeout documentation within 90-days of the project completion not to exceed the POP. The Governor's Authorized Representative (GAR) "shall certify that reported costs were incurred in the performance of eligible work, that the approved work was completed and that the mitigation measure is in compliance with the provisions of the FEMA-State Agreement" in accordance with 44 C.F.R. § 206.438(d).

If changes are needed to the SOW for the sub-award, period of performance or costs associated to the sub-award, the sub-recipient should immediately contact TDEM. No change to the sub-award will be considered approved until the sub-recipient is notified in writing by TDEM.

This signed and dated award letter and attached grant terms and conditions must be returned to TDEM before payment on the sub-award can be processed. Your signature is required on both the last page of the award letter and the last page of the attached grant terms and conditions. Please sign, date, and return both the award letter along with the attached grant terms and conditions acknowledging acceptance of this sub-award to the address below:

Texas Division of Emergency Management
1033 La Posada, Suite 300
Austin, TX 78752

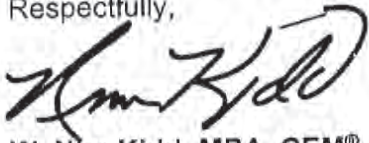
Sylvester Turner, Mayor

Date

Should you wish to appeal any determination related to this sub-award you must do so within 60 days of receipt of the notice of the action. You will need to provide your appeal with any documentation supporting your position to your assigned TDEM project officer within the allotted time.

If you have any questions please contact your Grant Coordinator, Hannah Rosette, at 713-967-7016 or Hannah.Rosette@TDEM.Texas.gov.

Respectfully,



W. Nim Kidd, MPA, CEM®

Chief - Texas Division of Emergency Management
Vice Chancellor for Disaster and Emergency Services
The Texas A&M University System

ATTACHMENTS: Grant Terms and Conditions
EHP Phase 1 Considerations
H&H Submittal Requirements
PRG Handbook

ATTEST/SEAL:

Pat Jefferson Daniel, City Secretary

APPROVED:

Carol Haddock, P.E.
Director, Houston Public Works

APPROVED AS TO FORM:

Holland S. Banks
Assistant City Attorney
L.D. File No. _____

CITY OF HOUSTON, TEXAS

Sylvester Turner, Mayor

COUNTERSIGNED BY:

Chris Brown, City Controller

DATE COUNTERSIGNED:

GRANT TERMS AND CONDITIONS

This Grant Agreement (consisting of these terms and conditions and all exhibits) is made and entered into by and between the Texas Division of Emergency Management (TDEM), an agency of the State of Texas, hereinafter referred to as "TDEM," and the grant recipient, CITY OF HOUSTON, hereinafter referred to as the "Subrecipient." Furthermore, TDEM and the Subrecipient are collectively hereinafter referred to as the "Parties." All subawards made under this grant agreement are subject to the same terms and conditions below.

Subrecipient may not assign or transfer any interest in this Grant without the express, prior written consent of TDEM and DHS/FEMA.

a. The term Recipient and pass-through entity have the same meaning as "Grantee," as used in governing statutes, regulations, and DHS/FEMA guidance.

b. A Recipient is also a "non-federal entity" for grants administration purposes.

c. A Subrecipient is also known as a "Subgrantee" as used in governing statutes regulations and DHS/ FEMA guidance.

d. A Subrecipient is also a "non-federal entity" for grants administration purposes.

e. The "Grant" referred to in this agreement is a subgrant to the Subrecipient passed thru from TDEM to the Subrecipient.

f. Certifying Official will be the Mayor, Judge, or Executive Director authorized to execute these grant terms and conditions, and to submit changes of Subrecipient Agents.

f. Projects and any subsequent versions for those projects accepted by the Subrecipient and subsequently obligated or deobligated by DHS/FEMA are considered subawards to this grant agreement.

A. **Standard of Performance**. Subrecipient shall perform all activities as approved by TDEM. Any change to a project shall receive prior written approval by TDEM and, if required, by FEMA. Subrecipient shall perform all activities in accordance with all terms, provisions and requirements set forth in this Grant, including but not limited to the following Exhibits:

1. Assurances – Non-Construction Programs, hereinafter referred to as "Exhibit A"
2. Assurances – Construction Programs, hereinafter referred to as "Exhibit B"
3. Certifications for Grant Agreements, hereinafter referred to as "Exhibit C"
4. State of Texas Assurances, hereinafter referred to as "Exhibit D"
5. Environmental Review Certification, hereinafter referred to as "Exhibit E"
6. Additional Grant Conditions, hereinafter referred to as "Exhibit F"
7. Additional Grant Certifications, hereinafter referred to as "Exhibit G"
8. Request for Information and Documentation referred to as "Exhibit H"

B. **Failure to Perform**. In the event Subrecipient fails to implement and complete the project(s) approved and awarded, or comply with any provision of this Grant, Subrecipient shall be liable to TDEM for an amount not to exceed the award amount of this Grant and may be barred from applying for or receiving additional DHS/FEMA grant program funds

GRANT TERMS AND CONDITIONS

or any other grant program funds administered by TDEM until repayment to TDEM is made and any other compliance or audit finding is satisfactorily resolved, in addition to any other remedy specified in this Grant. Failure to timely implement and complete projects may reduce future funding in additional DHS/FEMA and/or other grant programs administered by TDEM.

C. **Funding Obligations.** TDEM shall not be liable to Subrecipient for any costs incurred by Subrecipient that are not allowable costs.

1. Notwithstanding any other provision of this Grant, the total of all payments and other obligations incurred by TDEM under this Grant shall not exceed the total cumulative award amounts listed on the Subawards (projects and subsequent versions).
2. Subrecipient shall contribute the match funds listed on the subaward.

Subrecipient shall refund to TDEM any sum of these Grant funds that has been determined by TDEM or DHS/FEMA to be an overpayment to Subrecipient or that TDEM determines has not been spent by Subrecipient in accordance with this Grant. No refund payment(s) shall be made from local, state or federal Grant funds unless repayment with Grant funds is specifically permitted by statute or regulation. Subrecipient shall make such refund to TDEM within thirty (30) calendar days after TDEM requests such refund

D. **Performance Period.** The performance period for this Grant is listed on the subaward letter for each project. All projects shall be completed within the performance period AND all reimbursement requests shall be submitted to TDEM within 60 days of the end of the performance period. Subrecipient shall have expended all Grant funds and submitted reimbursement requests, invoices and any supporting documentation to TDEM within 60 days of the end of the performance period. TDEM shall not be obligated to reimburse expenses incurred after the performance period or submitted after the deadline.

E. **Uniform Administrative Requirements, Cost Principles and Audit Requirements.** Except as specifically modified by law or this Grant, Subrecipient shall administer this Grant through compliance with the most recent version of all applicable laws and regulations, including but not limited to DHS program legislation, Federal awarding agency regulations, and the terms and conditions of this Grant. A non-exclusive list is provided below [not all may apply in every projects]:

- Public Law 93-288, as amended (Stafford Act)
- 44 CFR, Emergency Management and Assistance
- Disaster Mitigation Act of 2000
- OMB Regulations 2 CFR, Grant and Agreements
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Executive Order 12372, Intergovernmental Review of Programs and Activities
- Executive Order 12549, Debarment and Suspension
- Executive Order 12612, Federalism
- Executive Order 12699, Seismic Design
- Executive Order 12898, Environmental Justice
- Coastal Barrier Resources Act, Public Law 97-348
- Single Audit Act, Public Law 98-502
- Sandy Recovery Improvement Act publications

GRANT TERMS AND CONDITIONS

- 16 U.S.C. § 470, National Historic Preservation Act
- 16 U.S.C. § 1531, Endangered Species Act References
- FEMA program publications, guidance and policies

F. **State Requirements for Grants.** Subrecipient shall comply with all other federal, state, and local laws and regulations applicable to this Grant including but not limited to the laws and the regulations promulgated in Texas Government Code, Chapter 783, Uniform Grant and Contract Management, (UGMS) at:

<http://www.window.state.tx.us/procurement/catrad/ugms.pdf>

and the program State Administrative Plan, available at:

<https://grants.tdem.texas.gov>

Subrecipient shall, in addition to the assurances and certifications, comply and require each of its subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders, OMB circulars, terms and conditions of this Grant and the approved application.

Grant funds may not be awarded to or expended by any entity which performs political polling. This prohibition does not apply to a poll conducted by an academic institution as part of the institution's academic mission that is not conducted for the benefit of a particular candidate or party.

Grant funds may not be expended by a unit of local government unless the following limitations and reporting requirements are satisfied:

1. Texas General Appropriations Act, Art. IX, Parts 2 and 3, except there is no requirement for increased salaries for local government employees;
2. Texas Government Code Sections 556.004, 556.005, and 556.006, which prohibits using any money or vehicle to support the candidacy of any person for office, influencing positively or negatively the payment, loan, or gift to a person or political organization for a political purpose, and using Grant funds to influence the passage or defeat of legislation including not assisting with the funding of a lobbyist, or using Grant funds to pay dues to an organization with a registered lobbyist;
3. Texas Government Code Sections 2113.012 and 2113.101, which prohibits using Grant funds to compensate any employee who uses alcoholic beverages on active duty and Subrecipient may not use Grant funds to purchase an alcoholic beverage and may not pay or reimburse any travel expense for an alcoholic beverage;
4. Texas General Appropriations Act, Art. IX, Section 6.13, which requires Subrecipient to make every effort to attain key performance target levels associated with this Grant, including performance milestones, milestone time frames, and related performance reporting requirements; and
5. General Appropriations Act, Art. IX, Sections 7.01 and 7.02, and Texas Government Code §2102.0091, which requires that this Grant may only be expended if Subrecipient timely completes and files its reports.

G. **Restrictions and General Conditions.**

1. **Use of Funds.** DHS/FEMA Grant funds may only be used for the purposes set forth in this Grant, and shall be consistent with the statutory authority for this Grant. Grant funds may not be used for matching funds for other Federal grants/cooperative agreements, lobbying, or intervention in Federal regulatory or adjudicatory proceedings. In addition,

GRANT TERMS AND CONDITIONS

- Federal funds may not be used to sue the Federal government or any other government entity.
2. Federal Employee Prohibition. Federal employees are prohibited directly benefiting from any funds under this Grant.
 3. Points of Contacts. Within 10 calendar days of any change, Subrecipient shall notify TDEM of any change in designated of Subrecipient Agents as submitted during the execution of this agreement, and any subsequent changes submitted by Subrecipient. In the event a Subrecipient hires a consultant to assist them with managing its Public Assistance grants, they must be listed on the Designated Subrecipient Agent Form. TDEM will direct all correspondence to the Subrecipient but will cc: the consultant on all email exchanges. The Subrecipient will be responsible for sharing written communications with the consultant. The Subrecipient will remain the primary point of contact and must be included in all decision making activities.
 4. DUNS Number. Subrecipient confirms its Data Universal Numbering Systems (DUNS) Number is accurate and is registered on Sams.gov. The DUNS Number is the nine digit number established and assigned by Dun and Bradstreet, Inc., at 866/705-5711 or <http://fedgov.dnb.com/webform>
 5. Central Contractor Registration and Universal Identifier Requirements. Subrecipient maintains that it has registered on the System for Award Management (SAM) at www.sam.gov or other federally established site for contractor registration, and entered TDEM-required information. Subrecipient shall keep current, and then review and update the information at least annually. Subrecipient shall keep information current in the SAM database until the later of when it submits this Grant's final financial report or receives final Grant award payment. Subrecipient agrees that it shall not make any subaward agreement or contract related to this Grant without first obtaining the vendor/subawardee's mandatory DUNS number. See Section §200.32 of OMB 2 C.F.R.
 6. Reporting Total Compensation of Subrecipient Executives. 2 C.F.R. §200.331; see FEMA Information Bulletin 350.
 - a. Applicability and what to report: Subrecipient shall report whether Subrecipient received \$25 million or more in Federal procurement contracts or financial assistance subject to the Transparency Act per 2 C.F.R. §200.331. Subrecipient shall report whether 80% or more of Subrecipient's annual gross revenues were from Federal procurement contracts or Federal financial assistance. If Subrecipient answers "yes" to both questions, Subrecipient shall report, along with Subrecipient's DUNS number, the names and total compensation (see 17 C.F.R. §229.402(c)(2)) for each of Subrecipient's five most highly compensated executives for the preceding completed fiscal year.
 - b. Where and when to report: Subrecipient shall report executive total compensation at www.sam.gov or other federally established replacement site. By signing this Grant, Subrecipient certifies that, if required, Subrecipient's jurisdiction has already registered, entered the required information, and shall keep information in the SAM database current, and update the information at least annually for each year until the later of when the jurisdiction submits its final financial report or receives final payment. Subrecipient agrees that it shall not make any subaward agreement or contract without first obtaining the subawardee's mandatory DUNS number.
 7. Debarment and Suspension. Subrecipient shall comply with Executive Order 12549 and 12689, which provide protection against waste, fraud, and abuse by debarring or

GRANT TERMS AND CONDITIONS

- suspending those persons deemed irresponsible in their dealings with the Federal government.
8. Direct Deposit. A completed direct deposit form from Subrecipient shall be provided to TDEM, prior to receiving any payments under the provisions of this grant. The direct deposit form is currently available at grants.tdem.texas.gov under Resources/Public Assistance.
 9. Property Management and Inventory. Subrecipient shall maintain property/inventory records which, at minimum, shall include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, the cost of the property, the percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. Subrecipient shall develop and implement a control system to prevent loss, damage or theft of property and Subrecipient shall investigate and document any loss, damage or theft of property funded under this Grant.
 10. Site Visits. DHS/FEMA and/or TDEM, through its authorized representatives, have the right at all reasonable times to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by DHS/FEMA on the premises of Subrecipient or a contractor under this Grant, Subrecipient shall provide and shall require its contractors to provide all reasonable facilities and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner that will not unduly delay the work.

H. Procurement and Contracting.

1. Procurements. Subrecipient shall comply with all applicable federal, state, and local laws and requirements, including but not limited to proper competitive solicitation processes where required, for any procurement which utilizes federal funds awarded under this Grant in accordance with 2 C.F.R. 200.318-326 and Appendix II to Part 200 (A-C) and (E-J)
2. Contract Provisions. All contracts executed using funds awarded under this Grant shall contain the contract provisions listed under 2 C.F.R. 200.326 and Appendix II (A), Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
3. Procurement activities must follow the most restrictive of Federal, State and Local procurement regulations:
 - a. Procurement by micro purchase
 - b. Procurement by small purchase
 - c. Procurement by sealed bid
 - d. Procurement by competitive proposal
 - e. Procurement by non-competitive proposal, solely when the award of a contract is unfeasible under the other methods

The State must be contacted for approval to use a noncompetitive procurement method. Failure to follow eligible procurement methods will result in ineligible costs. Other types of agreements for services must have State approval prior to use or execution. A copy of the local procurement policy must be provided to the State before initial payment.

GRANT TERMS AND CONDITIONS

The cost plus a percentage of cost and percentage of construction cost methods of contracting are ineligible.

Must perform **cost/price analysis** for every procurement action in excess of the Simplified Acquisition Threshold.

Must negotiate profit as a separate element where required.

4. Evidence of non-debarment for vendors must be documented through <http://www.sam.gov/portal/public/SAM> and http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/ and submitted for review.
 5. Comply with rules related to underutilized businesses (small and minority businesses, women's enterprises and labor surplus firms) at 2 CFR 200.321
- I. **Monitoring.** Subrecipient will be monitored periodically by federal, state or local entities, both programmatically and financially, to ensure that project goals, objectives, performance requirements, timelines, milestone completion, budget, and other program-related criteria are met.

TDEM, or its authorized representative, reserves the right to perform periodic desk/office-based and/or on-site monitoring of Subrecipient's compliance with this Grant and of the adequacy and timeliness of Subrecipient's performance pursuant to this Grant. After each monitoring visit, if the monitoring visit reveals deficiencies in Subrecipient's performance under this Grant, a monitoring report will be provided to the Subrecipient and shall include requirements for the timely correction of such deficiencies by Subrecipient. Failure by Subrecipient to take action specified in the monitoring report may be cause for suspension or termination of this Grant pursuant to the Suspension and/or Termination Section herein.

J. **Audit.**

1. **Audit of Federal and State Funds.** Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Grant as required by the Single Audit Act (OMB 2 C.F.R. 200.501, formerly A- 133). Subrecipient shall comply, as applicable, with Texas Government Code, Chapter 783, the Uniform Grant Management Standards (UGMS), the State Uniform Administrative Requirements for Grants and Cooperative Agreements.
2. **Right to Audit.** Subrecipient shall give the United States Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), the Comptroller General of the United States, the Texas State Auditor, TDEM, or any of their duly authorized representatives, access to and the right to conduct a financial or compliance audit of Grant funds received and performances rendered under this Grant. Subrecipient shall permit TDEM or its authorized representative to audit Subrecipient's records. Subrecipient shall provide any documents, materials or information necessary to facilitate such audit.
3. **Subrecipient's Liability for Disallowed Costs.** Subrecipient understands and agrees that it shall be liable to TDEM for any costs disallowed pursuant to any financial or compliance audit(s) of these funds. Subrecipient further understands and agrees that reimbursement to TDEM of such disallowed costs shall be paid by Subrecipient

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from funds that were not provided or otherwise made available to Subrecipient pursuant to this Grant or any other federal contract.

4. Subrecipient's Facilitation of Audit. Subrecipient shall take such action to facilitate the performance of such audit(s) conducted pursuant to this Section as TDEM may require of Subrecipient. Subrecipient shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Subrecipient and the requirement to cooperate is included in any subcontract it awards.
5. State Auditor's Clause. Subrecipient understands that acceptance of funds under this Grant acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. Subrecipient further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Subrecipient shall ensure that this clause concerning the State Auditor's Office's authority to audit funds and the requirement to cooperate fully with the State Auditor's Office is included in any subgrants or subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Subrecipient relating to this Grant.

K. Retention and Accessibility of Records.

1. Retention of Records. Subrecipient shall follow its own internal retention policy, or the state's retention policy, whichever is stricter. At a minimum, the subrecipient shall maintain fiscal records and supporting documentation for all expenditures of this Grant's funds pursuant to the applicable OMB 2 C.F.R. Subpart D – Post Federal Award Requirements, §200.333-337, and this Grant. Subrecipient shall retain these records and any supporting documentation for a minimum of three (3) years from the later of the completion of this project's public objective, submission of the final expenditure report, any litigation, dispute, or audit. Records shall be retained for three (3) years after any real estate or equipment final disposition. The DHS or TDEM may direct Subrecipient to retain documents or to transfer certain records to DHS/FEMA custody when DHS/FEMA determines that the records possess long term retention value.
2. Access to Records. Subrecipient shall give the United States Department of Homeland Security, the Comptroller General of the United States, the Texas State Auditor, TDEM, or any of its duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by Subrecipient pertaining to this Grant including records concerning the past use of DHS/FEMA funds. Such rights to access shall continue as long as the records are retained by Subrecipient.

L. Changes, Amendments, Suspension or Termination

1. Modification. DHS/FEMA or TDEM may modify this Grant after an award has been made. Once notification has been made in writing, any subsequent request for funds indicates Subrecipient's acceptance of the changes to this Grant. Any alteration, addition, or deletion to this Grant by Subrecipient is not valid.
2. Effect of Changes in Federal and State Laws. Any alterations, additions, or deletions to this Grant that are required by changes in federal and state laws, regulations or policy are automatically incorporated into this Grant without written amendment to this Grant and shall become effective upon the date designated by such law or regulation. In the event DHS/FEMA or TDEM determines that changes are necessary to this Grant after an award has been made, including changes to the period of performance or terms and conditions, Subrecipient shall be notified of the changes in writing. Once notification has

GRANT TERMS AND CONDITIONS

been made, any subsequent request for funds will indicate Subrecipient's acceptance of the changes to this Grant.

3. **Suspension.** In the event Subrecipient fails to comply with any term of this Grant, TDEM may, upon written notification to Subrecipient, suspend this Grant, in whole or in part, withhold payments to Subrecipient and prohibit Subrecipient from incurring additional obligations of this Grant's funds.
 4. **Termination.** TDEM shall have the right to terminate this Grant, in whole or in part, at any time before the end of the Performance Period, if TDEM determines that Subrecipient has failed to comply with any term of this Grant. TDEM shall provide written notice of the termination and include:
 - a. The reason(s) for such termination;
 - b. The effective date of such termination; and
 - c. In the case of partial termination, the portion of this Grant to be terminated.
 - d. Appeal may be made to the Deputy Chief of the Texas Division of Emergency Management - Recovery & Mitigation.
- M. **Enforcement.** If Subrecipient materially fails to comply with any term of this Grant, whether stated in a federal or state statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, TDEM or DHS/FEMA may take one or more of the following actions, as appropriate in the circumstances:
1. Increased monitoring of projects and require additional financial and performance reports
 2. Require all payments as reimbursements rather than advance payments
 3. Temporarily withhold payments pending correction of the deficiency
 4. Disallow or deny use of funds and matching credit for all or part of the cost of the activity or action not in compliance;
 5. Request DHS/FEMA to wholly or partially de-obligate funding for a project
 6. Temporarily withhold cash payments pending correction of the deficiency by subrecipient or more severe enforcement action by TDEM or DHS/FEMA;
 7. Withhold further awards for the grant program
 8. Take other remedies that may be legally available

In taking an enforcement action, TDEM will provide Subrecipient an opportunity for a hearing, appeal, or other administrative proceeding to which Subrecipient is entitled under any statute or regulation applicable to the action involved.

The costs of Subrecipient resulting from obligations incurred by Subrecipient during a suspension or after termination of this Grant are not allowable unless TDEM or DHS/FEMA expressly authorizes them in the notice of suspension or termination or subsequently.

Other Subrecipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

- The costs result from obligations which were properly incurred by Subrecipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are non-cancellable; and
- The costs would be allowable if this Grant were not suspended or expired normally at the end of the funding period in which the termination takes effects.

The enforcement remedies identified in this section, including suspension and termination, do not preclude Subrecipient from being subject to "Debarment and Suspension" under E.O.

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12549. 2 C.F.R., Appendix II to Part 200, (I).

N. **Conflicts of Interest.** The subrecipient will maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts and 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.

O. **Closing of this Grant.** TDEM will close each subaward after receiving all required final documentation from the Subrecipient. If the close out review and reconciliation indicates that Subrecipient is owed additional funds, TDEM will send the final payment automatically to Subrecipient. If Subrecipient did not use all the funds received, TDEM will recover the unused funds.

At the completion and closure of all Subrecipient's projects (subawards), TDEM will request the Subrecipient to Certify the completion of all projects (subawards) in accordance of the grants terms and conditions to state there are no further claims under this subgrant.

The closeout of this Grant does not affect:

1. DHS/FEMA or TDEM's right to disallow costs and recover funds on the basis of a later audit or other review;
2. Subrecipient's obligation to return any funds due as a result of later refunds, corrections, or other transactions;
3. Records retention requirements, property management requirements, and audit requirements, as set forth herein; and
4. Any other provisions of this Grant that impose continuing obligations on Subrecipient or that govern the rights and limitations of the parties to this Grant after the expiration or termination of this Grant.

P. **Notices.** All notices and other communications pertaining to this agreement shall be delivered in electronic format and/or writing and shall be transmitted by fax, e-mail, personal hand-delivery (and receipted for) or deposited in the United States Mail, as certified mail, return receipt requested and postage prepaid, to the other party.

GRANT TERMS AND CONDITIONS

EXHIBIT A

ASSURANCES - NON-CONSTRUCTION PROGRAMS See Standard Form 424B

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

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this Grant.
2. Will give the Department of Homeland Security, the Texas Division of Emergency Management, 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 this Grant and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290de-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 agreement for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply or has already complied with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction sub-agreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190 as amended by 42 U.S.C. 4311 et seq. and Executive Order (EO) 11514) which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for DHS grant-supported activities, DHS-FEMA requires the environmental aspects to be reviewed and evaluated before final action on the application; (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) comply with the Clean Air Act of 1977, (42 U.S.C. §7401 et seq. and Executive Order 11738) providing for the protection of and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters; (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (Identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348, 45 C.F.R. 46, and DHS Management Directive 026-044 (Directive) regarding the protection of human subjects involved in research, development, and related activities supported by this Grant. "Research" means a systematic investigation, including research, development, testing, and evaluation designed to develop or contribute to general knowledge. See Directive for additional provisions for including humans in the womb, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). See also state and local law for research using autopsy materials.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) which requires the minimum standards of care and treatment for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public according to the Guide for Care and Use of Laboratory Animals and Public Health Service Policy and Government Principals Regarding the Care and Use of Animals.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133 (now OMB 2 C.F.R. 200.500), "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, grant guidance, and policies governing this Grant.

GRANT TERMS AND CONDITIONS

EXHIBIT B

ASSURANCES - CONSTRUCTION PROGRAMS See Standard Form 424D

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

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 project described in this Grant.
2. Will give the Department of Homeland Security, the Texas Division of Emergency Management, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to this Grant 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 awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of this Grant.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of 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 nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-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 agreement for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the agreement.
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 sub-agreements.
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) as amended by 42 U.S.C. 4311 et seq. and Executive Order (EO) 11514 which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters; (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) comply with the Clean Air Act of 1977, (42 U.S.C. §§7401 et seq. and Executive Order 11738) providing for the protection of and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters; (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 (now OMB 2 C.F.R. 200.500), "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, grant guidance and policies governing this Grant.

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Exhibit C

Certifications for Grant Agreements

The undersigned, as the authorized official, certifies the following to the best of his/her knowledge and belief.

- A. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee or 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.
- B. 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 or 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 of Lobbying Activities, in accordance with its instructions.
- C. The undersigned shall require that the language of this certification prohibiting lobbying 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.
- D. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 C.F.R. Part 67, for prospective participants in primary covered transactions, as defined at 28 C.F.R. Part 67, Section 67.510. (Federal Certification), the Subrecipient certifies that it and its principals and vendors:
 1. Are not debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency. Subrecipient can access debarment information by going to www.sam.gov and the State Debarred Vendor List at: www.window.state.tx.us/procurement/prog/vendor_performance/debarred.
 2. Have not within a three-year period preceding this Grant been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (D)(2) of this certification;
 4. Have not within a three-year period preceding this Grant had one or more public transactions (Federal, State, or local) terminated for cause or default; or
 5. Where Subrecipient is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Grant. (Federal Certification).
- E. Federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Subrecipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.
- F. Subrecipient will comply with 2 C.F.R. Part 180, Subpart C as a condition of receiving grant funds and Subrecipient will require such compliance in any subgrants or contract at the next tier.
- G. Subrecipient will comply with the Drug-free Workplace Act, in Subpart B of 2 C.F.R. Part 3001.
- H. Subrecipient is not delinquent on any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.
- I. Subrecipient will comply with all applicable requirements of all other federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Grant.
- J. Subrecipient understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of funds in this Grant.

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EXHIBIT D

State of Texas Assurances

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

1. Shall comply with Texas Government Code, Chapter 573, by ensuring that no officer, employee, or member of the Subrecipient's governing body or of the Subrecipient's contractor shall vote or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person who shall have been continuously employed for a period of two years, or such other period stipulated by local law, prior to the election or appointment of the officer, employee, or governing body member related to such person in the prohibited degree.
2. Shall insure that all information collected, assembled, or maintained by the Subrecipient relative to a project will be available to the public during normal business hours in compliance with Texas Government Code, Chapter 552, unless otherwise expressly prohibited by law.
3. Shall comply with Texas Government Code, Chapter 551, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.
4. Shall comply with Section 231.006, Texas Family Code, which prohibits payments to a person who is in arrears on child support payments.
5. Shall not contract with or issue a license, certificate, or permit to the owner, operator, or administrator of a facility if the Subrecipient is a health, human services, public safety, or law enforcement agency and the license, permit, or certificate has been revoked by another health and human services agency or public safety or law enforcement agency.
6. Shall comply with all rules adopted by the Texas Commission on Law Enforcement pursuant to Chapter 1701, Texas Occupations Code, or shall provide the grantor agency with a certification from the Texas Commission on Law Enforcement that the agency is in the process of achieving compliance with such rules if the Subrecipient is a law enforcement agency regulated by Texas Occupations Code, Chapter 1701.
7. Shall follow all assurances. When incorporated into a grant award or contract, standard assurances contained in the application package become terms or conditions for receipt of grant funds. Administering state agencies and subrecipients shall maintain an appropriate contract administration system to insure that all terms, conditions, and specifications are met. (See UGMS Section __36 for additional guidance on contract provisions).
8. Shall comply with the Texas Family Code, Section 261.101, which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Child Protective and Regulatory Services. Subrecipient shall also ensure that all program personnel are properly trained and aware of this requirement.
9. Shall comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990 including Titles I, II, and III of the Americans with Disability Act which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities, 44 U.S.C. §§ 12101-12213; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the 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. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to this Grant.
10. Shall 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.
11. Shall comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Shall comply with the provisions of the Hatch Political Activity Act (5 U.S.C. §§7321-29), which limit the political activity of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Shall comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act and the Intergovernmental Personnel Act of 1970, as applicable.

GRANT TERMS AND CONDITIONS

14. Shall insure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA (EO 11738).
15. Shall comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, Section 102(a) requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition proposed for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.
16. Shall 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 (Clear 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).
17. Shall 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.
18. Shall 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.).
19. Shall comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) which requires the minimum standards of care and treatment for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public according to the Guide for Care and Use of Laboratory Animals and Public Health Service Policy and Government Principals Regarding the Care and Use of Animals.
20. Shall 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 residential structures.
21. Shall comply with the Pro-Children Act of 1994 (Public Law 103-277), which prohibits smoking within any portion of any indoor facility used for the provision of services for children.
22. Shall comply with all federal tax laws and are solely responsible for filing all required state and federal tax forms.
23. Shall comply with all applicable requirements of all other federal and state laws, executive orders, regulations, and policies governing this program.
24. And its principals are eligible to participate and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and it is not listed on a state or federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement have Exclusions listed at <https://www.sam.gov/portal/public/SAM/>.
25. Shall adopt and implement applicable provisions of the model HIV/AIDS work place guidelines of the Texas Department of Health as required by the Texas Health and Safety Code, Ann., Sec. 85.001, et seq.

GRANT TERMS AND CONDITIONS

EXHIBIT E

Environmental Review

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

1. shall assess its federally funded projects for potential impact to environmental resources and historic properties.
2. shall submit any required screening form(s) as soon as possible and shall comply with deadlines established by TDEM. Timelines for the Environmental Planning and Historic Preservation (EHP) review process will vary based upon the complexity of the project and the potential for environmental or historical impact.
3. shall include sufficient review time within its project management plan to comply with EHP requirements. Initiation of any activity prior to completion of FEMA's EHP review will result in a non-compliance finding and TDEM will not authorize or release Grant funds for non-compliant projects.
4. as soon as possible upon receiving this Grant, shall provide information to TDEM to assist with the legally-required EHP review and to ensure compliance with applicable EHP laws and Executive Orders (EO) currently using the FEMA EHP Screening Form OMB Number 1660-0115/FEMA Form 024-0-01 and submitting it, with all supporting documentation, to TDEM for review. These EHP requirements include but are not limited to the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, EO 11988 – Floodplain Management, EO 11990 – Protection of Wetlands, and EO 12898 – Environmental Justice. Subrecipient shall comply with all Federal, State, and local EHP requirements and shall obtain applicable permits and clearances.
5. shall not undertake any activity from the project that would result in ground disturbance, facility modification, or purchase and use of sonar equipment without the prior approval of FEMA. These include but are not limited to communications towers, physical security enhancements involving ground disturbance, new construction, and modifications to buildings.
6. shall comply with all mitigation or treatment measures required for the project as the result of FEMA's EHP review. Any changes to an approved project description will require re-evaluation for compliance with EHP requirements before the project can proceed.
7. if ground disturbing activities occur during project implementation, Subrecipient shall ensure monitoring of ground disturbance and if any potential archeological resources are discovered, Subrecipient shall immediately cease construction in that area and notify FEMA and the appropriate State Historical Preservation Office.

GRANT TERMS AND CONDITIONS

EXHIBIT F

Additional Grant Conditions

1. Additional damage requiring a new Public Assistance project to be written must be reported within 60 days following the Project Scoping meeting with the State- Federal team.
2. All work must be done prior to the approved project completion deadline assigned to each Project (POP). Should additional time be required, a time extension request must be submitted which: a.) Identifies the projects requiring an extension. b.) Explains the reason for an extension. c.) Indicates the percentage of work that has been completed. d.) Provides an anticipated completion date. The reason for an extension must be based on extenuating circumstances or unusual project requirements that are beyond the control of your jurisdiction/organization. **Failure to submit a time extension request 60 days prior to the end of the period of performance may result in reduction or withdrawal of federal funds for approved work.**
3. Any significant change to a project's approved Scope of Work must be reported and approved through TDEM and FEMA before starting the project. Failure to do so will jeopardize grant funding. The Subrecipient shall submit requests for cost overruns requiring additional obligations to TDEM, who will forward to FEMA for review and approval prior to incurring costs.
4. The Project Completion and Certification Report must be submitted to TDEM within 60 days of all approved work being completed for each project. If any project requires the purchase of insurance as a condition of receiving federal funds, a copy of the current policy must be attached to this report, or Duplication of Benefits form certifying other funds were received to complete the project.
5. A cost overrun appeal on small (\$128,900) Public Assistance projects must be reported to the Texas Division of Emergency Management (TDEM) within 60 days of completing the last small project in order to be considered for additional funding.
6. Appeals may be filed on any determination made by FEMA or TDEM. All appeals must be submitted to TDEM within 60 days from receiving written notice of the action you wish to appeal. Should you wish to appeal a determination contained in the project application, the 60 days will start the day the application is signed. Appeals for Alternative Projects will be subject to the terms of the signed agreement for the Alternative Project.
7. Public Assistance program projects will not receive funding until all of the requirements identified in the comments section of the Project Worksheet are met.
8. You may request a payment of funds on projects by initiating a Request for Reimbursement (RFR) in TDEM's Grant Management System (GMS) or an Advance of Funds Request (AFR), and including documentation supporting your request. Small Public Assistance projects are paid upon obligation and will be initiated by TDEM personnel. Payments for open projects must be requested at least quarterly if expenditures have been made in that quarter.
9. Subrecipients will be required to submit quarterly project reports (QPR) for open large projects using TDEM's GMS. Your assigned Grant Coordinator will coordinate the due date for your specific reporting. Public Assistance program small projects are typically exempt from quarterly reporting, however TDEM reserves the right to require QPRs on any smalls requiring a POP extension. The first quarterly report will be due at the end of the first full quarter following the quarter in which the project was obligated. No quarterlies are required for projects that Subrecipient has initiated a closeout request and has provided a certificate of completion. Failure to submit required quarterly reports for two or more quarters can result in withholding or deobligation of funding for Subrecipients until all reports are submitted and up-to-date.

GRANT TERMS AND CONDITIONS

10. Subrecipients expending \$750,000 or more in total Federal financial assistance in a fiscal year will be required to provide an audit made in accordance with OMB Uniform Guidance; Cost Principles, Audit, and Administrative Requirements for Federal Awards, Subpart F. A copy of the Single Audit must be submitted to your cognizant State agency or TDEM within nine months of the end of the subrecipient's fiscal year. Consult with your financial officer regarding this requirement. If not required to submit a single audit, a letter must be sent to TDEM certifying to this.
11. Subrecipients will not make any award to any party which is debarred or suspended, or is otherwise excluded from participation in the Federal assistance programs (EO 12549, Debarment and Suspension). Subrecipient must maintain documentation validating review of debarment list of eligible contractors.
12. Subrecipients must keep record of equipment acquired by federal funds for the life cycle of the equipment. A life cycle for most equipment will be three years, but could be longer. If the fair market value of a piece of equipment is valued over \$5,000, FEMA will have the right to a portion of proceeds if equipment is sold. If the fair market value of a piece of equipment is less than \$5,000, the property can either be retained, sold or designated as surplus with no further obligation to FEMA.
13. TDEM will be using the new FEMA Public Assistance Delivery Model to facilitate the writing of project worksheets (Portal). Subrecipient will be responsible for establishing and maintaining an active account in the Portal and to provide and upload timely, all information requested that is needed to write accurate project worksheets. The Portal will provide the Subrecipient visibility of the entire project writing process.
14. TDEM will be using its new Grant Management System (GMS) for Subrecipient grant management functions. Subrecipient will access GMS to initiate Requests for Reimbursements (RFR), Advance of Funds Requests (AFR), Time Extensions, Scope and Cost changes requests, Quarterly Reports, Project Closeouts, Appeals, and other items deemed necessary by TDEM. Requested forms and processes may be adjusted and changed to accommodate GMS processes and requirements. Subrecipient agrees to monitor GMS as necessary to properly manage and complete awarded projects under this agreement.
- 16.2 CFR 200.210(a)(15), 2 CFR 200.331(a)(1)(xiii) and (a)(4) make reference to indirect cost rates. The Subrecipient may use the negotiated Indirect Cost Rate approved by its cognizant agency, or may use the 10% de minimis rate of modified total direct costs (MTDC) (as per § 200.414) when receiving Management Costs.

GRANT TERMS AND CONDITIONS

EXHIBIT G

Match Certification

Additional Grant Certifications

Subrecipient certifies that it has the ability to meet or exceed the cost share required for all subawards (Projects) and amendments (versions) under this Grant Agreement.

Duplication of Program Statement

Subrecipient certifies there has not been, nor will there be, a duplication of benefits for this project.

Match Certification

Federal Debt Disclosure

Subrecipient certifies that it is not delinquent on any Federal Debt.

For Hazard Mitigation Projects Only:

Maintenance Agreement

Applicant certifies that if there is a Maintenance Agreement needed for this facility copy of that agreement will be provided to TDEM.

Environmental Justice Statement

Federal Executive Order 12898 compliance requirements – If there are any concentrations of low income or minority populations in or near the HMGP project:

1. Applicant certifies that the HMGP project result will not result in a disproportionately high or adverse effect on low income or minority populations.
OR
2. Applicant certifies that action will be taken to ensure achievement of environmental justice for low income and minority populations related to this HMGP project.

Request for Information and Documentation Policy and Guideline

It is crucial to the success of the overall Grant Program and to the timely completion and closure of awarded projects that timelines be established for providing information and documentation. TDEM has developed a framework to support this endeavor following a progressive series of communications for the Subrecipient (RFI). TDEM will work with you throughout the RFI process as communication is the key to your success.

| RFI Timelines | |
|-------------------------|--|
| First Informal Request | The primary contact for the Subrecipient will receive the RFI via email with five business days to respond. |
| Second Informal Request | A second email to the primary contact will be sent with an additional five business days to respond. |
| Third Informal Request | A phone call will be made to the primary contact with a third email requesting the information to be provided within five business days. The Regional Section Administrator and State Coordinator will be copied. |
| Fourth Formal Request | The Supervising Program Director of Recovery will Issue a certified letter to the highest ranking official highlighting previous requests and an additional ten days to provide the requested information. |
| Final Formal Request | A final request by certified letter will be issued by the Deputy Assistant Director of Recovery, Mitigation, and Standards, or the Assistant Director of the Texas Division of Emergency Management to the highest ranking official giving the final ten business days to respond or deobligation of the project will begin. |
| Final Action | If the RFI is not sufficiently answered, the project will be deobligated, and any previously paid funds must be returned to TDEM. |

Reference: RMS Services Grant Program Request for Information and Documentation August 2017

GRANT TERMS AND CONDITIONS

Please initial by each Exhibit, acknowledging you have received them, understand them, and agree to abide by them.

- _____ Assurances – Non-Construction Programs, hereinafter referred to as "Exhibit A"
- _____ Assurances – Construction Programs, hereinafter referred to as "Exhibit B"
- _____ Certifications for Grant Agreements, hereinafter referred to as "Exhibit C"
- _____ State of Texas Assurances, hereinafter referred to as "Exhibit D"
- _____ Environmental Review Certification, hereinafter referred to as "Exhibit E"
- _____ Additional Grant Conditions, hereinafter referred to as "Exhibit F"
- _____ Additional Grant Certifications, hereinafter referred to as "Exhibit G"
- _____ Request for Information and Documentation referred to as "Exhibit H"

Please sign below to acknowledged acceptance of the grant and all exhibits in this agreement, and to abide by all terms and conditions.

Signature of Certifying Official

Date

Printed Name and Title