

# City of Kingsville, Texas

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**AGENDA**  
**CITY COMMISSION**  
**MONDAY, MARCH 24, 2025**  
**REGULAR MEETING**  
**CITY HALL**  
**HELEN KLEBERG GROVES COMMUNITY ROOM**  
**400 WEST KING AVENUE**  
**5:00 P.M. – Regular Meeting**

**Live Videostream:** <https://www.facebook.com/cityofkingsvilletx>

**I. Preliminary Proceedings.**

**OPEN MEETING**


**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

**MINUTES OF PREVIOUS MEETING(S)**

Regular Meeting – January 27, 2025

Regular Meeting – March 10, 2025

APPROVED BY:

  
Charlie Sosa  
Interim City Manager

**II. Public Hearing - (Required by Law).<sup>1</sup>**

1. None.

**III. Reports from Commission & Staff.<sup>2</sup>**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial Services - Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works-Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Water And Wastewater Rate Study Presentation. No formal action can be taken on these items at this time."*

**IV. Public Comment on Agenda Items.<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

**V.**

**Consent Agenda**

## **Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

### **CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions, and ordinances not removed for individual consideration)*

1. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to appropriate funding for emergency repairs to Water Wells #21 & #24. (Public Works Director).
2. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to reallocate GF ARP Funds from the demos allocation and left-over funds of the IT Firewalls Project to cover Golf Course water well pump purchase. (Parks Director).
3. Motion to approve a resolution authorizing the Mayor to execute the Permission and Indemnity Agreement with the King Ranch, Inc. for the 20<sup>th</sup> Annual Ride on the Wild Side Charity Bike Event. (City Attorney).

## **REGULAR AGENDA**

### **CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

#### **VI. Items for consideration by Commissioners.<sup>4</sup>**

4. Consideration and approval of a resolution naming the City Girls Youth Softball Field as the "David Chavez Field". (Parks Director).
5. Consideration and approval of a resolution authorizing the City to submit an application to the GLO for CDBG-MIT funds under the Resilient Communities Program for a Comprehensive Master Plan with no anticipated cash match. (Director of Planning and Development Services).
6. Consideration and approval of a resolution authorizing the Interim City Manager to execute an Agreement for Professional Consulting Services on a Defined Scope of Services Basis with Halff Associates, Inc. (for the GLO's CDBG-MIT Fund under the Resilient Communities Program for a Comprehensive Master Plan). (Director of Planning and Development Services).
7. Consideration and approval of a resolution authorizing the Interim City Manager to execute a Training (Ride Along) Agreement between the City of Kingsville Fire Department and Del Mar College District for the Training of Emergency Medical Services Students. (Fire Chief).
8. Consideration and approval of a resolution authorizing the Interim City Manager to enter into a Business Associate Agreement and an Agreement for Specialized Professional Ambulance Billing Services between the City of Kingsville and Emergicon, LLC. (Fire Chief).
9. Consideration and approval of accepting Law Enforcement Officer Standards and Education (LEOSE) Funds from the Texas Comptroller of Public Accounts for Police Department training. (Police Chief).

10. Consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to accept and expend funding from LEOSE for Police officer training. (Police Chief).

11. Consider introduction of an ordinance vacating, abandoning, and closing the easternmost 40-foot-wide right-of-way on undeveloped S. 13<sup>th</sup> Street between Kenedy Avenue and the southmost edge of the alley nearest King Avenue in Fifth Addition, Block 4, while retaining a utility easement. (City Attorney).

12. Consideration and approval of a resolution authorizing staff to accept bid for sale of the City's real property known as Kenedy Park located off 14<sup>th</sup> Street and East Kenedy Street (5<sup>th</sup> Addition, Block 4, Lots 17-32 & E 40' of abandoned S. 13<sup>th</sup> St.) in Kingsville, Texas. (update from June 10, 2024 to authorize the Interim City Manager to sign) (Purchasing Manager).

## VII. Adjournment.

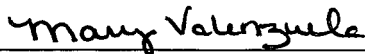
1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
2. No person's comments shall exceed 5 minutes without permission of majority of Commission.
3. Comments are limited to 3 minutes per person. May be extended or permitted at other times in the meeting only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
4. Items being considered by the Commission for action except citizen's comments to the Mayor and Commission, no comment at this point without 5 affirmative votes of the Commission.

### NOTICE

This City of Kingsville and Commission Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 361/595-8002 or FAX 361/595-8024 or E-Mail [mvalenzuela@cityofkingsville.com](mailto:mvalenzuela@cityofkingsville.com) for further information. Braille Is Not Available. The City Commission reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Section 551-071 (Consultation with Attorney), 551-072 (Deliberations about Real Property), 551-073 (Deliberations about Gifts and Donations), 551-074 (Personnel Matters), 551-076 (Deliberations about Security Devices), 551-086 (Certain Public Power Utilities: Competitive Matters), and 551-087 (Economic Development).

I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board at City Hall, City of Kingsville, 400 West King Avenue, Kingsville, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time:

March 21, 2025, at 10:30 A.M. and remained posted continuously for at least 72 hours proceeding the scheduled time of said meeting.



Mary Valenzuela, TRMC, City Secretary  
City of Kingsville, Texas

This public notice was removed from the official posting board at the Kingsville City Hall on the following date and time: \_\_\_\_\_

By: \_\_\_\_\_  
City Secretary's Office  
City of Kingsville, Texas

# **MINUTES OF PREVIOUS MEETING(S)**



JANUARY 27, 2025

A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, JANUARY 27, 2025, IN THE HELEN KLEBERG GROVES COMMUNITY ROOM, 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 5:00 P.M.

**CITY COMMISSION PRESENT:**

Sam R. Fugate, Mayor  
Edna Lopez, Commissioner  
Norma N. Alvarez, Commissioner  
Hector Hinojosa, Commissioner  
Leo Alarcon, Commissioner

**CITY STAFF PRESENT:**

Charlie Sosa, Interim City Manager  
Courtney Alvarez, City Attorney  
Kyle Benson, IT Director  
Derek Williams, Systems Administrator  
Emilio Garcia, Health Director  
Diana Gonzalez, Human Resources Director  
Susan Ivy, Park Director  
Bill Donnell, Public Works Director  
Deborah Balli, Finance Director  
Janine Reyes, Tourism Director  
Leticia Salinas, Accounting Manager  
John Blair, Police Chief  
Kobby Agyekum, Senior Planner/HPO  
Manny Salazar, Economic Development Director

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate opened the meeting at 5:00 p.m. with all five commission members present.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Ms. Courtney Alvarez, City Attorney, followed by the Pledge of Allegiance and the Texas Pledge.

**MINUTES OF PREVIOUS MEETING(S)**

None.

**II. Public Hearing - (Required by Law).<sup>1</sup>**

**1. Public hearing to consider amending the zoning ordinance by granting a Special Use Permit for daycare use in R1 (Single Family District) at 1515 Lewis St., Kingsville, Texas, also known as Anglewood, Block 3, Lot 12; amending the comprehensive plan to account for any deviations from the existing comprehensive plan. (Director of Planning and Development Services).**

Mayor Fugate read and opened this public hearing at 5:02 p.m. Mayor Fugate further announced that this is a public hearing. If anyone would like to speak on behalf of this item they may do so now with a five-minute limit. Additional time cannot be extended by the City Commission.

Mr. Kobby Agyekum, Senior Planner/HPO stated that the applicant is requesting a special use permit for a day nursery. The daycare already exists on the other side of the city but would like to move it to her present location. This has already been approved by the State and Planning and Zoning Commission. Notice letters were mailed to neighbors within the 200-foot buffer and the city received no feedback from those noticed.

Mayor Fugate asked if staff received any complaints or feedback from those that were noticed. Ms. Alvarez, City Attorney responded no. Mayor Fugate asked how the Planning and Zoning Commission voted. Ms. Alvarez responded that their vote was 6-0 approving the item.

There being no further discussion, Mayor Fugate closed this public hearing at 5:05.

### **III. Reports from Commission & Staff.<sup>2</sup>**

*"At this time, the City Commission and Staff will report/update on all committee assignments which may include but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial Services - Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works-Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Water And Wastewater Rate Study Presentation. No formal action can be taken on these items at this time."*

Mr. Charlie Sosa, Interim City Manager, gave a brief report on city streets. He further reported that the Investment Committee met today and all finances for the city are on point.

Ms. Courtney Alvarez, City Attorney, reported that the Investment Committee met today on the 1<sup>st</sup> quarterly investment report for the current fiscal year, which runs from October through the end of December, which is in compliance with the city's policy. Alvarez further reported that the next city commission meeting is scheduled for February 10, 2025, which will include a 4:00 p.m. workshop for an executive session item so that the commission can meet with the executive search firm with the regular meeting at 5:00 p.m. If additional time with the consultant is needed, then the commission may resume it at the end of the regular meeting. Ms. Alvarez further reported that the deadline for staff to submit their agenda items for the February 10<sup>th</sup> meeting is Friday, January 31<sup>st</sup>.

### **IV. Public Comment on Agenda Items.<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

No public comments were made.

### **V.**

#### **Consent Agenda**

#### **Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

#### **CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions, and ordinances not removed for individual consideration)*

**Motion made by Commissioner Lopez to accept the consent agenda as presented, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".**

- 1. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to appropriate funding for Fire Department training. (Fire Chief).**
- 2. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter III-Administration, Article 8-Records Management, providing for Section 10-Fingerprint and Background Check Fees and for Section 11-Subpoena Duces Tecum and Zoning Verification Fees. (Police Chief/City Attorney).**
- 3. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to appropriate additional funding for City Wide Miscellaneous Concrete and Drainage Improvements-Phase 3. (City Engineer).**
- 4. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to appropriate funding for Planning Department inspection services. (Director of Planning and Development Services).**
- 5. Motion to approve a resolution authorizing the release of Chapter 59 funds of the Kingsville Police Department for donation to the Kingsville Boxing Club for drug and alcohol prevention programs. (Police Chief).**
- 6. Motion to approve reappointment of Nick Harrel to the City of Kingsville Civil Service Commission for another 3-year term. (new term would expire 1/27/2028). (Human Resources Director).**

## **REGULAR AGENDA**

### **CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

#### **VI. Items for consideration by Commissioners.<sup>4</sup>**

- 7. Consider introduction of an ordinance of the City Commission of the City of Kingsville, Texas, approving a Project and Financing Plan for Tax Increment Reinvestment Zone Number Three, City of Kingsville, Texas, established pursuant to Chapter 311 of the Texas Tax Code. (Economic Development Director).**

Mr. Manny Salazar, Economic Development Director stated that this is the project and financing plan that was previously approved by the TIRZ #3 Board earlier today. This project encompasses 200 acres on the southern portion of town, primarily undeveloped land which does include the southwaste water treatment facility.

Ms. Natalee Ayala, Pettit, and Ayala Consulting gave a PowerPoint presentation. She spoke about the concept of increment and financing for TIRZ #3. She stated that Tax Increment Financing is distinctive from public improvement districts and that it is not a new tax on development. It simply redirects a portion of the tax-generated from a new development from within a TIRZ, so any incremental taxes above and beyond the base year taxes a portion will go into a separate fund that is specifically for the benefit of the properties within the TIRZ. The TIRZ creation process is dictated by Chapter 311 of the Texas Tax Code. This chapter outlines two main documents for creating and amending a TIRZ which are the creation ordinance which was approved by the commission on December 9, 2024, and also includes the TIRZ project and financing plan. The creation ordinance establishes five key elements, which are not being discussed for any changes today. It includes the boundary, terms which for this TIRZ is 30 years, the number of the

TIRZ Board which is the commission, city participation level which is 50% of any incremental real property taxes, and the creation ordinance of the preliminary project, and financing plans. After the TIRZ has been created, which has already occurred, the TIRZ Board would need to recommend the approval of the plan, which was done earlier today. It is now being asked that the City Commission consider approval by a separate ordinance. Ms. Ayala shows a map showing the boundaries that encompass the 200 acres, which is non-continuous and does include the wastewater facility. Because this was created in 2024, the base year value is as of January 2024, so this is the first year that any increment will be generated with those taxes to be collected in 2026. This does have a 30-year term, and the city participates at a rate of 50% of its real property increment and it does not touch any of the sales, business, and personal property tax that are generated within the zone.

Commissioner Hinojosa asked if the city would be responsible for notifying the property owners that they are now part of the TIRZ.

Ms. Alvarez responded that the city has had public hearings and public notices and with this meeting now lets people know when developers want to develop any of the properties that are within the TIRZ then they would contact the city to talk about a perspective project they may have and inquire about what type of economic incentives are available within the city to help fund any gaps they may have in their project financing.

Commissioner Hinojosa asked if any notification letters would be mailed. Ms. Alvarez responded no, for someone that would want to develop within that zone, would then approach the city with their proposal or plan and ask what incentives the city may have available.

Mr. Salazar commented that this is not just your average property owner, so they won't get any notification as their tax liability does not change. It's a manner and how the city distributes the money to which a portion will be dedicated to the TIRZ, but their burden does not change. They don't have to do anything different; the process they had two years ago is the process they will have moving forward.

Introduction items.

**8. Consider introduction of an ordinance amending the zoning ordinance by granting a Special Use Permit for daycare use in R1 (Single Family District) at 1515 Lewis St., Kingsville, Texas, also known as Anglewood, Block 3, Lot 12; amending the comprehensive plan to account for any deviations from the existing comprehensive plan. (Director of Planning and Development Services).**

Ms. Alvarez commented that the way the zoning is, you would have to have a special use permit. The applicant already has one in her previous location, but because special use permits don't transfer from one location to another, it is required for them to apply for a new special use permit for the new location.

Introduction item.

**9. Consideration and approval of a resolution approving updates to Appendix B & C of the City of Kingsville Investment Policy and Investment Strategies; designating the Interim City Manager, Director of Finance, and City Accounting Manager as the authorized city representatives with full authority for investment purposes, and providing for disclosure of financial interest. (Finance Director).**

Mrs. Deborah Balli, Finance Director, stated that the appendixes need to be updated to indicate that the city has an Interim City Manager and will remain this way until a permanent City Manager is appointed.

**Motion made by Commissioner Lopez to approve the resolution approving updates to Appendix B & C of the City of Kingsville Investment Policy and Investment Strategies; designating the Interim City Manager, Director of Finance, and City**

**Accounting Manager as the authorized city representatives with full authority for investment purposes, and providing for disclosure of financial interest, seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarco, Fugate, Lopez voting "FOR".**

**10. Consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to appropriate funding for TIRZ #2 and TIRZ #3. (Finance Director).**

Mrs. Balli stated that this budget amendment is for \$6,500 which is for a TIRZ that was not rolled over as there is still an outstanding balance for TIRZ #2 which was for \$4,000. Mrs. Balli stated that due to not budgeting for reimbursable expenditures there was \$744,000 for reimbursable expenditures for TIRZ #2, \$710 for reimbursable expenditures for TIRZ #3, \$378 for an ad for a public hearing, and \$668 for potential current year reimbursable expenditures.

Introduction item.

**11. Consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to appropriate funding for the Interim City Manager stipend. (Finance Director).**

Mrs. Balli stated that for the search firm costs funds were moved from the City Manager's budget down to professional services to cover those cost. This budget amendment will cover the additional cost that is needed to pay for the stipend for the Interim City Manager.

Introduction item.

**12. Consider introduction of an ordinance amending the City of Kingsville Code of Ordinances Chapter IX-General Regulations, Article 8-Parks and Recreation, Section 41-Golf Course Fees, providing for revised monthly membership fees for the L.E. Ramey Golf Course. (Parks Director).**

Mrs. Susan Ivy, Parks Director stated that during the presentation of the proposed budget for fiscal year 2024-2025 these fees were adjusted to \$175 without a cart and \$350 with cart. After community input and revised information on area rates, staff would like to lower these rates to \$100 per month without a cart and \$250 with a cart. This would lower the anticipated revenue for the rates approximately \$24,000 which would be considered an investment in quality of life/promotional for our community.

Introduction item.

**13. Consideration and approval of a resolution authorizing application to, administration of, and acceptance of Office of the Governor, Public Safety Office, Homeland Security Grants Division's FY2026 Operation Lone Star Grant Program (OLS); authorizing the Chief of Police to act on the City's behalf with such program. (Police Chief).**

Mr. John Blair, Chief of Police stated that this is a request for approval to apply for and if awarded accept and expend FY 2026 Operation Lone Star Grant Program funds. The grant period spans from September 1, 2025 to August 31, 2026. The FY 2026 Operation Lone Star Grant Program is designed to enhance interagency border security operations to support the ongoing objectives of Operation Lone Star. This initiative aims to deter and interdict criminal activity, reduce border-related crimes, and improve intelligence sharing and operational efficiency among law enforcement agencies. Program funding can be used for overtime pay, temporary personnel, equipment, training, and travel costs, among other eligible activities. The Operation Lone Star Grant is a reimbursement-based program requiring no cash match from the city. This grant is a reimbursement grant and does not require any cash match.

Motion made by Commissioner Alvarez to approve the resolution authorizing application to, administration of, and acceptance of Office of the Governor, Public Safety Office, Homeland Security Grants Division's FY2026 Operation Lone Star Grant Program (OLS); authorizing the Chief of Police to act on the City's behalf with such program, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Hinojosa, Alarcon, Fugate, Lopez, Alvarez, voting "FOR"

**14. Consideration and approval of a resolution applying for and accepting funds for Operation Stonegarden Grant #3194310 with the Homeland Security Grants Division of the Governor's Office for border security to interdict criminal activity with no anticipated cash match; authorizing the Kingsville Chief of Police to act on the City's behalf with such program. (Police Chief).**

Chief Blair stated that the police department has been invited to participate in another year of OPSG and has been conditionally approved for participation during the performance period beginning March 1, 2025, and ending February 28, 2026. The grant is a reimbursement grant and does not require a cash match. Chief Blair further stated that they have been approved for \$136,205.00 to cover overtime, fringe benefits, fuel costs, and equipment for the grant.

Motion made by Commissioner Alarcon to approve the resolution applying for and accepting funds for Operation Stonegarden Grant #3194310 with the Homeland Security Grants Division of the Governor's Office for border security to interdict criminal activity with no anticipated cash match; authorizing the Kingsville Chief of Police to act on the City's behalf with such program, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Alarcon, Fugate, Lopez, Alvarez, Hinojosa voting "FOR".

**15. Consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to accept and expend grant funds from the Stonegarden Grant #3194310. (Police Chief).**

Introduction item.

**VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 5:29 p.m.

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Sam R. Fugate, Mayor

**ATTEST:**

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Mary Valenzuela, City Secretary

**MARCH 10, 2025**

**A REGULAR MEETING OF THE CITY OF KINGSVILLE CITY COMMISSION WAS HELD ON MONDAY, MARCH 10, 2025, IN THE HELEN KLEBERG GROVES COMMUNITY ROOM, 400 WEST KING AVENUE, KINGSVILLE, TEXAS AT 5:00 P.M.**

**CITY COMMISSION PRESENT:**

Sam R. Fugate, Mayor  
Edna Lopez, Commissioner  
Norma N. Alvarez, Commissioner  
Hector Hinojosa, Commissioner  
Leo Alarcon, Commissioner

**CITY STAFF PRESENT:**

Charlie Sosa, Interim City Manager  
Mary Valenzuela, City Secretary  
Courtney Alvarez, City Attorney  
Kyle Benson, IT Director  
Derek Williams, Systems Administrator  
Emilio Garcia, Health Director  
Bill Donnell, Public Works Director  
Leticia Salinas, Accounting Manager  
John Blair, Police Chief  
Alicia Tijerina, Special Events Coordinator  
Juan J. Adame, Fire Chief  
Erik Spitzer, Director of Economic & Development Services  
Mike Mora, Capital Improvements Manager  
Rudy Mora, City Engineer  
Manny Salazar, Interim Tourism Director

**I. Preliminary Proceedings.**

**OPEN MEETING**

Mayor Fugate opened the meeting at 5:00 p.m. with all five commission members present.

**INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)**

The invocation was delivered by Ms. Courtney Alvarez, City Attorney, followed by the Pledge of Allegiance and the Texas Pledge.

**MINUTES OF PREVIOUS MEETING(S)**

**Regular Meeting – January 13, 2025**

**Regular Meeting – February 10, 2025**

**Regular Meeting – February 24, 2025**

Motion made by Commissioner Lopez to approve the minutes of January 13, 2025, February 10, 2025, and February 24, 2025, as presented, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting “FOR”.

**II. Public Hearing - (Required by Law).<sup>1</sup>**

1. None.

**III. Reports from Commission & Staff.<sup>2</sup>**

*“At this time, the City Commission and Staff will report/update on all committee assignments which may include but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board,*

*Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial Services - Information, Investment Report, Quarterly Budget Report, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works-Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor, Water And Wastewater Rate Study Presentation. No formal action can be taken on these items at this time.”*

Mr. Charlie Sosa, Interim City Manager, gave a brief update on street repairs.

Ms. Courtney Alvarez, City Attorney, reported that the next city commission meeting is scheduled for March 24, 2025. The deadline for staff to submit agenda items for that meeting is Friday, March 14, 2025.

#### **IV. Public Comment on Agenda Items.<sup>3</sup>**

1. Comments on all agenda and non-agenda items.

No public comments were made.

#### **V.**

##### **Consent Agenda**

##### **Notice to the Public**

*The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.*

##### **CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:**

*(At this point the Commission will vote on all motions, resolutions, and ordinances not removed for individual consideration)*

**Motion made by Commissioner Alarcon to approve the consent agenda as presented, seconded by Commissioner Lopez and Commissioner Alvarez. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Lopez, Fugate voting “FOR”.**

**1. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to accept and expend donation funding from 1PointFive for Fire Department self-contained breathing apparatus. (Fire Chief).**

**2. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to receive and expend grant funds from the Texas Severe Winter Storm Grant for a backup generator at the Water Well No. 14 Pumphouse. (FEMA-DR-4586; contract approved 2/10/25). (City Engineer).**

**3. Motion to approve final passage of an ordinance amending the Fiscal Year 2024-2025 Budget to appropriate funding out of Chapter 59 (Fund 005) for the Lexipol onetime and annual subscription fees for the Police Department. (Police Chief).**



**4. Motion to approve a resolution authorizing the City of Kingsville to continue participation in the Texas Main Street Program, authorizing the Interim City Manager to execute the Texas Main Street Locally Designated Program 2025 Contract, and designating Downtown Manager Alicia Tijerina as the Main Street Program Manager for the City of Kingsville to coordinate program activities. (Downtown Manager).**

## **REGULAR AGENDA**

### **CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:**

#### **VI. Items for consideration by Commissioners.<sup>4</sup>**

**5. Consider donating expired firefighting equipment to a Fire Department in Mexico, as it cannot be used in the USA. (Fire Chief).**

Mr. Juan J. Adame, the Fire Chief, stated that the Department would like to donate expired, no longer serviceable PPE to Mexico. The Fire Department has numerous sets of firefighting coats, pants, boots, and helmets that are expired and cannot be used for firefighting.

**Motion made by Commissioner Lopez to approve the donation of expired firefighting equipment to a Fire Department in Mexico as it cannot be used in the USA, seconded by Commissioner Hinojosa. The motion was passed and approved by the following vote: Hinojosa, Alarcon, Lopez, Alvarez, Fugate voting "FOR".**

**6. Consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to appropriate funding for emergency repairs to Water Wells #21 & #24. (Public Works Director).**

Mr. Bill Donnell, Public Works Director, stated that on January 21, 2025, Water Well #24 stopped working. The water production supervisor had a driller come and pull the well. After testing, it was found that the motor had grounded out and needed replacing. A purchase order for \$52,126.00 was generated for the repairs, which depleted the budget in Water Production for repairs. The week of February 13, 2025, Water Well #21 stopped working. This well was pulled and has a grounded motor. Due to similarities with issues, it is being estimated that the repairs will be close in price to the repairs for Well #24. This will reduce the unappropriated Utility Fund 051 Budget Amendment Reserve balance by \$75,000.00 and increase the Water Production Utility Plant account by \$75,000.00.

Introduction item.

**7. Consider reallocation of ARP Funds to cover the Golf Course water well motor/pump purchase/repairs. (Parks Director).**

Mr. Sosa stated that staff is asking for the reallocation of ARP Funds and a budget amendment in the amount of \$30,254.35 to pay Martin Water Wells for replacing the Motor and Pump in the water well at the Golf Course. In August of last year, the pump and motor failed. Martin Water Wells was contacted and came out to replace the pump, which funding was not available for this size of repairs. Staff is seeking to reallocated \$30,254.38 to pay for these repairs.

**Motion made by Commissioner Alvarez to approve the reallocation of ARP Funds to cover the Golf Course water well motor/pump purchase and repairs, seconded by Commissioner Lopez. The motion was passed and approved by the following vote: Alarcon, Lopez, Alvarez, Hinojosa, Fugate voting "FOR".**

**8. Consider introduction of an ordinance amending the Fiscal Year 2024-2025 Budget to reallocate GF ARP Funds from the demos allocation and left-over funds of the IT Firewalls Project to cover Golf Course water well pump purchase. (Parks Director).**

Introduction item.

**9. Consideration and approval of a resolution by the City of Kingsville, Texas suspending the April 19, 2025 effective date of the proposal by CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas - Houston, Texas Coast, South Texas, and Beaumont/East Texas geographic rate areas, to implement Interim GRIP Rate Adjustments for gas utility investment in 2024 and requiring delivery of this resolution to the company and legal counsel. (City Attorney).**

Ms. Alvarez stated that this resolution is to temporarily suspend the gas rate increase proposed by CenterPoint Energy due to an Interim Rate Adjustment for "GRIP" filing on February 16, 2025. CenterPoint is seeking recovery of \$654,119,475.00 in invested capital expended in 2024. The current filing will increase rates for residential customers by \$2.88 per month. Due to state legislative changes in the last few years, cities may no longer challenge a gas company's GRIP filing. The only action that can be taken is to approve a resolution to suspend the rate increase for 45 days. Ms. Alvarez stated that the city has approved such resolution in the past.

**Motion made by Commissioner Hinojosa to approve the resolution by the City of Kingsville, Texas suspending the April 19, 2025 effective date of the proposal by CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas - Houston, Texas Coast, South Texas, and Beaumont/East Texas geographic rate areas, to implement Interim GRIP Rate Adjustments for gas utility investment in 2024 and requiring delivery of this resolution to the company and legal counsel, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Lopez, Alvarez, Hinojosa, Alarcon, Fugate voting "FOR".**

**10. Consideration and approval of a resolution supporting the competitive housing tax credit application of Casitas Los Ebanos, LP for an affordable rental housing development in Kingsville, Texas. (location off Loop 428). (City Manager/City Attorney).**

Ms. Alvarez stated that this is the same type of resolution that was at a prior commission meeting. Casitas Los Ebanos LP has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2025 Competitive 9% Housing Tax Credits for the proposed new development. The development of affordable housing will be off Loop 428 at approximately US-77 Highway. Casitas Los Ebanos LP is requesting a resolution of support and the waiving of \$250 in building permit fees to ensure they have a competitive application to submit.

Mayor Fugate asked if notice letters would need to be sent out to neighbors. Ms. Alvarez responded no, not until they come back for a rezone.

**Motion made by Commissioner Lopez to approve the resolution supporting the competitive housing tax credit application of Casitas Los Ebanos, LP for an affordable rental housing development in Kingsville, Texas. (location off Loop 428), seconded by Commissioner Alvarez. The motion was passed and approved by the following vote: Alvarez, Hinojosa, Alarcon, Lopez, Fugate voting "FOR".**

**11. Consideration and approval of a resolution authorizing the City to submit a loan application under the Texas Military Value Revolving Loan Fund to the Texas Military Preparedness Commission for funding Wastewater System Improvements; authorizing the Mayor to submit the application and the City Engineer as the official to act on the City's behalf with such loan program. (City Engineer).**

Mr. Rudy Mora, City Engineer, stated that the purpose of this item is to present to the commission with a resolution authorizing the submission of a Texas Military Value Revolving Loan Fund application to the Texas Military Preparedness Commission. The loan will be utilized to finance wastewater system improvements that support military-related infrastructure needs within the city. The city is seeking approximately \$20 to \$25 million in financial assistance through the Texas Military Preparedness Commission to implement necessary wastewater system improvements.

**Motion made by Commissioner Lopez to approve the resolution authorizing the City to submit a loan application under the Texas Military Value Revolving Loan Fund to the Texas Military Preparedness Commission for funding Wastewater System Improvements; authorizing the Mayor to submit the application and the City Engineer as the official to act on the City's behalf with such loan program, seconded by Commissioner Alarcon. The motion was passed and approved by the following vote: Hinojosa, Alarcon, Lopez, Alvarez, Fugate voting "FOR".**

**VI. Adjournment.**

There being no further business to come before the City Commission, the meeting was adjourned at 5:21 p.m.

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Sam R. Fugate, Mayor

**ATTEST:**

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Mary Valenzuela, TRMC, City Secretary

# **CONSENT AGENDA**

# **AGENDA ITEM #1**

**City of Kingsville  
Public Works**

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TO: Mayor and City Commissioners

CC: C. Sosa, Interim City Manager

FROM: W. Donnell, Director of Public Works

DATE: February 27, 2025

SUBJECT: Budget Amendment of Unappropriated Budget Reserve Fund 051

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**Summary:**

This item authorizes appropriation of the Unappropriated Budget Amendment Reserve line item for in the Utility Funds for emergency repairs to Water Wells #21 & #24.

**Background:**

On January 21, 2025, Water Well #24 stopped working. Water Production Supervisor Joe Casillas had a driller come and pull the well. After testing, it was found that the motor had grounded out and needed replacing. A purchase order for \$52,126.00 was generated for the repairs, which depleted the budget in Water Production for repairs. The week of February 13, 2025, Water Well #21 stopped working. This well was pulled and has a grounded motor. Due to similarities with issues, I am estimating this repair will be close in price to the repairs for Well #24. During the budget process, we planned for some maintenance expenses but will need additional funds to cover all the required expenses.

The water wells cannot pump water into the system without properly functioning motors. The repairs must be done promptly to keep the water system functioning correctly. I am requesting a budget amendment of \$75,000 to cover the necessary and critical emergency repairs to the water wells, as the costs exceed the current budget allocations.

**Financial Impact:**

This will reduce the unappropriated Utility Fund 051 Budget Amendment Reserve balance by \$75,000.00 and increase the Water Production Utility Plant line account 051-5-6002-54300 by \$75,000.00.

**Recommendation:**

Staff is requesting approval of budget amendment to allocate funds to make needed emergency repairs to Water Wells #21 & #24.

**ORDINANCE NO. 2025-\_\_\_\_\_**

**AN ORDINANCE AMENDING THE FISCAL YEAR 2024-2025 BUDGET TO APPROPRIATE FUNDING FOR EMERGENCY REPAIRS TO WATER WELLS #21 & #24.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for this expenditure in this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2024-2025 budget be amended as follows:

CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT – BA#31

Dept No.	Dept Name	Account Name	Account Number	Budget Increase	Budget Decrease
<b>Fund 051 – Utility Fund</b>					
<u>Expenditures</u>					
6002	Water Prod	Utility Plant	54300	\$75,000	
6001	Water Const	Budget Amend Reserve	86000		\$75,000

[To amend the City of Kingsville FY 24-25 budget to appropriate funding for emergency repairs to water wells #21 and #24 as their continued operation is vital to the City's water system. Funding will be provided by the Budget Amendment Reserve line item. Currently there is \$75,940 available for this request.]

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 10th day of March 2025.

**PASSED AND APPROVED** on this the 24th day of March 2025.

**EFFECTIVE DATE:** \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney



# **AGENDA ITEM #2**

Budget Am.

**City of Kingsville  
Parks & Recreation Department**

**TO:** Mayor and City Commissioners  
**CC:** Charlie Sosa, Interim City Manager  
**FROM:** Susan Ivy, Director of Parks & Recreation  
**DATE:** February 28, 2025  
**SUBJECT:** Agenda Request – Reallocate ARP Funds & Budget Amendment to Pay for Motor/Pump Replacement in Water Water at the Golf Course

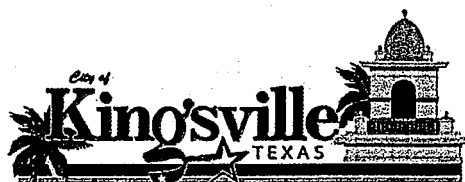
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**Summary:** We are asking for 1) the reallocation of ARP Funds and 2) a budget amendment in the amount of \$30,254.38 to pay Martin Water Wells for replacing the Motor and Pump in the Water Well at the Golf Course.

**History:** In August of last year, the pump/motor failed in the water well at the Golf Course. The Golf Course manager reported it to the Parks Director and the Purchasing Manager. The Purchasing Manager contacted Martin Water Wells, who came out and replaced the pump. Funding was not readily available for this size of repair. It was discussed with the City Manager that funding was needed and it slipped through the cracks. We did not realize the bill had not been paid as we did not receive the invoice at the golf course or parks offices. Upon receiving a call from Martin Water Wells recently advising us they needed payment, we are now seeking funding to pay the bill.

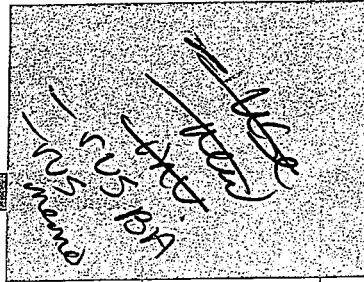
**Financial Impact:** Reallocate \$30,254.38 of ARP Funds (from the balance remaining on other projects) to pay for the repairs to the water well at the Golf Course.

**Recommendation:** We ask that: 1) ARP Funds be reallocated to cover the repairs, and 2) the the Budget Amendment be approved for \$30,254.38 to pay this bill.



**MARTIN WATER WELLS**2151 N HWY 77  
ROBSTOWN, TX 78380**INVOICE**Invoice Number: 20404  
Invoice Date: Aug 14, 2024  
Page: 1

Duplicate

Voice: 361-387-2912  
Fax: 361-767-1256

Bill To:

CITY OF KINGSVILLE

Ship to:

E. RAMEY GOLF COURSE  
KINGSVILLE, TX

Customer ID	Customer PO	Payment Terms	
CIT103	361-455-7746	Net 30 Days	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	LARRY MARTIN	8/6/24	9/13/24

Quantity	Item	Description	Unit Price	Amount
8.00		HOURS LABOR TO MOVE DRILLING RIG TO LOCATION AND PULL 40 HP SUBMERSIBLE PUMP AND MOTOR.	200.00	1,600.00
1.00		40 HP GOULDS CENTRIPRO 6" SUBMERSIBLE PUMP, MN: 320L40, SN: E2441660.	12,017.00	12,017.00
1.00		40 HP 460V/3PH GOULDS CENTRIPRO 6" SUBMERSIBLE MOTOR MN: 6M404, SN: G23C.	10,802.98	10,802.98
1.00		ROLL OF #4/3 JACKETED PUMP CABLE W/GROUND.	2,886.00	2,886.00
5.00		STAINLESS BUCKLES W/BAND-IT.	25.90	129.50
1.00		4" X 12" GALVANIZED NIPPLE	120.57	120.57
1.00		4" GALVANIZED COUPLING	149.15	149.15
6.00		ROLLS OF 2" PIPE WRAP	11.33	67.98
8.00		HOURS LABOR TO GO TO LOCATION, INSTALL PUMP AND MOTOR, AND TEST.	200.00	1,600.00
1.00		PAST DUE INTEREST ACCRUED FROM SEPTEMBER 13, 2024 TO MARCH 13, 2025.	881.20	881.20
Subtotal				30,254.38
Sales Tax				
Total Invoice Amount				30,254.38
Payment/Credit Applied				
TOTAL				30,254.38

Check/Credit Memo No:

**ORDINANCE NO. 2025-\_\_\_\_\_**

**AN ORDINANCE AMENDING THE FISCAL YEAR 2024-2025 BUDGET TO REALLOCATE GF ARP FUNDS FROM THE DEMOS ALLOCATION AND LEFT-OVER FUNDS OF THE IT FIREWALLS PROJECT TO COVER GOLF COURSE WATER WELL PUMP PURCHASE.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for this expenditure in this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2024-2025 budget be amended as follows:

CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT – BA#33

Dept No.	Dept Name	Account Name	Account Number	Budget Increase	Budget Decrease
<b>Fund 121 –GF ARP</b>					
<u>Expenditures</u>					
1030	City Special	Professional Services	31400		\$1,694.72
1603	Planning	Professional Services	31400		\$28,559.66
4502	Golf Course	Machinery & Equipment	71200	\$30,254.38	

[To amend the City of Kingsville FY 24-25 budget to reallocate GF ARP Funding from the demos allocation and left-over funds from the IT Firewalls project to cover the Golf Course water well pump. Budget Amendment Reserve funding is no longer available in General Fund. Golf Course Capital Projects funding is also not available.]

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission

that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

**THAT** this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 10th day of March 2025.

**PASSED AND APPROVED** on this the 24th day of March 2025.

**EFFECTIVE DATE:** \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #3**

**City of Kingsville  
Legal Department**

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TO: Mayor and City Commissioners

CC: Mark McLaughlin, City Manager

FROM: Courtney Alvarez, City Attorney

DATE: March 10, 2025

SUBJECT: 20<sup>th</sup> Annual Ride on the Wild Side Charity Bike Event

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**Summary:**

The Noon Lion's Club is seeking the City's sponsorship in the Annual Ride on the Wild Side charity bike tour that occurs partly through the City and the King Ranch on April 26, 2025. This will be the 20<sup>th</sup> year the City has participated in this event. Proceeds from this charity bike ride benefit the Lion's Disabled Children's Camp in Kerrville, of which Kingsville disabled children directly benefit.

**Background:**

The Noon Lion's Club requests the City participate by allowing the use of city streets for the tour, providing cones and one police officer to escort the riders as they go through town (if needed), and having an ambulance on stand-by for the event. The City's participation will provide a means to obtain an insurance rider, which is required by the Ranch. The bike route will be well staffed with Noon Lion's Club volunteers and other volunteers as well.

While the April 2020 bike event (which was to be the 17<sup>th</sup> year of the ride) was approved by the City Commission and the King Ranch, it could not be held due to the start of the COVID pandemic. No event was scheduled for 2021. Accordingly, the Noon Lion's Club started the event up again in 2022, which became the 17<sup>th</sup> year the ride was held.



**City of Kingsville  
Legal Department**

The Noon Lion's Club requests the City participate by allowing the use of city streets for the tour, providing cones and one police officer to escort the riders as they go through town (if needed), and having an ambulance on stand-by for the event. The City's participation will provide a means to obtain an insurance rider, which is required by the Ranch. The bike route will be well staffed with Noon Lion's Club volunteers and other volunteers as well. Proceeds from this charity bike ride benefit the Lion's Disabled Children's Camp in Kerrville, of which Kingsville children directly benefit.

Also, as was done previously, the King Ranch is requesting the City execute the attached Permission and Indemnity Agreement for this year's bike ride as well.

**Financial Impact:** None.

**Recommendation:** Authorize participation in the event and approve execution of the Indemnity Agreement with the King Ranch.





## WAIVER & RELEASE

In consideration for my participation in the bicycle tour event known as "A Ride on the Wild Side" which will be held Saturday, April 26, 2025, on King Ranch and areas in and around Kingsville, Texas, I hereby agree to this Waiver and Release. I fully realize the dangers of participating in a bicycle ride and fully assume the risk associated with such participation, including by way of example and not limitation, the following: the danger of collision with pedestrians, vehicles, other riders and fixed and moving objects; the danger rising from surface hazards, equipment failure, inadequate safety equipment, and weather conditions; and the possibility of serious physical and/or mental trauma or injury associated athletic cycling participation. I hereby waive, release and discharge for myself, my heirs, executors, administrators, legal representatives, signers, successors in interest any rights and claims which I have or which may hereafter accrue to me against the sponsors of this event, the organizers, and any promoting organizations, property owners (including King Ranch Inc. and its directors, employees, shareholders, and agents), law enforcement agencies, all public entities, special districts, and the Kingsville Noon Lions Club, through or by which the event will be held for any and all claims (**including those caused by the Negligence and Gross Negligence of such released persons**) for all damages arising out of personal injury (including death) or property damage which may be sustained by me directly or indirectly in connection with the event, or travel to or return from the event. I agree it is my sole responsibility to be familiar with the ride and operation of my bicycle so as to neither endanger others or myself. I accept responsibility for the condition and adequacy of the equipment I use to participate in the charity bicycle ride and I will wear an ANSI approved helmet at all times while riding my bicycle during such ride. I have no physical or mental condition which, to my knowledge, would endanger others or myself if I participate in this event. I understand and agree that I will be financially responsible for any loss or damage caused by my actions during the event. I further understand and agree with all the terms and conditions of this Waiver and Release.

I have read and I agree to the stated terms and conditions above.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### Parent or Guardian if under 18:

I have read and agree to the stated terms and conditions above and hereby acknowledge the authorization for my: \_\_\_\_\_,

Relationship

Name: \_\_\_\_\_ to participate in this event. I also authorize the medical treatment for any injuries sustained during this bicycle tour on King Ranch and areas in and around Kingsville, Texas.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Phone: \_\_\_\_\_

### Options to return form:

Complete form online and type name in lieu of signature.

Save and upload this release with registration form.

### Scan & Email to:

arotws@gmail.com

### Register Online:

arideonthewildside.org

**RESOLUTION # 2025-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE PERMISSION AND INDEMNITY AGREEMENT WITH THE KING RANCH, INC. FOR THE 20<sup>TH</sup> ANNUAL RIDE ON THE WILD SIDE CHARITY BIKE EVENT; REPEALING ALL CONFLICTING RESOLUTIONS.**

**WHEREAS**, the City of Kingsville ("City") has previously participated in the Noon Lion's Club charity bike ride called the Ride on the Wild Side whose proceeds assist with sending local disabled children to the Lion's Disabled Children's Camp in Kerrville, Texas in the summer;

**WHEREAS**, the Noon Lion's Club is seeking the City's sponsorship in the 20<sup>th</sup> Annual Ride on the Wild Side charity bike tour through the King Ranch on April 26, 2025 by allowing the use of city streets for the ride, providing cones and one police officer to escort the riders as they go through town (if needed), and having an ambulance on stand-by for the event;

**WHEREAS**, part of the bike ride goes through the King Ranch, the Ranch requires a Permission and Indemnity Agreement be executed between the City and the Ranch each year;

**WHEREAS**, the King Ranch is requesting the City execute the attached Permission and Indemnity Agreement for this year's bike ride as well;

**WHEREAS**, the bike ride is also a popular tourist attraction bringing visitors to the City;

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

**I.**

**THAT** the City Commission of the City of Kingsville authorizes the Mayor to execute on behalf of the City the Permission and Indemnity Agreement between the City of Kingsville and the King Ranch, Inc., a copy of which is attached hereto, for the 20<sup>th</sup> Annual Ride on the Wild Side Charity Bike event.

**II.**

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the  
24th day of March, 2025.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

## PERMISSION AND INDEMNITY AGREEMENT

In consideration for King Ranch, Inc.'s permission (evidenced by its execution below) for a portion of the Ride On The Wild Side Charity Bike Ride (or similarly named event) ["Bike Ride"] (with participation/sponsorship by the Kingsville Noon Lions Club & the City of Kingsville) to be held on the premises of King Ranch, Inc. on or about April 26<sup>th</sup> of 2025, the sufficiency and adequacy of which consideration is hereby acknowledged, the City of Kingsville, Texas, hereby unconditionally and irrevocably agrees to defend, indemnify and hold harmless King Ranch, Inc., its directors, employees, shareholders and agents from and against any and all claims based on, or arising out of, personal injury (including death) to, and/or property damage of, any of the participants, support personnel or other individuals participating in, observing as by-stander of, or providing organizational or other support or safety services for, the above Bike Ride, including the arrival to or departure from the above Bike Ride and all other ancillary and related activities related to the Bike Ride. **The foregoing defense, indemnity and holding harmless shall apply in full force and effect despite any sole, joint or concurrent negligence, strict liability or other fault of any of the above indemnified persons.**

At least 30 days prior to the Bike Ride, the City of Kingsville shall provide a certificate of insurance to King Ranch, Inc. in a form and from an insurer acceptable to King Ranch, Inc. showing contractual indemnity insurance coverage in the amount of at least \$5,000,000 per claim or occurrence for general liability, automobile liability and law enforcement liability, to cover this contractual indemnity agreement. Such certificate shall require the insurer to provide King Ranch, Inc. at least 30 days prior written notice of any change, deletion or expiration to such coverage and terms and such insurance and certificate shall indicate that such coverage for the contractual indemnitees is primary and shall respond without contribution from any other insurance of such indemnitees.

The Bike Ride's sponsors shall obtain and provide King Ranch, Inc. waivers of liability, on forms approved by King Ranch, Inc., executed by all Bike Ride participants in the Bike Ride.

Executed this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

City of Kingsville, Texas, by:

King Ranch, Inc.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

## WAIVER & RELEASE

In consideration for my participation in the bicycle tour event known as "A Ride on the Wild Side" which will be held Saturday, April 26, 2025, on King Ranch and areas in and around Kingsville, Texas, I hereby agree to this Waiver and Release. I fully realize the dangers of participating in a bicycle ride and fully assume the risk associated with such participation, including by way of example and not limitation, the following: the danger of collision with pedestrians, vehicles, other riders and fixed and moving objects; the danger rising from surface hazards, equipment failure, inadequate safety equipment, and weather conditions; and the possibility of serious physical and/or mental trauma or injury associated athletic cycling participation. I hereby waive, release and discharge for myself, my heirs, executors, administrators, legal representatives, signers, successors in interest any rights and claims which I have or which may hereafter accrue to me against the sponsors of this event, the organizers, and any promoting organizations, property owners (including King Ranch Inc. and its directors, employees, shareholders, and agents), law enforcement agencies, all public entities, special districts, and the Kingsville Noon Lions Club, through or by which the event will be held for any and all claims (**including those caused by the Negligence and Gross Negligence of such released persons**) for all damages arising out of personal injury (including death) or property damage which may be sustained by me directly or indirectly in connection with the event, or travel to or return from the event. I agree it is my sole responsibility to be familiar with the ride and operation of my bicycle so as to neither endanger others or myself. I accept responsibility for the condition and adequacy of the equipment I use to participate in the charity bicycle ride and I will wear an ANSI approved helmet at all times while riding my bicycle during such ride. I have no physical or mental condition which, to my knowledge, would endanger others or myself if I participate in this event. I understand and agree that I will be financially responsible for any loss or damage caused by my actions during the event. I further understand and agree with all the terms and conditions of this Waiver and Release.

I have read and I agree to the stated terms and conditions above.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### Parent or Guardian if under 18:

I have read and agree to the stated terms and conditions above and hereby acknowledge the authorization for my: \_\_\_\_\_,

Relationship

Name: \_\_\_\_\_ to participate in this event. I also authorize the medical treatment for any injuries sustained during this bicycle tour on King Ranch and areas in and around Kingsville, Texas.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Phone: \_\_\_\_\_

### Options to return form:

Complete form online and type name in lieu of signature.  
Save and upload this release with registration form.

### Scan & Email to:

arotws@gmail.com

### Register Online:

arideonthewildside.org

# **REGULAR AGENDA**

# **AGENDA ITEM #4**

**TO: Mayor and City Commissioners**

**CC: Charlie Sosa, Interim City Manager**

**FROM: Susan Ivy, Director of Parks & Recreation**

**DATE: March 13, 2025**

**SUBJECT: Agenda Request – Request to Name Girls Youth Softball Field – Green Tall Field in memory of David Chavez – Long Time Umpire and supporter for youth and adult sports**

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**Summary:** We are asking approval to permanently name the Youth Girls Softball/Tee ball/Green Field in memory of David Chavez.

**History:** David Chavez served as an umpire for youth and adult baseball and softball games for 30 years. He worked for Kleberg County, City of Kingsville, Fastpitch American Softball Association, multiple generations of youth baseball and softball leagues, and an enormous amount of weekend tournament play. He rarely ever turned down a request to call a game. He had a great sense of humor and was a great umpire that served our community well for many years. His family has secured approximately 2,000 signatures led by County Judge Rudy Madrid in support of this action, giving a clear message of the love our community had for Mr. Chavez.

**Recommendation:** As a long time employee of the Parks System and a long time friend of Umpire “Chavez”, I could not be prouder to recommend that the Girls Youth Tee Ball Field (Green Field) be named in memory of David Chavez and forever honor him for his service to our community.



**RESOLUTION #2025-\_\_\_\_\_**

**A RESOLUTION NAMING THE CITY GIRLS YOUTH SOFTBALL FIELD AS THE “DAVID CHAVEZ FIELD”; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, David Chavez served as an umpire for youth and adult baseball and softball games for thirty (30) years in our community

**WHEREAS**, he worked for Kleberg County, the City of Kingsville, the Fastpitch American Softball Association, multiple generations of youth baseball and softball leagues, and spent an enormous amount of time for weekend tournament play; and,

**WHEREAS**, he had a great sense of humor and was a great umpire that served our community well for decades;

**WHEREAS**, his family has secured approximately 2,000 signatures in support of naming the Girls Youth Softball Field in honor of David Chavez for his tireless dedication to this community;

**WHEREAS**, David Chavez has passed away and we would like to acknowledge his dedication and service to the community.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City of Kingsville Girls Youth Tee Ball Field (Green Field) at Dick Kleberg Park be designated and named the “***David Chavez Field***” as a token of appreciation from our grateful community.

II.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the 24<sup>th</sup> day of March, 2025.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #5**



## MEMO

**Date:** March 14<sup>th</sup>, 2025

**To:** Charlie Sosa (Interim City Manager)

**From:** Erik Spitzer (Director of Planning and Development Services)

**Subject:** **The City of Kingsville Planning and Development Services Department is seeking approval from the City Commissioners and Mayor to permit the Interim City Manager to sign a contract with Halff Associates, Inc to produce a Comprehensive Plan for the City of Kingsville as well as agree to Halff Associates, Inc applying for a GLO grant within the 2022 Resilient Communities Program on behalf of the City of Kingsville.**

**Summary:** The City of Kingsville has chosen Halff Associates, Inc to produce a new Comprehensive Plan to replace the existing 2008 plan on file, which is significantly out of date. A signed contract is required as part of the documentation Halff Associates, Inc will use to apply for a GLO grant to fund and produce a new Comprehensive Plan. Once a signed contract is submitted, Halff Associates, Inc will apply for a \$300,000 GLO grant within the Resilient Communities Program.

**Background:** A Comprehensive Plan is a 20 to 30-year framework designed to help guide future developments and land use within a city.

Halff Associates, Inc will be pursuing a grant available within the 2022 Resilient Communities Program. The Resilient Communities Program (RCP) is funded by the Texas General Land Office (GLO) with CDBG MIT funds. This program is accepting applications to help fund the development, adoption, and implementation of long-range planning for cities. Applications are being processed for eligibility on a first come, first served basis until June 1st, 2028, or until funding is exhausted, whichever comes first.

**Financial Impact:** None; if a grant is not obtained by Halff Associates, Inc, the city of Kingsville will not owe any money for the initial grant application work performed. There is NO city match required.

**Recommendation:** Staff recommends approving the contract with Halff Associates, Inc to obtain a grant and produce a new Comprehensive Plan as well as approve Halff Associates, Inc is applying for the GLO grant on behalf of the City of Kingsville.

**Erik Spitzer**  
Director of Planning and Development Services

**RESOLUTION # 2025-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY TO SUBMIT AN APPLICATION TO THE GLO FOR CDBG-MIT FUNDS UNDER THE RESILIENT COMMUNITIES PROGRAM FOR A COMPREHENSIVE MASTER PLAN WITH NO ANTICIPATED CASH MATCH.**

**WHEREAS**, the City Commission of the City of Kingsville finds it in the best interest of the citizens of Kingsville that an application for grant monies be submitted to the GLO CDBG-MIT's 2022 Resilient Communities Program for a new Comprehensive Master Plan (estimated to cost approximately \$300,000.00);

**WHEREAS**, a comprehensive plan is a 20 to 30 year framework designed to help guide future developments and land within a city;

**WHEREAS**, the City's existing master plan was last approved in 2008 and is due for review and update;

**WHEREAS**, the GLO CDBG-MIT's 2022 Resilient Communities Program is accepting applications to help fund the development, adoption, and implementation of long-range planning for cities, on a first come, first served basis;

**WHEREAS**, the City does not have funds for a new master plan and seeks to apply to the GLO CDBG-MIT's 2022 Resilient Communities Program for the money to pay for such a plan;

**WHEREAS**, the City published notice in the newspaper on August 22 & 29, 2024 for a firm to perform a comprehensive master plan and apply for a grant for same via RFP#24-16, which had a submittal deadline of September 10, 2024;

**WHEREAS**, on October 15, 2024, RFP24-16 was awarded by City Commission to the sole submitter Halff Associates, who has worked with staff on an agreement that they now present to City Commission for approval;

**WHEREAS**, the City Commission of the City of Kingsville through this resolution has authorized the Interim City Manager, with the assistance of Halff Associates, Inc., to submit the grant application and administer the grant and necessary paperwork if the grant is awarded to the City;

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Commission approves the submission of a grant application to the GLO CDBG-MIT's 2022 Resilient Communities Program on behalf of the City of Kingsville for preparation of a new comprehensive master plan, with an anticipated request of \$300,000.00 and not cash match from the City if the item is awarded.

II.

**THAT** the City Commission authorizes the Interim City Manager, with the assistance of Halff Associates, Inc., to submit the grant and the Interim City Manager to administer the grant and necessary paperwork.

III.

**THAT** this Resolution shall be and become effective on or after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission the 24th day of March, 2025.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #6**

Planning and Development Services  
410 W King  
Kingsville, TX 78363  
PH: 361-595-8055



## MEMO

**Date:** March 14<sup>th</sup>, 2025

**To:** Charlie Sosa (Interim City Manager)

**From:** Erik Spitzer (Director of Planning and Development Services)

**Subject:** **The City of Kingsville Planning and Development Services Department is seeking approval from the City Commissioners and Mayor to permit the Interim City Manager to sign a contract with Halff Associates, Inc to produce a Comprehensive Plan for the City of Kingsville as well as agree to Halff Associates, Inc applying for a GLO grant within the 2022 Resilient Communities Program on behalf of the City of Kingsville.**

**Summary:** The City of Kingsville has chosen Halff Associates, Inc to produce a new Comprehensive Plan to replace the existing 2008 plan on file, which is significantly out of date. A signed contract is required as part of the documentation Halff Associates, Inc will use to apply for a GLO grant to fund and produce a new Comprehensive Plan. Once a signed contract is submitted, Halff Associates, Inc will apply for a \$300,000 GLO grant within the Resilient Communities Program.

**Background:** A Comprehensive Plan is a 20 to 30-year framework designed to help guide future developments and land use within a city.

Halff Associates, Inc will be pursuing a grant available within the 2022 Resilient Communities Program. The Resilient Communities Program (RCP) is funded by the Texas General Land Office (GLO) with CDBG MIT funds. This program is accepting applications to help fund the development, adoption, and implementation of long-range planning for cities. Applications are being processed for eligibility on a first come, first served basis until June 1st, 2028, or until funding is exhausted, whichever comes first.

**Financial Impact:** None; if a grant is not obtained by Halff Associates, Inc, the city of Kingsville will not owe any money for the initial grant application work performed. There is NO city match required.

**Recommendation:** Staff recommends approving the contract with Halff Associates, Inc to obtain a grant and produce a new Comprehensive Plan as well as approve Halff Associates, Inc is applying for the GLO grant on behalf of the City of Kingsville.

**Erik Spitzer**  
Director of Planning and Development Services



**RESOLUTION # 2025-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES ON A DEFINED SCOPE OF SERVICES BASIS WITH HALFF ASSOCIATES, INC. (FOR THE GLO'S CDBG-MIT FUND UNDER THE RESILIENT COMMUNITIES PROGRAM FOR A COMPREHENSIVE MASTER PLAN).**

**WHEREAS**, the City Commission of the City of Kingsville finds it in the best interest of the citizens of Kingsville that an application for grant monies be submitted to the GLO CDBG-MIT's 2022 Resilient Communities Program which helps fund the development, adoption, and implementation of long-range planning for cities;

**WHEREAS**, a comprehensive plan is a 20 to 30 year framework designed to help guide future developments and land within a city and the City's existing master plan was last approved in 2008 and is due for an update;

**WHEREAS**, the City does not have funds for a new master plan and seeks to apply to the GLO CDBG-MIT's 2022 Resilient Communities Program for the money to pay for such a plan;

**WHEREAS**, the City published notice of RFP#24-16 in the newspaper on August 22 & 29, 2024 for a firm to help apply for a grant and perform a comprehensive master plan and had a submittal deadline of September 10, 2024;

**WHEREAS**, on October 15, 2024, RFP#24-16 was awarded by City Commission to the sole submitter Halff Associates, who has worked with staff on an agreement that they now present to City Commission for approval;

**WHEREAS**, the agreement states the City will not owe Halff Associates, Inc. any funds if the grant is not approved, and Halff Associates, Inc. will not be obligated to perform any work other than the grant submittal if the City is not awarded the funds;

**WHEREAS**, the City Commission of the City of Kingsville through this resolution has authorized the Interim City Manager to execute the Agreement for Professional Consulting Services on a Defined Scope of Services Basis with Halff Associates, Inc.;

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Commission approves the Agreement for Professional Consulting Services on a Defined Scope of Services Basis with Halff Associates, Inc. for the submission of a grant application to the GLO CDBG-MIT's 2022 Resilient Communities Program on behalf of the City of Kingsville for preparation of a new comprehensive master plan and for completion of master plan if awarded grant funding.

II.

**THAT** the City Commission authorizes the Interim City Manager to execute an Agreement for Professional Consulting Services on a Defined Scope of Services Basis with Halff Associates, Inc., as per the agreement attached hereto.

III.

**THAT** this Resolution shall be and become effective on or after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission the 24th day of March, 2025.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

## AGREEMENT FOR PROFESSIONAL CONSULTANTING SERVICES ON A DEFINED SCOPE OF SERVICES BASIS

This Agreement for Professional Consulting Services ("Agreement") is entered into by the City of Kingsville a Home Rule City of the State of Texas ("Client"), duly authorized to act by the **City Commission** of said Client, and **HALFF ASSOCIATES, INC.**, a Texas corporation ("Consultant") for the provision of professional Consultant services by Consultant to Client. Client and Consultant may be collectively referred to as the "Parties" or individually as a "Party".

### WITNESSETH:

For the mutual promises and benefits herein described, Client and Consultant agree as follows:

- I. TERM OF AGREEMENT.** This Agreement shall become effective on the date of its execution by both Parties (the ("Effective Date")) and shall continue in effect thereafter until terminated as provided herein.
- II. CONSULTANT'S SERVICES.** Consultant shall provide to Client Consulting services as described in the scope of services attached hereto and fully incorporated herein as (**Exhibit A**) (the "Scope of Services").
  - a. **Independent Contractor Status.** Consultant shall perform the services hereunder as an independent contractor and not as an agent or fiduciary of Client.
  - b. **Standard of Care.** Consultant shall perform the services with the normal and customary standard practices of the Consulting profession ordinarily used by members of the professional under similar circumstances at the same time and in the same locality where the services are to be performed (the "Standard of Care").
  - c. **Timeliness of Performance.** Consultant shall perform the services hereunder with due and reasonable diligence consistent with the Standard of Care.
  - d. **Client Objection to Personnel.** If at any time after entering into this Agreement Client has a reasonable objection to any of Consultant's personnel, or any personnel, professionals and/or consultants retained by Consultant, Client shall notify Consultant in writing of such objection providing reasonable details concerning Client's objections. Thereafter, Consultant shall promptly propose substitutes to Client. Upon Client's mutual agreement, Consultant's compensation shall be equitably adjusted to reflect any difference in Consultant's costs occasioned by such substitution.
- III. COMPENSATION AND PAYMENT TERMS.**
  - a. **Payment Terms.** Client agrees to pay monthly invoices or their undisputed portions within thirty (30) calendar days of receipt. Payment later than thirty (30) calendar days shall include interest at one percent (1%) per month or lesser maximum enforceable interest rate, from the date of the invoice until the date Consultant receives payment. Interest is due and payable when the overdue payment is made. Any delay in an undisputed payment constitutes a material breach of this Agreement.
  - b. **Fee and Cost Calculations.** Lump sum and time-related charges will be billed as specified in the Scope of Services. Unless stated otherwise in the Scope of Services, direct expenses, subcontracted services, and direct costs will be billed at actual cost plus a service charge of ten percent (10%). Mileage will be billed at current IRS rates. Rates used in the lump sum calculation(s), if applicable, are estimates and are not reflective of actual billing rates posted on invoices.
  - c. **Disputed Invoices.** If Client reasonably disagrees with any portion of an invoice, Client shall notify Consultant in writing setting forth in reasonable detail the nature of the disagreement, including the invoice date and number and the amount disputed. Claims for disputed amounts must be made within thirty (30) days of the date of the relevant invoice. Client waives the right to dispute an invoice or portion thereof not disputed within said thirty (30) day period.

- d. **Taxes.** The fees and costs stated in this Agreement exclude all sales, consumer, use and other taxes. Client agrees to fully reimburse Consultant and its subcontractors for taxes paid or assessed in association with the services provided hereunder, whether those taxes were in effect as of the date of this Agreement or were promulgated after the date of this Agreement. This clause shall not apply to taxes associated with reimbursable or other Project related expenses, which shall be identified in the applicable invoice for reimbursement by Client.

**IV. CLIENT'S OBLIGATIONS.** Client agrees that it will (i) designate a specific person to act as Client's representative; (ii) provide Consultant with all previous studies, reports, data, budget constraints, special Client requirements, or other pertinent information known to Client that are relevant to Consultant's services; (iii) provide access to property owned by Client and or any third party as may be necessary for the performance of Consultant's services for Client; (iv) make prompt payments in response to Consultant's statements; and (v) respond in a timely manner to requests from Consultant. Consultant is entitled to rely upon and use, without independent verification and without liability, all information and services provided by Client or Client's representatives.

**V. TERMINATION.** Either Client or Consultant may terminate this Agreement at any time with or without cause upon giving the other Party ten (10) calendar days prior written notice. Client agrees that termination of Consultant for Client's convenience shall only be utilized in good faith and shall not be utilized if either the purpose or the result of such termination is the performance of all or part of the Scope of Services being performed by a third party. Following Consultant's receipt of such termination notice Client shall, within ten (10) calendar days of Client's receipt of Consultant's final invoice, pay Consultant for all services rendered and all costs incurred up to the date of Consultant's receipt of such notice of termination.

**VI. OWNERSHIP OF DOCUMENTS.**

- a. **License to Client.** Upon Consultant's completion of services and receipt of payment in full, Consultant grants to Client a non-exclusive license to possess and use the final drawings and instruments produced in connection with Consultant's performance of the Scope of Services (collectively the "Deliverables"). The Deliverables may be copied, duplicated, reproduced, and used by Client for the sole purpose of constructing, operating and maintaining the Project for which the Deliverables were created. Notwithstanding the foregoing, Client understands and agrees that the Deliverables and any and all computer programs, GIS applications, proprietary data or processes, and certain other items related to the services performed hereunder are and shall remain the sole and exclusive property of Consultant. Under no circumstances shall delivery of the Deliverables to Client be deemed a sale by Consultant, and Consultant makes no warranties, either express or implied, of merchantability or fitness for any particular purpose.
- b. **Prohibition Against the Reuse of Deliverables.** Client agrees that the Deliverables are not intended or represented to be suitable for reuse by Client or any third party for any purpose other than as set forth herein. Client agrees that Client may not use or reuse the Deliverables on any other project without the express written authorization of Consultant and any reuse by Client, or by those who obtain said information from or through Client, without Consultant's written consent, will be at Client's sole risk and without liability or legal exposure to Consultant or to Consultant's employees, agents, representatives, officers, directors, affiliates, shareholders, owners, members, managers, attorneys, subsidiary entities, advisors, subcontractors or independent contractors or associates (collectively "Consultant's Affiliates").
- c. **Indemnification for Reuse of Deliverables.** Client agrees to defend, indemnify and hold Consultant and Consultant's Affiliates harmless from and against any and all damages, liability and costs arising from the reuse of the Deliverables in violation of Section V.b, above. Under no circumstances shall delivery of the Deliverables by Consultant to Client be deemed a sale by Consultant, and Consultant makes no warranties, either express or implied, of merchantability or fitness for any particular purpose. In no event shall Consultant be liable for any damages, including but not limited to indirect or consequential damages, as a result of Client's unauthorized use or reuse of the Deliverables.
- d. **Electronic Files.** Client agrees that differences may exist between the electronic files and the printed hard-copy original documents provided by Consultant. In the event of a conflict between the signed original documents prepared by Consultant and any electronic or other files or data provided, it is understood and agreed that the original signed or sealed hard-copy documents shall govern.

**VII. NOTICES.** Any notice or communication required or permitted to be given hereunder may be delivered to the Parties as designated below, or such other address as may be designated in writing from time to time in accordance with this section by (a) personal delivery; (b) overnight courier (signature required); or (c) U.S. Mail (registered or certified only), return receipt requested. Such notice will be deemed to be given on the date of actual receipt.

**To Consultant:**

**Halff Associates, Inc.**  
Attn: Legal Department  
1201 North Bowser Road  
Richardson, TX 75081-2275  
Telephone: 214-346-6200  
With copies to [legalhelp@halff.com](mailto:legalhelp@halff.com)

**To Client:**

**City of Kingsville**  
Attn: **Legal Dept.**  
**400 West King Ave.**  
**Kingsville, TX 78363**  
Tele: **(361) 595-8016**  
Email: **c.alvaraz@cityofkingsville.com**

**VIII. INSURANCE.** Consultant shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement and for a period of four (4) years thereafter, professional liability insurance. The limits of liability shall be \$2,000,000 per claim and in the aggregate. Consultant shall submit to Client a certificate of insurance prior to commencing performance of the services for Client.

**IX. DISPUTE RESOLUTION.**

- a. **"Dispute"** means any controversy, claim (whether for damages, costs, expenses or other losses) or disagreement by and between the Parties, whether in contract, tort, statutory or common law, legal or equitable, now existing or hereafter arising under or in connection with this Agreement including the interpretation, performance or non-performance, or exercise of rights under any provision of this Agreement.
- b. **Negotiation.** In the event of a Dispute, the Parties agree that they shall first attempt to informally negotiate in good faith to resolve the Dispute through one or more meetings to be held between authorized representatives with decision-making authority from each Party for a period of not less than twenty-one (21) days. These informal negotiations are a condition precedent to both mediation and the institution of any legal or equitable proceedings, unless such meetings will infringe upon schedules defined by applicable statutes of limitation or repose in which case such meetings shall still be required, but the institution of said proceedings shall not be precluded for failure to meet this specific meeting requirement. All reasonable requests for information made by one Party to the other shall be honored. All negotiations and information exchanged between the Parties pursuant to this Section IX.b. shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.
- c. **Mediation.** Excluding Disputes related to disputed and/or unpaid invoices which are not required to be mediated, if the Dispute cannot be resolved by negotiations pursuant to Section IX.b. above, the Parties shall endeavor to settle the Dispute by mediation under the then current construction industry mediation rules and procedures published by the American Arbitration Association ("AAA"). The Parties shall mutually agree on the mediator. If the Parties are unable to do so, or the agreed upon mediator is unwilling or unable to serve, AAA shall appoint a mediator. Costs associated with mediation shall be shared equally by Client and Consultant. All reasonable requests for information made by one Party to the other shall be honored. The mediation and information exchanged between the Parties pursuant to this Section IX.c. shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.
- d. **Litigation.** If the Dispute cannot be resolved by negotiation pursuant to Section IX.b. or mediation pursuant to Section IX.c., the Parties agree to submit to the exclusive venue and jurisdiction set forth in Section IX.e. below. The prevailing Party shall be entitled to recover from the other Party all fees, costs, and expenses related to such litigation, including, without limitation, reasonable attorneys) and expert witness) fees and all fees, costs and expenses of any appeals.
- e. **Governing Law and Jurisdiction.** This Agreement shall be administered under the substantive laws of the State of Texas (and not its conflicts of law principles) which shall be used to govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation, its validity, interpretation, construction, performance, and enforcement. Exclusive jurisdiction and venue shall lie in any court of competent jurisdiction in Kleberg, Texas.

**X. EXCLUSIVITY OF REMEDIES.** The Parties acknowledge and agree that the remedies set forth in Section XII below are and shall remain the Parties) sole and exclusive remedy with respect to any Dispute. The Parties agree that Consultant is to have no liability or responsibility whatsoever to Client for any Dispute, except as set forth in this Agreement. No Party shall be able to avoid the limitations expressly set forth in this Agreement by electing to pursue some other remedy or Dispute resolution method.

**XI. AGREED REMEDIES**

- a. **No Individual Liability.** In no event shall Consultant's individual employees, consultants, agents, officers or directors be subject to any personal legal exposure or liability for Disputes arising out of or in connection with this Agreement.
- i. **FOR SERVICES PERFORMED IN THE STATE OF FLORIDA OR PURSUANT TO FLORIDA LAW, FLORIDA STATUTE 558.0035 STATES THAT AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.**
- b. **LIMITATION OF LIABILITY.** IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH CLIENT AND CONSULTANT, AND ACKNOWLEDGING THAT THE ALLOCATION OF RISKS AND LIMITATIONS OF REMEDIES ARE BUSINESS UNDERSTANDINGS BETWEEN THE PARTIES AND THESE RISKS AND REMEDIES SHALL APPLY TO ALL POSSIBLE LEGAL THEORIES OF RECOVERY, CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR ANY REFERENCE TO INSURANCE OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF CONSULTANT AND CONSULTANT'S AFFILIATES TO CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER CLIENT, FOR ANY AND ALL DISPUTES, SHALL NOT EXCEED CONSULTANT'S FEE RECEIVED HEREUNDER FOR THE SERVICES PERFORMED, ADJUSTED DOWNWARD TO ACCOUNT FOR SUBCONTRACTOR FEES INCURRED AND REIMBURSABLE EXPENSES, UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS LOWER. INCREASED LIMITS MAY BE NEGOTIATED FOR AN ADDITIONAL FEE.
- c. **Waiver of Consequential Damages.** Notwithstanding any other provision of this Agreement, neither Party shall be liable to the other Party for contingent, consequential or other indirect damages including, without limitation, damages for loss of use, revenue or profit; operating costs and facility downtime; or other similar business interruption losses, however, the same may be caused.
- d. **Time Limit To Make A Claim.** Client may not assert any claim against Consultant after the shorter of (1) three (3) years from substantial completion of the services giving rise to the claim, or (2) the statute of limitation provided by law, or (3) the statute of repose provided by law.

**XII. PROJECT ENHANCEMENT/BETTERMENT.**

- a. **Betterments.** If a component of the Project is omitted from Consultant)s Deliverables due to the breach of this Agreement or negligence of Consultant, Consultant will not be liable to Client to the extent such omission relates to any betterment, improvement or added value component (collectively a (Bettermentf)) added to the Project. Client will be responsible for the amount it would have paid for such Betterment as if such Betterment had been included in Consultant)s Deliverables. Notwithstanding the foregoing, Consultant will be responsible only to the extent necessary to place Client in the same position it would have been but for Consultant)s breach or negligence, for the reasonable (i) retrofit expense, (ii) waste, or (iii) intervening increase in the cost of the Betterment furnished through a change order from Client. To the extent that unit pricing increases due to the addition of the Betterment, Client agrees that such cost increases would only be applicable to newly identified Betterments, not increases in quantity of existing items.
- b. **Component Enhancements.** If it is necessary to replace a component of the Project due to the breach of this Agreement by or negligence of Consultant, Consultant will not be liable to Client for any enhancement or upgrade of such component beyond that originally included in the Deliverables. In addition, if the component has an identifiable useful life that is less than the Project itself, the damages of Client shall be reduced to the extent that the useful life of the original component will be extended by the replacement thereof.

- c. **Betterment/Component Enhancement Exclusion.** IN THE EVENT OF A DISPUTE, THE PARTIES AGREE THAT CONSULTANT'S LIABILITY, IF ANY, SHALL EXCLUDE ANY AND ALL DAMAGES, COSTS, AND EXPENSES THAT CREATE OR RESULT IN A BETTERMENT, COMPONENT ENHANCEMENT OR OTHER ADDED VALUE OR UPGRADE/ENHANCEMENT OF THE PROJECT RECEIVED BY CLIENT DUE TO CONSULTANT'S BREACH OR NEGLIGENCE.

**XIII. ASSIGNMENT.** This Agreement is binding on the heirs, successors, and assigns of the Parties hereto. Neither this Agreement, nor any claims, rights, obligations, suits, or duties associated hereto, shall be assigned or assignable by either Client or Consultant without the prior written consent of the other Party.

**XIV. WAIVER.** Any failure by Consultant to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and Consultant may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

**XV. SEVERABILITY.** Should any one or more of the provisions contained in this Agreement be determined by a court of competent jurisdiction or by legislative pronouncement to be void, invalid, illegal, or unenforceable in any respect, such voiding, invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be considered as if the entirety of such void, invalid, illegal, or unenforceable provision had never been contained in this Agreement.

**XVI. INTEGRATION.** This Standard Form of Agreement and the Scope of Services, including fee and schedule, are fully incorporated herein and represent the entire understanding of Client and Consultant and supersedes and replaces all prior, contemporaneous and subsequent agreements, negotiations, representations, warranties, understandings, statements, promises, or inducements, whether oral or written, regarding the matters contained herein. No prior, contemporaneous, or subsequent communications, whether oral, written, electronic or other form, shall be of any force or effect with respect to the matters covered herein. Any amendments or modifications to this Agreement shall only be effective if made in writing and signed by both Parties.

**XVII. NO THIRD-PARTY BENEFICIARIES.** This Agreement is being entered into for the sole benefit of the Parties hereto, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever.

**XVIII. SIGNATORIES.** Client and Consultant mutually warrant and represent that the representation of each who is executing this Agreement on behalf of Client or Consultant, respectively, has full authority to execute this Agreement and bind the entity so represented.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

HALFF ASSOCIATES, INC.

CLIENT: CITY OF KINGSVILLE, Texas

By: \_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Printed Name  
  
\_\_\_\_\_  
Title  
  
\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Signature  
*Charlie Sosa*  
\_\_\_\_\_  
Printed Name  
*Interim City Manager*  
\_\_\_\_\_  
Title  
  
\_\_\_\_\_  
Date



## SCOPE OF SERVICES

In accordance with Section II of the Agreement for Professional Consulting Services by and between **CITY OF KINGSVILLE, Texas** ("**Client**") and **Halff Associates, Inc.** ("**Consultant**") dated \_\_\_\_\_ (the "Agreement"), Consultant shall provide the Services set forth below to Client in accordance with this Scope of Services and the Agreement. To the extent this Task Order conflicts with the Agreement, the Agreement shall control.

### **Project Name:**

City of Kingsville Comprehensive Plan - Resilient Communities Program Grant

### **Description of Services:**

See Attachment A

### **Compensation/Fees/Costs/Reimbursement:**

See Attachment B

### **Schedule:**

See Attachment D

### **Deliverables:**

See Attachment A

### **Halff Associates, Inc.**

Contact Name:

Telephone:

Email:

### **Service Contacts:**

#### **Halff Associates, Inc.**

Contact Name: Robin Alexander, Grants Administration Manager

Primary Office Address for Contact: 13620 Briarwick Drive, Suite 100, Austin, TX 78729

Telephone: 512-297-4090

Email: ralexander@halff.com

#### **CITY OF KINGSVILLE**

Contact Name: Erik Spitzer, Planning and Development Services Director

Primary Office Address for Contact: P.O. Box 1458, Kingsville, TX 78363

Telephone: 361-595-8055

Email: espitzer@cityofkingsville.com

**ATTACHMENT A**  
**BASIC SCOPE OF SERVICES**  
**MANAGEMENT AND PLANNING SERVICES FOR**  
**Resilient Communities Comprehensive Plan**

**PROJECT DESCRIPTION**

Halff shall provide planning services to the City of Kingsville ("CLIENT") to create a Comprehensive Plan (the "Project") under the Texas General Land Office's Resilient Communities Program. The Project includes the development of a resilient comprehensive plan and grant administration services aimed at restoring the CLIENT to its pre-disaster condition and fortifying it against future flooding. The Project focuses on enhancing resilience and revitalizing the City's ability to withstand future hazards. Its objectives include improving the quality of life for storm-impacted residents and assisting the community in developing and implementing strategies to better coordinate and utilize federal, state, and local community development resources. Additionally, these services will establish the framework for effective management of General Land Office (GLO) funding and its associated requirements.

**PLANNING PROCESS PARAMETERS**

This Scope of Services (the "Scope of Services") is subject to the following parameters:

1. It is anticipated that the Project, once awarded grant funds from the GLO, will take 18 months to complete – including delivery of a draft report to the City Council. The subsequent timeframe and adoption of the final Plan will vary depending on the City's scheduling preferences.
2. The Project will begin from the date of contract execution and will follow a task-by-task schedule prepared as part of the Project initiation process outlined in this Scope of Services. Any adjustments made to the Project schedule during the Project term will be jointly agreed upon between the City and Halff.
3. The study area will include all property within the City limits of City of Kingsville and its extraterritorial jurisdiction (ETJ). Other surrounding properties or facilities that may be utilized by the City with the goal of achieving an orderly long-term growth and development may be considered as mutually agreed upon between the City and Halff.
4. Draft and final Plan reports will be prepared in electronic (e.g., Adobe In-Design) format. Reports will be provided to the City in INDD, PDF format suitable for distribution electronically and for posting to the City website. Mapping files will be provided in ArcGIS format including shapefiles and layer packages for use by the City.
5. Tasks undertaken as part of this Project may occur concurrently where appropriate, or in some cases may vary from the sequence shown in the Scope of Services.
6. References to a "Trip" within this Exhibit refer to travel to the City of Kingsville by members of the Halff team from outside of Kingsville, Texas. If deemed necessary and upon agreement between the City and Halff, "Trip" activities, meetings, and events may be conducted solely as "virtual" engagements using suitable video-conferencing technology.
7. Where possible, committee and planning meetings will be scheduled by Halff and/or the City on concurrent days and evenings for greater project efficiency.

8. Any additional meetings or events beyond those shown in the Scope of Services will be considered an additional service and are not included in this Scope of Services.
9. Only minor revisions will be made following adoption to produce the final deliverables. Substantive revisions after adoption may require additional services depending on their nature and the current budget status.
10. Halff anticipates that the GIS shapefiles and associated data represent an up-to-date depiction of the existing conditions. In the instance that the Client's data is out-of-date, inaccurate, or otherwise not usable for creating base maps, or to perform the identified analyses set out in this Scope of Services, Halff may request that the Client update the data so that it is accurate and usable, or may request an additional service to undertake the data creation/correction on behalf of the Client. Delays in receiving accurate data or creating new base map data (as may be needed to undertake the requisite tasks set out in this Scope of Services), may delay overall completion of the Project.
11. Halff will prepare data analysis of demographics, existing conditions, or other relevant environmental factors using the latest data provided by the Client or available publicly at the time of task compilation. Halff will request an Additional service to update those analyses if existing conditions change during the Project.
12. Input and feedback derived from the public engagement process will be assessed and incorporated into the various plan elements rather than compiled as meeting notes and minutes.
13. Halff's project involvement and facilitation as described in this Scope of Services (Attachment A) is contingent upon Client's execution of this Scope of Services and the attached Standard Terms and Conditions as well as:
  - a. GLO Contract Attachments A-E
  - b. Halff Associates Inc. Engineering Contract

# PHASE 1 – Planning Approach/Explore

**Phase Summary:** This phase is the “getting to know the community” stage where Halff will work with the City staff to identify available resources and data and develop a baseline of Kingsville.

## **TASK 1.1 – Project Administration and Initiation**

These activities will identify and confirm all aspects of the planning process, project administration, data collection, quality assurance, and anticipated deliverables.

## **TASK 1.2 – Community Outreach Plan (COP)**

Halff will develop a community outreach plan and finalize the strategy with Kingsville City Staff so that the approach has the best chance of success.

## **TASK 1.3 – Community Audit**

Planning analysis activities including an assessment of community data, physical conditions and previously developed community documents.

## **TASK 1.4 – Visioning and Guiding Principles**

Development and confirmation of a plan vision and guiding principles upon which all subsequent planning activities will be based. Will affirm the organization of planning topics by theme.

**Phase 1 Deliverables:** Community Outreach Plan, visioning workshop and kickoff materials, presentations and summaries; project web page content; and community audit technical memo.

**Phase 1 Community Touchpoints** (where possible, joint meetings will be encouraged):

1. Project Initiation Meeting
2. CPAC Meeting #1: Kick-off and Visioning
3. City Commissioner: Visioning
4. Key Community/Business Leader Meeting

# PHASE 2 – Envision

**Phase Summary:** Understanding your recent accomplishments, existing assets and ongoing challenges, we propose to team with residents, property owners, business owners, academic stakeholders and interested parties to develop a vision for community transformation.

## **TASK 2.1 – Demographic/Socioeconomic Analysis and Population Study**

GIS analysis of demographic data and growth projections to make decisions about future development.

## **TASK 2.2– Identify Risks and Vulnerabilities**

A review of existing emergency and public safety plans and procedures to understand how Kingsville can build resiliency to local risk.

### **TASK 2.3 – Community Touchpoint-Visioning**

The first is a series of engagement efforts will focus on visioning discussions and activities. Public engagement approach is outlined more in the scope of work.

### **TASK 2.4 – Visioning and Guiding Principles**

Based on the feedback heard from the visioning activities (Task 2.3), a plan vision statement and associated guiding principles will be developed and vetted by City staff.

### **TASK 2.5 – Housing Study and Future Development Scenarios**

Preparation of an alternative development scenario based upon population projections, land use areas and locations for the highest risk of flooding required to support the horizon year population.

**Phase 2 Deliverables:** Public meeting and community event materials and summaries, community survey, draft vision and guiding principles; demographic and socioeconomic profile; housing snapshot, infrastructure capacity; preferred development scenario; code review memo and draft future land use map.

**Phase 2 Community Touchpoints** (where possible, joint meetings will be encouraged):

1. Public Meeting #1: Visioning
2. CPAC Meeting #2: Scenario Planning
3. Focus Group Sessions
4. Community Pop-up Events (up to 4)

## **PHASE 3 – Adapt**

**Phase Summary:** Under oversight of City staff and CPAC, we will prepare a City-wide future land use, development and redevelopment scenario in narrative and mapped form and measure its potential impacts on infrastructure, services and the environment.

### **TASK 3.1 – Align Preferred Scenarios with Risk Reduction Plans**

Conduct a crosswalk analysis of the preferred development scenario with the City's Hazard Mitigation and other related to plans to verify the Comprehensive Plan will support safer growth.

### **TASK 3.2 – Community Touchpoint – Public Safety Stakeholders**

Workshop exercises with public safety personnel to analyze impacts and critical facilities and at-risk assets.

### **TASK 3.3 – Adapt Scenario to Reduce Future Vulnerability**

Review future development scenarios to assess if future development is at risk of natural and man-made hazards.

**Phase 3 Deliverables:** Plan alignment exercise documentation; critical asset mapping with risk (flooding); plan alignment workshop and associated documents; revised resilience land use scenario.

**Phase 3 Community Touchpoints** (where possible, joint meetings will be encouraged):

1. Safety and Emergency Personnel Stakeholders

## **PHASE 4 – RISK AND HAZARDS ANALYSIS**

**Phase Summary:** Based on the community exploration and visioning, as well as special considerations to adapt to the City's coastal environment, this phase will develop strategic recommendations for future growth and development, including needs for parks, trails, role of the university campus in the City fabric, downtown redevelopment and necessary code revisions to support these goals.

### **TASK 4.1 – Future Land Use Study**

This task will analyze future land uses, risks and future development goals of the community. Preparation of maps based on the preferred development scenario that identify distinct character areas, districts, and corridors throughout Kingsville and surrounding region.

### **TASK 4.2 – Community Touchpoint- Future Land Use and Growth Management**

At this community touchpoint, the community will have an opportunity to review the draft future development map and to participate in the Downtown Plan Design Workshop.

### **TASK 4.3 – Zoning Ordinance, Code Assessment & Development Analysis**

Ordinance reviews and collaboration with City staff and the comprehensive planning committee to come up with recommendation for updates.

### **TASK 4.4 – Draft Comprehensive Plan Preparation**

The comprehensive plan will be organized by plan themes which are based on the established guiding principles. Included with each theme will be a discussion on existing conditions, a series of policies and actions to achieve the community goals, and information on implementation.

### **TASK 4.5 – Infrastructure Review and Aligning Implementation with CIPs**

look at the status of water, wastewater, drainage, and streets systems, including length, width, materials, and condition or age (if available), as well as proposed prioritized improvements to those systems. Projects will be identified to include in future CIP plans for the City.

**Phase 4 Deliverables:** Future land use map; downtown area plan; CPAC and public meetings materials and summaries, plan theme summaries, updated thoroughfare plan; code assessments and recommendations, and draft implementation matrix.

### **Phase 4 Community Touchpoint:**

1. CPAC Meeting #3 – Future Land Use and Growth Management
2. Public Meeting #2 – Future Land Use

## PHASE 5 – CODE REVISIONS

**Phase Summary:** When the plan is complete, Halff will work with Kingsville to review the document together and work towards a final version.

### **TASK 5.1 – Draft Plan**

A full draft plan will be finalized with City Staff and the CPAC. This plan will be a result of all the analysis and engagement from all the previous phases and will plan a working session to review.

### **TASK 5.2 – Community Touchpoint-Review**

Final community touchpoint with the public, the CPAC and the City Commissioner Court.

### **TASK 5.3– Adoption Meetings**

Seek adoption of the comprehensive plan from the applicable approving bodies. Coordinate project close-out materials with City staff.

**Phase 5 Deliverables:** Draft Final Comp Plan; Final Comp Plan (if needed); project closeout materials (all meeting materials, maps, files related to the plan).

### **Phase 5 Community Touchpoints:**

1. CPAC Meeting #4 – Draft Plan
2. Public Meeting #3 – Review Plan Components
3. City Commissioner Court – Final Presentation

## PHASE 6 – GRANT ADMINISTRATION

Grant administration is based on the general administrative requirements of the General Land Office (GLO) for Resilient Communities Program (RCP).

### **TASK 6.1 – INFORMATION MANAGEMENT AND COORDINATION**

Halff will provide general advice to the Client and its staff regarding project implementation and regulatory matters. Halff will develop forms, policies, and procedures necessary for project implementation to accomplish routine tasks as requested by the GLO. Halff will act as a liaison for the Client, during routine monitoring visits by GLO staff representatives. Assistance is given to the Client in meeting citizen participation, personnel, and other requirements essential for participation in the GLO Resilient Communities Program.

### **TASK 6.2 – ADMINISTRATION AND REPORTING**

Halff will assist the Client in developing a record-keeping system consistent with program guidelines, including the establishment and maintenance of program files. Halff will be responsible for the preparation and submission of the Client's required reports to GLO. Halff will also prepare any funding agreement amendments and/or modifications, along with related documentation and public notices, as requested. Moreover, other general administrative tasks not listed are accommodated upon the Client's written request and agreement by the Administrator.

### **TASK 6.3 – FINANCIAL MANAGEMENT**

Halff and the Client will establish procedures for financial accountability that meet the GLO's requirement for the State's Audit Division. Halff and the Client will establish and maintain a direct deposit account and/or separate local bank account, as well as journals and ledgers to document program expenses. Additionally, assistance is provided in submitting any required direct deposit authorization forms and/or depository/authorized signatory forms to GLO. Furthermore, aid is offered to the Client in the preparation of drawdown requests from GLO and the disbursement of funds within the allotted time period.

### **TASK 6.4 – PROJECT MONITORING AND CLOSE OUT**

Halff will prepare any project completion reports, and closeout documentation required by GLO for the Client. Additionally, assistance is provided to the Client in responding to any monitoring or audit findings and resolving any third-party claims. Moreover, the Client's auditor is supplied with any GLO audit guidelines necessary for their audit process.

## **ATTACHMENT B**

### **BASIS OF COMPENSATION**

#### **BASIC SERVICES – FEE SUMMARY.**

Planning services as described in Exhibit A will be provided by Halff on a lump sum basis, with an authorized lump sum contract fee of \$300,000 for the Resilient Communities Land Use Plan. The lump sum fee includes compensation for document copying, printing, mileage and associated expenses necessary for the planning effort. Fees for services will be invoiced based on draw schedule required by the GLO Resilient Communities Program.

Proposed Cost of Services	
Major Task	Estimated Costs
Phase 1: Explore	\$32,750
Phase 2: Envision	\$72,000
Phase 3: Adapt	\$62,625
Phase 4: Guide	\$67,625
Phase 5: Activate	\$32,000
Comprehensive Planning Base Services (Phase 1-5)	\$267,000
RCP Grant Services	\$33,000
<b>TOTAL PROJECT FEE</b>	<b>\$300,000</b>

#### **ADDITIONAL SERVICES, MEETINGS, AND EXCLUSIONS**

During the course or at the conclusion of the Project, the City of Kingsville may deem it necessary to schedule more meetings, request further research, or otherwise engage Halff in additional work efforts or subsequent phases not anticipated at project initiation or as set out in Attachment A, Scope of Services. Any such additional services shall be specifically authorized by the City Commission; as appropriate, and documented through a written amendment to the Professional Services Agreement and this Attachment A, Scope of Services, or set out as follow up additional phase services. This will include a



corresponding modification to the maximum not-to-exceed amount set out in Attachment B, Basis of Compensation, and, if necessary, the time of performance as set out in Attachment D, Project Schedule. Additional printing or publication expenses will be charged in accordance with Attachment B, *Basis of Compensation*. Expenses incurred by the consultant team, such as mileage, materials, food, etc., are integrated into the Base Plan cost in the Scope of Services. Should the need arise for additional services, including meetings, Halff can provide such services on an hourly basis and/or agreed upon fee.

## **ATTACHMENT C**

### **CLIENT SUPPORT**

The Client will provide administrative and technical support to assist Halff in performing the Scope of Services described in Attachment A. The support to be provided by the Client Type will include the following types of services and tasks:

- The Client will appoint a contact person, "Project Administrator," to work with Halff to act as an intermediary between staff, elected and appointed officials, committees, non-project consultants and other governmental jurisdictions and agencies as required. Halff will take direction from the Client's Project Administrator or City Manager only.
- It is the responsibility of the Client's Project Administrator to coordinate, compile, and forward in a consolidated manner all review comments, feedback, and/or requested/suggested revisions to such draft/interim deliverables.
- The Client will provide information from all previous planning studies and master plans that may influence the outcome of this planning effort. This information will be provided in digital format when possible and available. If no digital information is available, the Client will create a reproduction, wherever possible, that will not have to be returned at the conclusion of the Project. This information may include, but not be limited to, existing land-use plans and GIS data; existing transportation and street master plans; existing water or sanitary sewer planning documents; economic and demographic studies; park, trail, and open space plans; or other pertinent planning or policy documents. Prompt compilation and delivery of these documents to Halff is an essential prerequisite for the initiation of work and timely forward progress on individual tasks and deliverables.
- The Client will provide Halff with the most recently updated digital base map of the planning area with City limits and extraterritorial jurisdiction (ETJ) lines, school district lines, municipal utility district boundaries, roadway centerlines and rights-of-way (if available), water and sewer facilities; dry utilities; public facilities (including police, fire, hospital, library and other major public facilities); park and open space facilities; sidewalks and trails; rivers, lakes and floodplain information; and other GIS available that may be pertinent to this planning process. These files will be in the form of GIS shapefiles.
  - Because of the graphic nature of the planning deliverables, draft and final reports will be prepared in GIS and Adobe InDesign format (INDD). Base mapping, graphics, and report documents will be prepared in GIS, INDD, and PDF formats suitable for distribution electronically.
  - Any conceptual design/development ideas generated as part of the planning process are understood to be at a pre-concept development stage and will require further refinement via plans and specifications developed through separate design and construction processes.
  - Cost projections prepared as part of this effort, if applicable, are understood to be at a planning (order-of-magnitude) level and are prepared prior to any detailed design for individual projects.
  - Such cost projections will vary as more detailed design occurs and as inflationary influences occur following plan adoption.

- It is the intent that multiple meetings will be scheduled on concurrent days and evenings for greater project efficiency.
- Any additional meetings beyond those shown in the Scope of Services will be considered an additional service and are not included in this Scope of Services.
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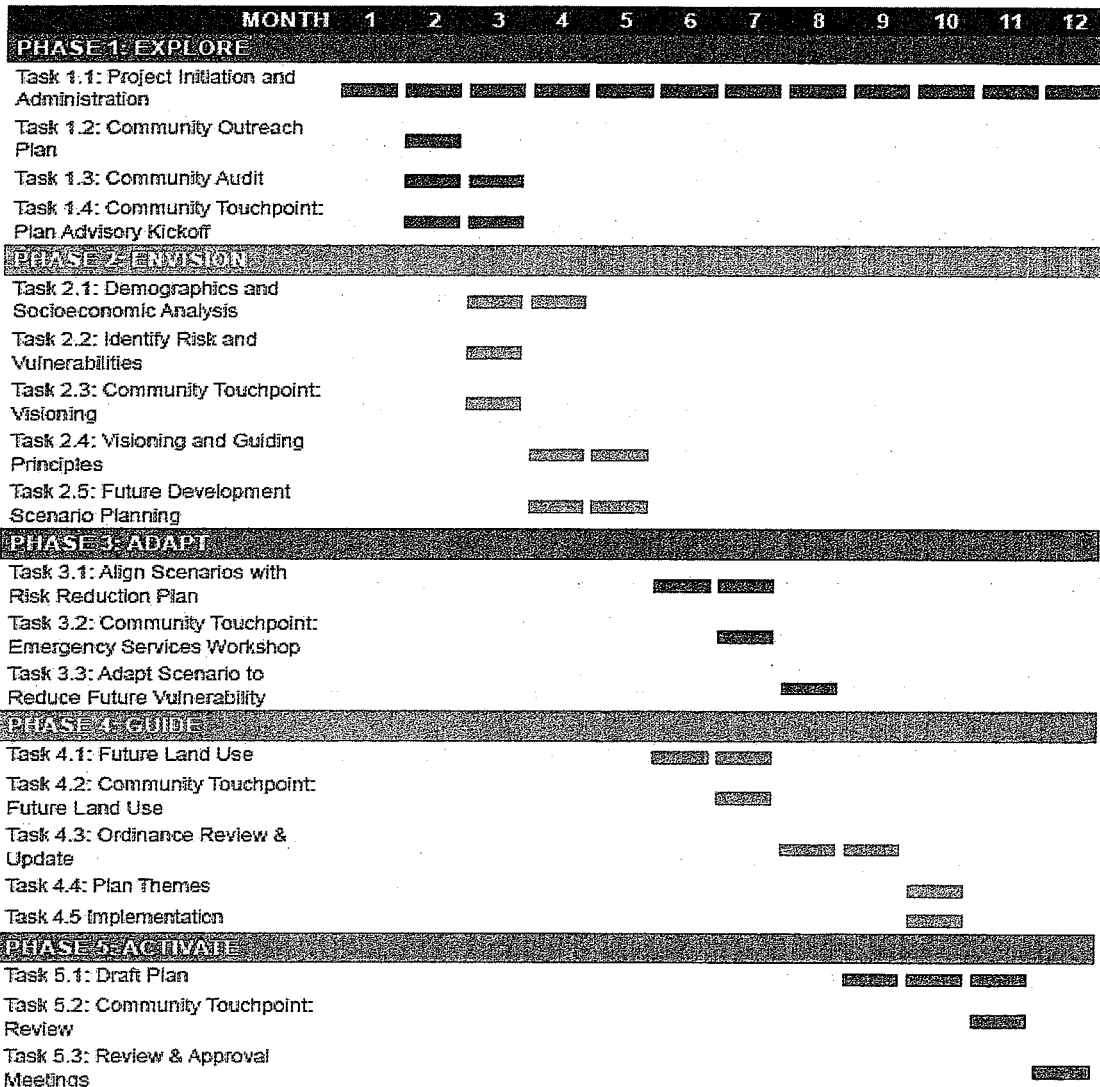
## **ATTACHMENT D**

### **PROJECT SCHEDULE**

Preparation and adoption of the Resilient Communities Comprehensive Plan is projected to occur over 18 months. The Project will begin from date of the City's execution of a funding agreement with GLO once grant funds are awarded, and will follow a flow of project tasks and benchmarks represented in the schedule in this exhibit. The schedule of services shown below is advisory; a final project schedule will be agreed upon by the Client and Halff during the execution of initial project tasks. All parties may agree to subsequent adjustments to the Project schedule.

## 5. Proposed Project Schedule

We understand that the City's desired timeframe is a 12-month schedule. Halff is committed to dedicating the appropriate staff and resources to complete the comprehensive plan and small area plan within this timeframe.



**ASSURANCES - CONSTRUCTION PROGRAMS**

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

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

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

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

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

THIS FORM MUST BE EXECUTED

## CERTIFICATION REGARDING LOBBYING LOWER TIER COVERED TRANSACTIONS

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

### LOBBYING

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

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

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

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

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

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

NAME OF APPLICANT

AWARD NUMBER AND/OR PROJECT NAME

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

SIGNATURE

DATE

THIS FORM MUST BE EXECUTED

## DISCLOSURE OF LOBBYING ACTIVITIES

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

Approved by OMB

0348-0046

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

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

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

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

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

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



**GENERAL AFFIRMATIONS**

Provider agrees without exception to the following affirmations:

1. Provider certifies that he/she/it has not given, offered to give, nor intends to give at anytime hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
2. Provider certifies that neither Provider nor any firm, corporation, partnership, or institution represented by Provider or anyone acting for such firm, corporation, partnership, or institution has (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or federal antitrust laws; or (2) communicated the contents of the Contract or proposal either directly or indirectly to any competitor or any other person engaged in the same line of business during the procurement process for the Contract or proposal.
3. Provider certifies that if its business address shown on the Contract is a Texas address, that address is the legal business address of Provider and Provider qualifies as a Texas Resident Bidder under Texas Administrative Code, Title 34, Part 1, Chapter 20.
4. Section 2155.004 of the Texas Government Code prohibits the award of a contract that includes proposed financial participation by a person who received compensation from the Subrecipient to participate in preparing the specifications or request for proposals on which the Contract is based. Under Section 2155.004, Government Code, the vendor [Provider] certifies that the individual or business entity named in this bid or Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
5. Under Texas Family Code section 231.006, a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under a contract to provide property, materials, or services. Under Section 231.006, Texas Family Code, the vendor or applicant [Provider] certifies that the individual or business entity named in this Contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
6. Provider agrees that any payments due under the Contract will be applied towards any debt, including but not limited to delinquent taxes and child support, Provider owes to the State of Texas.
7. The Subrecipient is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism and any subsequent changes made to it. The Subrecipient will cross-reference Providers/vendors with the federal System for Award Management (<https://www.sam.gov/>), which includes the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.
8. Provider certifies: 1) that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity; 2) that Provider is in compliance with the State of Texas statutes and rules relating to procurement; and 3) that Provider is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/>.

9. Under Section 2155.006(b) of the Texas Government Code, the Subrecipient may not enter into a contract that includes proposed financial participation by a person who, during the five year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, Provider certifies that the individual or business entity named in the Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
10. The state auditor may conduct an audit or investigation of any entity receiving state funds directly under the Contract or indirectly through a subcontract under the Contract. Acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Provider shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Provider and the requirement to cooperate is included in any subcontract it awards.
11. Provider understands that the neither the Subrecipient nor the GLO tolerate any type of fraud. The Subrecipient's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Providers are expected to report any possible fraudulent or dishonest acts, waste, or abuse affecting any transaction with the GLO to the GLO's Internal Audit Director at 512.463.5338 or to [tracey.hall@glo.texas.gov](mailto:tracey.hall@glo.texas.gov).

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

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**GLO Contract Attachment C**  
**GLO Contract No. TBD**

Space Reserved for insertion of the GLO Contract Attachment C.

Once an executed GLO Funding Agreement between the Client and the Agency is available, GLO Contract Attachment C, consisting of the Scope of Work and Budget Exhibits from that executed agreement, will be inserted here.

## NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

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

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

### GENERALLY

The Acts and Regulations specified in this Contract;

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

The Housing and Community Development Act of 1974 (12 U.S.C. § 5301 *et seq.*);

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

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

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

Disaster Recovery Implementation Manual;

Plan for Disaster Recovery; and

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

### CIVIL RIGHTS

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

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

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

Executive Order 11063, as amended by Executive Order 12259, and 24 C. F.R. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063"; The

failure or refusal of Provider to comply with the requirements of Executive Order 11063 or 24 C.F.R. Part 107 shall be a proper basis for the imposition of sanctions specified in 24 C.F.R. 107.60;

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

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

**LABOR STANDARDS**

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

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

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

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

Federal Executive Order 11246, as amended;

**EMPLOYMENT OPPORTUNITIES**

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

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

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

Federal Executive Order 11246, as amended;

**GRANT AND AUDIT STANDARDS**

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

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for

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

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

Title 1 Texas Administrative Code § 5.167(c);

#### **LEAD-BASED PAINT**

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

#### **HISTORIC PROPERTIES**

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

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

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

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

#### **ENVIRONMENTAL LAW AND AUTHORITIES**

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

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

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

#### **FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION**

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

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

### **COASTAL ZONE MANAGEMENT**

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

### **SOLE SOURCE AQUIFERS**

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

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

### **ENDANGERED SPECIES**

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

### **WILD AND SCENIC RIVERS**

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

### **AIR QUALITY**

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

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

### **FARMLAND PROTECTION**

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

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

### **HUD ENVIRONMENTAL STANDARDS**

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

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

**ENVIRONMENTAL JUSTICE**

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

**SUSPENSION AND DEBARMENT**

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

General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and

Nonprocurement Suspension and Debarment (2 C.F.R. Part 2424).

**OTHER REQUIREMENTS**

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

**ACQUISITION / RELOCATION**

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

**FAITH-BASED ACTIVITIES**

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

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## REQUIRED INSURANCE

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

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

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

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

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

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

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

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

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

**INSURANCE REQUIRED:**

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

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

Insurance Certificates must:

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

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

**REQUIRED FORM OF CERTIFICATE FOLLOWS THIS PAGE**



GLO Contract No. TBD

DATE (MM/DD/YYYY)

**CERTIFICATE OF LIABILITY INSURANCE**

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

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

PRODUCER

Required form of Insurance

CONTACT

NAME:

PHONE

(A/C, No, Ext):

FAX

E-MAIL

ADDRESS:

(A/C, No):

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A:

INSURER B:

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

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

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

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

**CERTIFICATE HOLDER****CANCELLATION**

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

AUTHORIZED REPRESENTATIVE

- Outstanding documents (if applicable)

#### **Comprehensive Plan**

- Must be forward-looking, and be integrated with the Hazard Mitigation Plan, if one exists
- Must identify local hazard risks and explain how it mitigates against those risks
- Must include:
  1. Population Study
  2. Housing Study
  3. Land Use Study/Plan
  4. Zoning Ordinance
  5. Infrastructure Study / Capital Improvement Plan
- Adoption of approved Comprehensive Plan and Zoning Ordinance must be complete within **24 months** of contract execution

**NOTE:** If this requirement is not satisfied, all funds will be recaptured.

#### **1st Draw (Comprehensive Plan)**

Subrecipient shall submit to the GLO, for review and approval as to form, a copy of the Procurement Documentation and/or In-House Work Plan (whichever is applicable). For instructions on how to conduct procurement, Subrecipient shall refer to the Community Development & Revitalization Procurement Guidance For Subrecipients Under 2 CFR Part 200 (Uniform Rules) and to the Buying Right CDBG-DR and Procurement HUD webpage. Failure to properly procure in accordance with state and federal laws, rules, and regulations, including but not limited to 2 C.F.R. 200, may be cause for rejection of the related-reimbursement request by Subrecipient.

Procurement Documentation (if work is performed by a vendor).

At a minimum, documentation must include the following elements:

- request for proposals
- evidence/affidavit of publication
- evidence of solicitation to disadvantaged business enterprises (DBE)
- cost analysis documentation
- received bids
- bid evaluation and selection documentation
- award letter
- executed contract

In-House Work Documentation (if work is performed is house).

- estimated work hours, number of FTEs, associated hourly rates, work description, and total cost

#### **2nd Draw (Comprehensive Plan)**



Upon GLO's review and approval as to form of the Procurement Documentation and/or In-House Work Plan (whichever is applicable), Subrecipient shall submit to GLO, for review and approval as to form, the following documents: a) Assessment of Current Comprehensive Plans, b) Base Studies, c) Documentation of 1<sup>st</sup> Round of Public Meetings, and d) Draft Goals, Objectives, and Policies.

#### Assessment of Current Plans

At a minimum, document must include the following elements:

- List of current plans, both local and regional, with associated adoption dates.
- A synopsis of how these plans bear on the Comprehensive Plan that will be developed
- Hazard Mitigation Plans, if present, must be included in the assessment

Additional information may also be included.

#### Base Studies

At a minimum, document must include the following elements:

- Identification of local hazard risk(s). These must align with Hazard Mitigation Plan, if one exists
- Population study that provides an estimate and projection for the next 20 years
- Housing study that describes the composition of the existing housing stock, including total number of units, number of single family and multifamily units, and vacancy rates, as well as a projection for the number of future housing units needed ten (10) years from the date of the plan and the composition of those units (e.g., single family, multifamily)
- Land Use Study that describes the land use of every parcel within the jurisdiction and includes a future land use map that accounts for future population changes
- Infrastructure study and Capital Improvement Plan that describes the water, wastewater, drainage, and streets systems, including length, width, materials, and condition or age (if available), as well as proposed prioritized improvements to those systems

Additional studies (e.g., environmental, economic, etc.) may also be included.

#### Documentation of 1<sup>st</sup> Round of Public Meetings

At a minimum, document must include the following elements:

- Meetings details: date, list of participants, agenda
- Meeting notes

Additional details may also be provided.

#### Draft Goals, Objectives, and Policies

At a minimum, document must include the following elements:

- Draft list of goals. A goal is a broad, achievable, and usually long-term outcome.



- Draft list of objectives associated with each goal. An objective is a specific and measurable action to achieve a goal.
- Draft list of the policies, if applicable, that will be deployed to implement the objectives

Additional details may also be provided.

### **3rd Draw (Comprehensive Plan)**

Upon GLO's review and approval as to form of Assessment of Current Comprehensive Plans, Base Studies, Documentation of 1<sup>st</sup> Round of Public Meetings, and Draft Goals, Objectives, and Policies, Subrecipient shall submit to GLO, for review and approval as to form, the following documents: a) Documentation of 2<sup>nd</sup> Round of Public Meetings and b) Preliminary Draft of Comprehensive Plan.

#### Documentation of 2<sup>nd</sup> Round of Public Meetings

At a minimum, document must include the following elements:

- Meetings details: date, list of participants, agenda
- Meeting notes

Additional details may also be provided.

#### Preliminary Draft of Comprehensive Plan

At a minimum, document must include the following elements:

- SECTION 1: RESULTS OF BASE STUDIES: these are the findings of the studies submitted under 2nd Draw - Base Studies
- SECTION 2: GOALS AND OBJECTIVES STATEMENT: this is the final and community-approved version of the goals and objectives originally submitted under 2nd Draw - Draft Goals/Objectives/Policies
- SECTION 3: COMPREHENSIVE PLAN – DRAFT (50% Developed, or significant progress on each of the plan elements listed below)
  - Land Use Plan + Map: graphic and written presentation of desirable and feasible alternative land use patterns. Must be based on the goals and objectives of the community. Map should be clear and include streets, lots and block lines. All land uses must be included.
  - Resiliency Measures: must include a description of how hazard mitigation strategies and actions were incorporated into the Comprehensive Plan
  - Transportation Plan + Map: must include street and highway pattern, private transportation and, if applicable, public transportation. Must include all planned improvements



- Infrastructure/Capital Improvement Plan + Map: must include water, wastewater, storm drainage, electric, gas, cable, telephone

- Community Facilities Plan + Map: must include schools, libraries, parks, recreation and open space, health care, and other public facilities

- Additional Sections - Optional: examples: Urban Design Elements, Historic Preservation Plan, Downtown Redevelopment Plan, Environmental Plan

- Implementation Strategy: the steps that the city will take to enforce the provisions of the plan

Additional elements may also be included, as long as all required elements are present.

#### **4th Draw (Comprehensive Plan)**

Upon GLO's review and approval as to form of Documentation of 2<sup>nd</sup> Round of Public Meetings and Preliminary Draft of Comprehensive Plan, Subrecipient shall submit to GLO, for review and approval as to form, the following documents: a) Documentation of 3<sup>rd</sup> Round of Public Meetings, b) the Adopted Comprehensive Plan, and c) Evidence of Adoption by Jurisdiction.

Documentation of 3<sup>rd</sup> Round of Public Meetings

At a minimum, document must include the following elements:

- Meetings details: date, list of participants, agenda
- Meeting notes

Additional details may also be provided.

Adopted Comprehensive Plan

At a minimum, document must include the following elements:

- SECTION 1: RESULTS OF BASE STUDIES: these are the findings of the studies submitted under 2nd Draw - Base Studies

- SECTION 2: GOALS AND OBJECTIVES STATEMENT: this is the final and community-approved

version of the goals and objectives originally submitted under 2nd Draw - Draft

Goals/Objectives/Policies

- SECTION 3: COMPREHENSIVE PLAN (100% Developed)

- Land Use Plan + Map: graphic and written presentation of desirable and feasible alternative land use patterns. Must be based on the goals and objectives of the community. Map should be clear and include streets, lots and block lines. All land uses must be included.



- Resiliency Measures: must include a description of how hazard mitigation strategies and actions were incorporated into the Comprehensive Plan
- Transportation Plan + Map: must include street and highway pattern, private transportation and, if applicable, public transportation. Must include all planned improvements
- Infrastructure/Capital Improvement Plan + Map: must include water, wastewater, storm drainage, electric, gas, cable, telephone
- Community Facilities Plan + Map: must include schools, libraries, parks, recreation and open space, health care, and other public facilities
- Additional Sections - Optional: examples: Urban Design Elements, Historic Preservation Plan, Downtown Redevelopment Plan, Environmental Plan
- Implementation Strategy: the steps that the city will take to enforce the provisions of the plan

Additional elements may also be included, as long as all required elements are present.

Evidence of Adoption by Jurisdiction

At a minimum, document must include the following elements:

- Resolution from the City Council documenting adoption of Comprehensive Plan, listing the plan's name and date of adoption

Additional details may also be provided.

**NOTE: adoption of the Comprehensive Plan and associated Zoning Ordinance must be complete within 24 months of contract execution, or else funds will be recaptured.**

#### **5th Draw (Comprehensive Plan)**

Upon GLO's review and approval as to form of Documentation of 3<sup>rd</sup> Round of Public Meetings, the Adopted Comprehensive Plan, and Evidence of Adoption by Jurisdiction, Subrecipient shall submit to GLO, for review and approval as to form, the required Closeout documentation.

Closeout Documentation

At a minimum, documentation must include the following elements:

- Closeout documents
- Outstanding documents (if applicable)

#### **Land Use Plan**







**RESILIENT COMMUNITIES PROGRAM**

Texas General Land Office | Community Development & Revitalization | CDBG-MIT

DRAWS & ACCEPTANCE CRITERIA		
GRANT CATEGORY	DRAWS	ACCEPTANCE CRITERIA (DELIVERABLES)
BUILDING CODE	1 0-5%	• Procurement Documentation / In-House Work Plan
	2 5.01-35%	• Building Code Preliminary Details
	3 35.01-95%	• Adopted Building Code • Evidence of adoption by the jurisdiction
	4 95.01-100%	• Grant closeout documents

<b>FLOOD DAMAGE PREVENTION ORDINANCE</b>	1	0-5%	• Procurement Documentation / In-House Work Plan
	2	5.01-35%	• Ordinance Draft
	3	35.01-95%	• Copy of adopted ordinance • Evidence of adoption by the jurisdiction
	4	95.01-100%	• Grant closeout documents
<b>COMPREHENSIVE PLAN</b>	1	0-5%	• Procurement Documentation / In-House Work Plan
	2	5.01-35%	• Assessment of Current Comprehensive Plans • Base Studies • Docs - 1st round of Public Meetings • Draft Goals/Objectives/Policies
	3	35.01-65%	• Docs - 2nd round of Public Meetings • Preliminary Draft Comprehensive Plan
	4	65.01-95%	• Docs - 3rd round of Public Meetings • Adopted Comprehensive Plan • Evidence of adoption by jurisdiction
	5	95.01-100%	• Grant closeout documents
<b>LAND USE PLAN</b>	1	0-5%	• Procurement Documentation / In-House Work Plan
	2	5.01-35%	• Assessment of Current Land Use Plans • Base Studies • Docs - 1st round of Public Meetings
	3	35.01-65%	• Preliminary Draft Land Use Plan • Docs - 2nd round of Public Meetings
	4	65.01-95%	• Adopted Land Use Plan • Docs - 3rd round of Public Meetings • Evidence of adoption by jurisdiction
	5	95.01-100%	• Grant closeout documents
<b>ZONING ORDINANCE</b>	1	0-5%	• Procurement Documentation / In-House Work Plan
	2	5.01-35%	• Ordinance Draft
	3	35.01-95%	• Copy of adopted Zoning Ordinance • Evidence of adoption by the jurisdiction
	4	95.01-100%	• Grant closeout documents
<b>PUBLIC SERVICE ACTIVITIES</b>	-	-	For this grant category, draws and acceptance criteria will be customized to each contract/project

**ASSURANCES - CONSTRUCTION PROGRAMS**

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

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

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

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

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

THIS FORM MUST BE EXECUTED

SF-424D (Rev. 7-97) Back

## CERTIFICATION REGARDING LOBBYING LOWER TIER COVERED TRANSACTIONS

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

### LOBBYING

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

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

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

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

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

### Statement for Loan Guarantees and Loan Insurance

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

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

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

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

NAME OF APPLICANT

AWARD NUMBER AND/OR PROJECT NAME

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

SIGNATURE

DATE

THIS FORM MUST BE EXECUTED

## DISCLOSURE OF LOBBYING ACTIVITIES

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

(See reverse for public burden disclosure.)

Approved by OMB

0348-0046

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

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

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

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

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

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

**GENERAL AFFIRMATIONS**

Provider agrees without exception to the following affirmations:

1. Provider certifies that he/she/it has not given, offered to give, nor intends to give at anytime hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
2. Provider certifies that neither Provider nor any firm, corporation, partnership, or institution represented by Provider or anyone acting for such firm, corporation, partnership, or institution has (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or federal antitrust laws; or (2) communicated the contents of the Contract or proposal either directly or indirectly to any competitor or any other person engaged in the same line of business during the procurement process for the Contract or proposal.
3. Provider certifies that if its business address shown on the Contract is a Texas address, that address is the legal business address of Provider and Provider qualifies as a Texas Resident Bidder under Texas Administrative Code, Title 34, Part 1, Chapter 20.
4. Section 2155.004 of the Texas Government Code prohibits the award of a contract that includes proposed financial participation by a person who received compensation from the Subrecipient to participate in preparing the specifications or request for proposals on which the Contract is based. Under Section 2155.004, Government Code, the vendor [Provider] certifies that the individual or business entity named in this bid or Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
5. Under Texas Family Code section 231.006, a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under a contract to provide property, materials, or services. Under Section 231.006, Texas Family Code, the vendor or applicant [Provider] certifies that the individual or business entity named in this Contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
6. Provider agrees that any payments due under the Contract will be applied towards any debt, including but not limited to delinquent taxes and child support, Provider owes to the State of Texas.
7. The Subrecipient is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism and any subsequent changes made to it. The Subrecipient will cross-reference Providers/vendors with the federal System for Award Management (<https://www.sam.gov/>), which includes the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.
8. Provider certifies: 1) that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity; 2) that Provider is in compliance with the State of Texas statutes and rules relating to procurement; and 3) that Provider is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/>.



9. Under Section 2155.006(b) of the Texas Government Code, the Subrecipient may not enter into a contract that includes proposed financial participation by a person who, during the five year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, Provider certifies that the individual or business entity named in the Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
10. The state auditor may conduct an audit or investigation of any entity receiving state funds directly under the Contract or indirectly through a subcontract under the Contract. Acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Provider shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Provider and the requirement to cooperate is included in any subcontract it awards.
11. Provider understands that neither the Subrecipient nor the GLO tolerate any type of fraud. The Subrecipient's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Providers are expected to report any possible fraudulent or dishonest acts, waste, or abuse affecting any transaction with the GLO to the GLO's Internal Audit Director at 512.463.5338 or to [tracey.hall@glo.texas.gov](mailto:tracey.hall@glo.texas.gov).

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

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**GLO Contract Attachment C**  
**GLO Contract No. TBD**

Space Reserved for insertion of the GLO Contract Attachment C.

Once an executed GLO Funding Agreement between the Client and the Agency is available, GLO Contract Attachment C, consisting of the Scope of Work and Budget Exhibits from that executed agreement, will be inserted here.

## NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

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

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

### GENERALLY

The Acts and Regulations specified in this Contract;

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

The Housing and Community Development Act of 1974 (12 U.S.C. § 5301 *et seq.*);

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

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

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

Disaster Recovery Implementation Manual;

Plan for Disaster Recovery; and

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

### CIVIL RIGHTS

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

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

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

Executive Order 11063, as amended by Executive Order 12259, and 24 C. F.R. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063"; The

failure or refusal of Provider to comply with the requirements of Executive Order 11063 or 24 C.F.R. Part 107 shall be a proper basis for the imposition of sanctions specified in 24 C.F.R. 107.60;

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

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

#### **LABOR STANDARDS**

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

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

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

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

Federal Executive Order 11246, as amended;

#### **EMPLOYMENT OPPORTUNITIES**

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

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

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

Federal Executive Order 11246, as amended;

#### **GRANT AND AUDIT STANDARDS**

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

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for

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

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

Title 1 Texas Administrative Code § 5.167(c);

#### **LEAD-BASED PAINT**

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

#### **HISTORIC PROPERTIES**

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

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

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

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

#### **ENVIRONMENTAL LAW AND AUTHORITIES**

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

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

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

#### **FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION**

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

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

### **COASTAL ZONE MANAGEMENT**

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

### **SOLE SOURCE AQUIFERS**

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

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

### **ENDANGERED SPECIES**

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

### **WILD AND SCENIC RIVERS**

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

### **AIR QUALITY**

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

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

### **FARMLAND PROTECTION**

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

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

### **HUD ENVIRONMENTAL STANDARDS**

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

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

**ENVIRONMENTAL JUSTICE**

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

**SUSPENSION AND DEBARMENT**

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

General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and

Nonprocurement Suspension and Debarment (2 C.F.R. Part 2424).

**OTHER REQUIREMENTS**

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

**ACQUISITION / RELOCATION**

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

**FAITH-BASED ACTIVITIES**

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

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

## REQUIRED INSURANCE

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

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

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

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

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

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

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



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

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

**INSURANCE REQUIRED:**

**\$1 MILLION COMMERCIAL GENERAL LIABILITY (EACH OCCURRENCE)**

**\$2 MILLION COMMERCIAL GENERAL LIABILITY (AGGREGATE LIMIT)**

**\$1 MILLION CSL AUTOMOBILE INSURANCE**

**\$1 MILLION ERRORS AND OMISSIONS**

**STATUTORY WORKERS' COMPENSATION & EMPLOYERS LIABILITY**

**- \$1 MILLION EACH ACCIDENT**

**- \$1 MILLION DISEASE EACH EMPLOYEE**

**- \$1 MILLION DISEASE POLICY LIMIT**

**STATUTORY U.S. LONGSHORE AND HARBOR WORKERS' INSURANCE**

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

Insurance Certificates must:

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

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

**REQUIRED FORM OF CERTIFICATE FOLLOWS THIS PAGE**



GLO Contract No. TBD

DATE (MM/DD/YYYY)

**CERTIFICATE OF LIABILITY INSURANCE**

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

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

<b>PRODUCER</b>  <div style="border: 1px solid black; padding: 5px; display: inline-block;">Required form of Insurance</div>	<b>CONTACT NAME:</b>	
	<b>PHONE (A/C, No., Ext):</b>	<b>FAX (A/C, No.):</b>
<b>INSURED</b>	<b>E-MAIL ADDRESS:</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>NAIC #</b>	
	<b>INSURER A:</b>	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
<b>INSURER F:</b>		

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

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

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

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

**CERTIFICATE HOLDER****CANCELLATION**

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

AUTHORIZED REPRESENTATIVE

# **AGENDA ITEM #7**

**City of Kingsville  
Fire Department**

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TO: Mayor and City Commissioners

CC: Charlie Sosa, Interim City Manager

FROM: Juan J. Adame, Fire Chief

DATE: March 06, 2025

SUBJECT: Del Mar College Training (Ride Along) Agreement with Kingsville FD

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**Summary:**

The Kingsville Fire Department is requesting to enter into a Training (Ride Along) Agreement between Del Mar College and the City of Kingsville Fire Department (KFD) for the purposes of allowing Emergency Medical Services (EMS) Students ride out with KFD personnel during their clinical ride along.

**Background:**

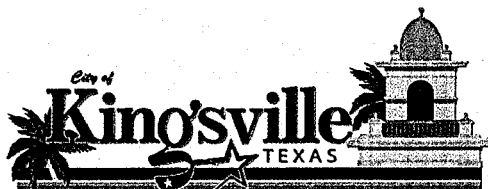
The agreement will allow Del Mar College Students to conduct their required clinical ride along during their EMS training. The KFD will provide and accept EMS Students for experience, training, and instruction in emergency medical practice and treatment aboard a Mobile Intensive Care Unit (MICU) and/or Advance Life Support (ALS) while responding to actual emergencies.

**Financial Impact:**

No financial impact. Del Mar College shall provide and maintain Student Blanket Liability Insurance with liability limits of \$1,000,000.00 per occurrence and \$3,000,000.00 in aggregate and will keep such coverage during the life of this agreement.

**Recommendation:**

Our recommendation is that the Commission enter into the Training (Ride Along) Agreement with Del Mar College.



**RESOLUTION #2025-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A TRAINING (RIDE ALONG) AGREEMENT BETWEEN THE CITY OF KINGSVILLE FIRE DEPARTMENT AND DEL MAR COLLEGE DISTRICT FOR THE TRAINING OF EMERGENCY MEDICAL SERVICES STUDENTS; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Kingsville (City) finds it in the best interest of the citizens of Kingsville, that the City enter into a Training (Ride Along) Agreement Between the City of Kingsville Fire Department and Del Mar College District for the Training of Emergency Medical Services Students; and

**WHEREAS**, the Kingsville Fire Department has been approached by the Del Mar College District to conduct a program of clinical education or field work experience at the Fire Department to help train the school's Emergency Medical Service students; and

**WHEREAS**, the Department is agreeable to conduct the training under the guidelines stated in the attached agreement; and

**WHEREAS**, there is no cost to the City to participate in the agreement; and

**WHEREAS**, the City has entered into similar agreements with the School of EMS and HALO Flight; and

**WHEREAS**, the parties have come to an agreement and now requests the City Commission authorize the Interim City Manager to execute the Training (Ride Along) Agreement Between the City of Kingsville Fire Department and Del Mar College District for the Training of Emergency Medical Services Students.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Commission of the City of Kingsville authorizes the Interim City Manager to execute the Training (Ride Along) Agreement Between the City of Kingsville Fire Department and Del Mar College District for the Training of Emergency Medical Services Students, as per the attached.

II.

**THAT** this Resolution shall be and become effective on or after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission the 24<sup>th</sup> day of March, 2025.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

**TRAINING (RIDE ALONG) AGREEMENT  
BETWEEN THE CITY OF KINGSVILLE FIRE DEPARTMENT  
AND DEL MAR COLLEGE DISTRICT  
FOR THE TRAINING OF EMERGENCY MEDICAL SERVICES STUDENTS**

The agreement is between Del Mar College District (College), an institution of higher education of the State of Texas, and City of KINGSVILLE FIRE DEPARTMENT (City), a municipal corporation and home-rule city of the State of Texas.

WHEREAS, Del Mar College, through its Emergency Medical Services (EMS) program, provides state-approved courses to the public in Emergency Medical Technology as an Emergency Medical Technician (EMT), Advanced Emergency Medical Technician (AEMT), and Paramedic levels (collectively called EMS students); and

WHEREAS, City of Kingsville Fire Department, herein referred to as (KFD) is a major EMS provider within the service district of the College that is capable of providing the required ambulance experience.

WHEREAS, the College and City are authorized to enter into this agreement, and;

**IT IS THEREFORE AGREED AS FOLLOWS:**

1. KFD will accept EMS students for experience, training, and instruction in emergency medical practice and treatment aboard Mobile Intensive Care Unit and/or Advanced Life Support Vehicles responding to actual emergency calls. The number of EMS students aboard any given vehicle shall be determined by the KFD FIRE CHIEF or his/her delegated representative at his/her discretion.
2. KFD will provide a Certified Paramedic on each vehicle, who will directly supervise any emergency care rendered, and any procedures performed by the EMS students. EMS students will be permitted hands-on training during their rotations at the sole discretion of the Medic-in-Command of the vehicle. KFD will instruct EMS students that they are under the strict and direct supervision of the Certified Paramedic and must strictly obey that agent's instructions at all times.
3. The College will provide a Clinical Coordinator to set up scheduling for EMS students and to assure adherence to KFD policy. The Coordinator will provide supervision, rotation scheduling, and record keeping for all EMS students involved in Internship rotations.
4. The College will provide advanced notice of the dates on which the EMS students require rotation, including a roster of personnel and a suggested schedule with the times and dates of rotations. Del Mar College will provide the schedules in advance and update KFD of any changes.

5. The College shall provide and maintain Student Blanket Liability Insurance with liability limits of \$1,000,000.00 per occurrence and \$3,000,000.00 in aggregate, and will keep such coverage during the life of this agreement. Proof of Insurance shall be submitted to the City upon request. City shall receive thirty (30) days written notification of any proposed changes/cancellations of said insurance. The College warrants that all EMS students scheduled will have successfully completed all required didactic and skills course work required by the Texas Department of State Health Services and shall have met all skill competencies and assessments required to begin EMS Internship at the prospective levels of training.
6. As consideration for allowing EMS students to receive hands-on training by KFD, and prior to his/her first rotation, each EMS student will sign a release/waiver agreeing to indemnify and forever hold harmless City, its officers, agents, and employees, for any and all lawsuits, claims, damages, liabilities, losses, and expenses (Including court costs, attorneys fees, and expert witness fees) from, for, or on account of any injury to any person or death at any time resulting from such injury, damages to any property which may arise or which may be alleged to have arisen out of or in connection with any activity by an EMS student pursuant to this agreement. It is agreed by and the intention of the EMS students to indemnify City regardless of whether the claims, demands, or suits rise from the sole or joint negligence of the party indemnified herein. City and the College agree that all EMS students shall execute the release/waiver, and that no EMS student may participate until and unless such release/waiver is executed and delivered to the officials of the College.
7. As to all activities connected with this agreement, neither the College nor City shall be responsible to the other for personal injuries caused by the acts or omissions, if any, of either party or their contractors. Stated otherwise, neither party agrees to indemnify or hold harmless the other party as to personal injuries arising out of this agreement. The liability, if any, of either party shall be that prescribed by the laws of the State of Texas.
8. This agreement shall be effective on \_\_\_\_\_ or on such date as it becomes active by signature of all officials of the parties to the agreement, and shall continue in effect until terminated. Either party may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
9. The EMS students of the College training program under the Agreement are not employees of KFD and no employer/employee or master/servant relationship is established by this agreement.



CITY OF KINGSVILLE

DEL MAR COLLEGE DISTRICT

\_\_\_\_\_  
Charlie Sosa, Interim City Manager

Date: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #8**

## City of Kingsville Fire Department

---

TO: Mayor and City Commissioners

CC: Charlie Sosa, Interim City Manager

FROM: Juan J. Adame, Fire Chief

DATE: March 14, 2025, 2025

SUBJECT: Intergovernmental Agreement with Emergicon Emergency Medical Billing

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### **Summary:**

The Kingsville Fire Department is requesting to establish an intergovernmental agreement with Emergicon Emergency Medical Billing for the purpose of managing the Fire Department's EMS billing operations.

### **Background:**

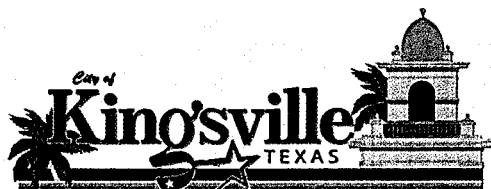
This agreement will allow Emergicon Emergency Medical Billing to enhance our EMS billing processes. This collaboration is driven by the need for a more efficient and effective billing system that can optimize revenue recovery and streamline operations.

### **Financial Impact:**

The financial impact of this agreement entails that the City of Kingsville will compensate Emergicon with a fee of nine percent (9.0%) of all revenues collected on their behalf. Additionally, any credit card payments processed by Emergicon will incur an extra charge of two percent (2.0%), unless this fee is offset by a convenience fee paid by the payer. This structure is designed to ensure that the Client benefits from efficient revenue collection while covering the associated processing costs.

### **Recommendation:**

The Kingsville Fire Department recommendation is to enter into the Intergovernmental Agreement with Emergicon Emergency Medical Billing.



**RESOLUTION #2025-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO ENTER INTO A BUSINESS ASSOCIATE AGREEMENT AND AN AGREEMENT FOR SPECIALIZED PROFESSIONAL AMBULANCE BILLING SERVICES BETWEEN THE CITY OF KINGSVILLE AND EMERGICON, LLC; REPEALING ALL CONFLICTING RESOLUTIONS AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Kingsville has need for improved management of its Fire Department EMS billing operations;

**WHEREAS**, staff has met with vendors and determined Emergicon, LLC is the best value for the City;

**WHEREAS**, the City believes Emergicon, LLC can provide a more efficient and effective billing system, while optimizing revenue recovery and streamlining operations;

**WHEREAS**, the City and Emergicon, LLC have negotiated the terms of two complimentary agreements they now ask the Commission to approve, a Business Associate Agreement and an Agreement for Specialized Professional Ambulance Billing Services;

**BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

**I.**

**THAT** the Interim City Manager is authorized and directed as an act of the City of Kingsville, Texas to enter into a Business Associate Agreement and an Agreement for Specialized Professional Ambulance Billing Services between the City of Kingsville and Emergicon, LLC in accordance with Exhibit A hereto attached and made a part hereof.

**II.**

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

**III.**

**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission on the  
24th day of March, 2025.

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

**Business Associate Agreement Between  
City of Kingsville  
and Emergicon, LLC**

This Business Associate Agreement (“Agreement”) between Department and Emergicon, LLC is executed to ensure that Emergicon, LLC will appropriately safeguard protected health information (“PHI”) that is created, received, maintained, or transmitted on behalf of Department in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended (“HIPAA”), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the “HITECH Act”).

**A. General Provisions**

1. **Meaning of Terms.** The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.

**B. Obligations of Business Associate**

Emergicon, LLC, agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information (“e- PHI”) and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
3. Report to Department any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to Department without unreasonable delay but in no case later than 60 days after discovery of the breach;
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Emergicon, LLC agree to the same restrictions, conditions, and requirements that apply to Emergicon, LLC with respect to such information;

5. Make PHI in a designated record set available to Department and to an individual who has a right of access in a manner that satisfies Department's obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;
6. Make any amendment(s) to PHI in a designated record set as directed by Department, or take other measures necessary to satisfy Department's obligations under 45 CFR §164.526;
7. Maintain and make available information required to provide an accounting of disclosures to Department or an individual who has a right to an accounting within 60 days and necessary to satisfy Department's obligations under 45 CFR §164.528;
8. To the extent that Emergicon, LLC is to carry out any of Department's obligations under the HIPAA Privacy Rule, Emergicon, LLC shall comply with the requirements of the Privacy Rule that apply to Department when it carries out that obligation;
9. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Emergicon, LLC on behalf of Department, available to the Secretary of the of Health and Human Services for purposes of determining Emergicon, LLC and Department's compliance with HIPAA and the HITECH Act;
10. Restrict the use or disclosure of PHI if Department notifies Emergicon, LLC of any restriction on the use or disclosure of PHI that Department has agreed to or is required to abide by under 45 CFR §164.522; and
11. If Department is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Emergicon, LLC agrees to assist Department in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of Department's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of Department agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting Department of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to Department of any threat of identity theft as a result of the incident.

**C. Permitted Uses and Disclosures by Business Associate**

The specific uses and disclosures of PHI that may be made by Emergicon, LLC on behalf of Department include:

1. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by Department to its patients;
2. Preparation of reminder notices and documents pertaining to collections of overdue accounts;
3. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by Department to its patients or to appeal denials of payment for the same; and
4. Other uses or disclosures of PHI as permitted by HIPAA necessary to perform the services that Emergicon, LLC has been engaged to perform on behalf of Department.

**D. Termination**

1. This Agreement may be terminated with or without cause, by either party, upon written notice to the other party with thirty (30) days' notice and a 90-day close-out period to follow.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement if feasible.
3. Upon termination of this Agreement for any reason, Emergicon, LLC shall return to Department or destroy all PHI received from Department, or created, maintained, or received by Emergicon, LLC on behalf of Department that Emergicon, LLC still maintains in any form. Emergicon, LLC shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

Agreed to this \_\_\_\_ day of \_\_\_\_, 2025

Emergicon, L.L.C.

City of Kingsville

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_



## **AGREEMENT FOR SPECIALIZED PROFESSIONAL AMBULANCE BILLING SERVICES**

This Agreement for Specialized Professional Ambulance Billing Services (this “Agreement”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by and between Emergicon, LLC, a Texas limited liability corporation and City of Kingsville, TX, a Texas municipality, (“Client”).

### **RECITALS**

WHEREAS, Client provides emergency and/or non-emergency ambulance services for which it is eligible for payment or reimbursement by patients, insurance carriers, governmental agencies, employers and others;

WHEREAS, Emergicon is engaged in the business of providing third-party billing and accounts receivable management specialized professional services for ambulance and emergency medical service organizations;

WHEREAS, Client desires to utilize Emergicon for billing and claims management services for its organization; and

WHEREAS, Emergicon is willing to provide such specialized professional services upon the terms and conditions provided in this Agreement;

THEREFORE, in consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, the sufficiency of which is acknowledged, the parties, intending to be legally bound, agree as follows:

1. Appointment. Client hereby engages Emergicon to perform the Specialized Professional Services set described in Paragraph 2 of this Agreement and Emergicon accepts such appointment and agrees to provide Specialized Professional Services in accordance with the terms of this Agreement. Client agrees that this appointment is exclusive and that Client will not enter into any contract, agreement, arrangement or understanding with any other person or entity, the purpose of which is to provide for the same or substantially similar specialized professional services during the term of the Agreement, nor will Client bill for any transport without first giving notice to Emergicon of its intent to do so. For purposes of the appointment, the recitals set forth above are incorporated by reference and made a part of this Agreement as if set forth in their entirety.

2. Specialized Professional Services. Emergicon agrees to perform the following duties (collectively referred to as the “Services”) on behalf of Client:

a. Provide Client with instructions for the submission of Required Documentation to Emergicon. For purposes of this Agreement, “Required Documentation” shall consist of prehospital patient care reports (PCRs) (also referred to as “trip sheets” or “run reports”), medical necessity certification statements (PCSs or CMNs) (required for non-emergency transports), patient authorization signatures (sometimes referred to as “assignment of benefits forms” or “signature forms”), Advance Beneficiary Notices of Non-coverage (ABNs) and other

documentation necessary for Emergicon to perform the Specialized Professional Services under this Agreement. All Required Documentation must be signed in accordance with applicable laws, regulations and payer guidelines.

b. Review the Required Documentation, based on the information supplied by Client, for completeness and eligibility for submission to request reimbursement and to verify compliance under applicable laws, regulations or payer rules, based upon Emergicon's understanding of said laws, regulations or payer rules applicable to the date the ambulance services were rendered. If any Required Documentation is missing, Emergicon will request necessary documentation from Client.

c. Promptly prepare and submit claims deemed complete and eligible for reimbursement by Emergicon in conformance with this Agreement for electronic or paper submission to the appropriate party or payer based on the information supplied by Client. In the event that Emergicon deems the Required Documentation to be incomplete or inconsistent, Emergicon will notify Client that additional information may be required to process the claim, and Emergicon will return any or all of the Required Documentation to Client that Emergicon determines may be incomplete or inaccurate and will not be responsible to submit any claims with insufficient documentation. Emergicon will make a decision regarding the appropriate coding and payer for submission of the claim based on the information supplied by Client. Client understands and acknowledges that not all accounts will satisfy the eligibility requirements of all payers, and that it might not be possible to obtain reimbursement in all cases. Emergicon makes no representation or warranty that all claims are payable or will be paid, and Client agrees to abide by Emergicon's decisions with regard to proper coding and payer based on the information provided to Emergicon by Client.

d. Promptly post payments made on Client's behalf by patients, insurers and others.

e. Unless otherwise directed by Client, make reasonable efforts for the collection of co-payments, deductibles or other patient balances, to include the preparation of invoices and a maximum of three contact attempts to patients, supplemental insurers or other financially responsible parties at industry-appropriate intervals.

f. Perform follow-up for a commercially reasonable period of time following the initial billing date on all open accounts. After this follow-up period, Emergicon will either return the accounts to Client or forward the accounts to a collection agency of Client's choosing. Client and/or its designated collection agency shall bear all costs and liabilities of collections activities and collection agency charges.

g. Provide monthly reports to Client, which include, at a minimum, cash received, accounts receivable and balance summary. Emergicon shall furnish those reports to Client.

h. Notify Client of any overpayments and/or credit balances of which Emergicon becomes aware that must be refunded by Client. Client bears sole responsibility for the refund of any overpayments or credit balances to Medicare, Medicaid, patients, or other payers

or insurers, and agrees to make such refunds when and within the time frames required by law. Emergicon may, at its option, assist Client in processing such refunds, but all refunds are to be made solely with Client's funds, and Emergicon has no responsibility to make such refunds unless and until Client transfers such funds to Emergicon for this purpose. Emergicon shall not advance funds on behalf of Client for this purpose. Client acknowledges that federal law requires that any overpayments made by Medicare or any other federal health care program be refunded within 60 days of the identification of any such overpayments.

i. If Client desires that its patients be able to pay their accounts utilizing credit cards, establish a credit card merchant account and related capabilities to permit Client's patients to pay via any major credit card. Emergicon shall in its sole discretion determine which credit cards it will accept. Any credit card processing fee shall be the responsibility of Client, unless offset by a fee to the patient.

j. Assist Client in preparing, filing and updating the information on its Medicare, Medicaid or other insurer provider enrollment forms, as well as responding to required revalidations of Client's provider enrollment status. Client bears the sole responsibility to ensure that its Medicare, Medicaid or other insurer provider enrollment forms are submitted and updated in accordance with federal and state law, regulations and policies, and that they do so in a timely manner. If Client's status as a Medicare or Medicaid provider has lapsed prior to the effective date of this Agreement, Emergicon shall re-enroll Client for an additional fee as described in paragraph 10(e).

3. Specifically Excluded Duties of Emergicon. Notwithstanding any provisions of this Agreement to the contrary, Emergicon shall *not* be responsible to:

- a. Initiate or pursue litigation for the collection of past due accounts.
- b. Invoice for Client's non-ambulance medical transportation services, including but not limited to mobile integrated health programs, paratransit services, wheelchair van, invalid coach services, litter vans and stretcher cars, unless specific arrangements are made otherwise.
- c. Negotiate any checks made payable to Client, though Emergicon may receive funds as an agent of Client for transmittal to Client where permitted by Client;
- d. Accept reassignment of any benefits payable to Client;
- e. Provide legal advice or legal services to Client, any of Client's patients or payers, or anyone acting on Client's behalf;
- f. Obtain any prior authorizations on behalf of Client, or obtain a Physician Certification Statement or other Certificate of Medical Necessity on behalf of Client.

4. Responsibilities of Client. Client agrees to do the following, at its sole cost and expense:

a. Provide Emergicon with all Required Documentation, as set forth in Paragraph 2(a), above, as well as the following data: Patient Name, Address, and contact phone number, Date of Birth, Date of Service, Patient Medical Condition, basis for ALS dispatch, Reason for Transport, Services Rendered (including assessments, interventions and other care), Origin and Destination with accompanying Zip Code, Transport Destination with accompanying Zip Code, Odometer Reading/Loaded Mileage (to the nearest tenth of a mile), and all relevant insurer or payer information, including identity of payer, group or plan numbers, patient's Insurance/Medicare/Medicaid Number, and all other relevant information and ensure that this data and the information contained on the Required Documentation is complete and accurate. Emergicon reserves the right to modify any Required Documentation or data at any time in accordance with new or revised payer requirements and will provide a copy of any such revisions to Client in writing. Client acknowledges that Emergicon must rely upon the accuracy and completeness of the forms, signatures and other documentation provided to it by Client to allow Emergicon to perform the Specialized Professional Services specified in this Agreement. Emergicon is not able to verify the accuracy or completeness of the Required Documentation provided by Client. By forwarding any such documentation to Emergicon, Client expressly represents and warrants that any such documentation is complete and accurate, and that Emergicon may rely upon the completeness and accuracy of any such documentation in performing its Services under this Agreement. Client bears sole responsibility for the claim submissions made by Emergicon on its behalf based upon the aforementioned documentation submitted to Emergicon by Client, and, notwithstanding any other term or provision of this Agreement, Client will, to the extent allowed by law, reimburse Emergicon, for any losses arising from billing or claim submission decisions made by Emergicon based on documentation submitted to Emergicon by Client if such documentation is later determined to be incomplete or inaccurate.

b. Maintain its qualifications to provide ambulance services, including any required local, state and/or federal licenses, permits, certificates or enrollments (collectively, "Licenses"), and to remain in good standing with Medicare, Medicaid and all other state and federal health care programs. Client shall provide copies of all current Licenses, including renewals, to Emergicon. Client shall be responsible to maintain a National Provider Identifier (NPI) number and to update the information associated with its NPI. Client expressly represents and warrants that it will not forward accounts for processing by Emergicon if the account is ineligible for payment or reimbursement, or if Client is ineligible for payment by any payers or insurers as a result of its licensure status, exclusion or other sanction with such payer or insurer, or other legal impediment, and that it will promptly notify Emergicon of any suspension or revocation of any required license, permit, certification or enrollment, or exclusion from any state or federal health care program or any change in ownership or management of Client. Failure of Client to give the notice required by this section may result in Client having to refund paid claims; Client agrees and understands that any such refund will be the sole responsibility of Client and that any fee due from Client to Emergicon for the billing of such claims will remain due and payable to Emergicon regardless of Client's repayment obligation.

c. Provide Emergicon with a copy of all required Licenses, permits, certificates and enrollments as referenced in Paragraph 4(b), and forward updates of these documents to Emergicon as they are renewed.

d. Provide Emergicon with odometer readings or other documentation of

mileage accepted by the payer on all calls reflecting loaded mileage (from the point of patient pickup to the destination) recorded in tenths of a mile as required by Medicare guidelines.

e. In accordance with appropriate payer guidelines, obtain the signature of the patient or other authorized representative of the patient or otherwise meet the ambulance signature requirements set forth at 42 C.F.R. § 424.36 on each call and forward to Emergicon as part of the Required Documentation.

f. In the event that Client operates a subscription, membership, or resident write-off program, Client represents and warrants that its program is actuarially sound in accordance with the guidance of the Office of Inspector General (OIG) and operated in accordance with any applicable state laws, regulations or guidelines. Emergicon will bill in accordance with the terms of such program, provided that Client furnishes those terms to Emergicon in writing. Client is responsible to inform Emergicon of its patients who are members or subscribers of Client's membership or subscription program. Notwithstanding any other provision of this Agreement, Client agrees to reimburse Emergicon, to the extent allowed by law, for any losses arising from Client's membership or subscription program in the event that Client's subscription or membership program is not actuarially sound as set forth in applicable OIG guidance or is not permissible under State law, regulation or policy.

g. If Client is a party to any ALS-BLS "joint billing" or "bundle billing" agreement, Client shall be responsible to provide Emergicon with a copy of such agreement. Client also agrees to submit a PCR from the other party to the joint billing agreement along with the Required Documentation.

h. Obtain a completed and valid PCS or CMN form on all trips where required by law and provide copies of all PCS or CMN forms to Emergicon as part of the Required Documentation.

i. Provide Emergicon with a copy of all Client rate schedules, contracts or agreements which pertain to Client's billing or charges for services.

j. Notify Emergicon of any or all changes in billing charges for service or changes in any of Client's billing policies or contracts not later than ten (10) days after the Client approval date of said changes.

k. Report all payments made directly to Client within twenty-four (24) hours of Client's receipt of same, excluding Saturday, Sunday, and official government holidays.

l. Cooperate reasonably with Emergicon so as to enable Emergicon to meet its obligations under this Agreement. In the event that Client's approval is required in order for Emergicon to fulfill any obligations it may have under this Agreement, Client shall not unreasonably withhold, condition or delay its approval.

m. In writing, notify Emergicon of any customized needs (reporting, scheduling, support for Texas Ambulance Supplemental Payment Program (TASPP), etc.). Client understands that the processing of customized needs may entail additional charges to Client by

Emergicon.

n. Designate a contact person or position, or official designee, authorized to represent the business interests on behalf of Client, who can promptly respond to any questions raised by Emergicon, or who can execute required forms and other documents necessary to the provision of Services by Emergicon under this Agreement.

o. Agree to permit Emergicon to provide training to Client personnel in the event that Emergicon deems such training to be necessary and/or desirable at a cost to be mutually agreed upon by the parties and paid by Client.

p. Provide electronic transfer of PCR data in an acceptable NEMESIS format to Emergicon. Client agrees to bear all cost of the development and implementation of the electronic software "bridge" as mutually agreed upon by the parties and in conjunction with Emergicon information technology personnel, representatives, or contractors.

q. To the extent allowed by law, Client will defend and hold harmless Emergicon and each of its officers, directors, employees, attorneys, and agents, to the extent allowed by applicable law, from and against any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines and causes of action which arise or result from:

- i. Any negligent acts or omissions resulting in claims or liabilities due to an incurable breach or violation of covenant, obligation, or agreement of Client set forth in this Agreement and any incurable breach or inaccuracy of any of the representations or warranties made by Client in this Agreement or in performing its responsibilities under this Agreement.
- ii. Both parties agree that defense of breach or violation of the Agreement by Client under this Section 4(q) does not constitute the Client's incurrence of a debt in violation of Article XI Section 7 A. of the Texas Constitution and defined by the Supreme Court in *Tex. & New Orleans R.R. Co. v. Galveston County*, 169 S.W.2d 713, 715 (Tex. 1943).

5. Record Ownership and Access.

a. Client understands that all documentation provided to Emergicon by Client, whether in paper and/or electronic form, is for the sole and express purpose of permitting Emergicon to provide Specialized Professional Services under this Agreement. It is Client's responsibility to maintain all of its documents and business records, including copies of any documents or records provided to Emergicon ("Client-Provided Records"). Emergicon does not act as Client's records custodian.

b. As a convenience to Client, Emergicon will, during the term of this Agreement, produce patient care reports in response to routine attorney requests (with appropriate patient authorization) for such documentation, if those records are in Emergicon's possession at the time it receives such attorney request. For subpoenas, as well as any requests beyond those deemed by Emergicon to be routine attorney requests, Emergicon may forward such requests to

Client for disposition. Emergicon may set a reasonable fee for such service and collect said fee for the services set forth in this paragraph. Any such fee will be the obligation of the patient or the party requesting on their behalf, and Client will not be responsible for any failure of a patient or party to pay said fee.

c. During the term of this Agreement, Emergicon shall, upon Client's written request, provide to Client, in electronic format and within 14 days of receipt of such written request, copies of any Client-Provided Records furnished to Emergicon by Client, and to any Claim Adjudication Documents generated by and received from insurers or payers in response to claims submitted by Emergicon on Client's behalf. "Claim Adjudication Documents" shall consist of the documents generated secondary to claim submission in the normal course of claim processing by payers and insurers, including Explanation of Benefits (EOB) documents, Remittance Advice (RA) documents, Medicare Summary Notice (MSN) documents, denials, and other documents of a similar type or nature.

d. Any documents, data, records, or information compiled in the course of Emergicon's provision of Specialized Professional Services under this Agreement, other than those Client-Provided Records and Claim Adjudication Documents defined in Paragraphs 5(a) and (c) above, shall be the sole and exclusive property of Emergicon and shall be considered the business and/or proprietary records of Emergicon. Emergicon shall have no obligation to furnish any such business or proprietary records of Emergicon to Client, and Client shall have a right of access only to the Client-Provided Records and Claim Adjudication Documents as defined in Paragraphs 5(a) and (c), above.

e. If Client or a third party requests any documents or records to which Client or the third party has a right of access under Paragraphs 5(a) and (c) of this Agreement, and such documents cannot be provided to Client or the third party in electronic form, Emergicon may charge Client the per-copy amount for medical records permitted under the Texas Medical Board rules at the time of Client's request.

f. Should this Agreement be terminated for any reason, all documents and records to which Client has a right of access under Paragraphs 5(a) and (c) of this Agreement shall be maintained in electronic format at a site convenient to Emergicon for a reasonable amount of time for follow-up of all open claims, but in any event not to exceed ninety (90) days following the effective date of termination of this Agreement. Electronic or paper copies, as per Paragraph 5(e) hereof, of the records to which Client has a right of access under Paragraphs 5(a) and (c) will be made available to Client, at Client's sole cost and expense, in a format acceptable to Emergicon at the Client's written request provided that Client makes such request within thirty (30) days following termination of the Agreement, and provided that Client has no outstanding invoices due to Emergicon at the time of the request. Emergicon shall have absolutely no responsibility whatsoever after termination of this Agreement to provide any monthly reports or other such Emergicon-generated reports to Client.

g. Upon termination of this Agreement, Client is responsible to notify all payers, patients, and other correspondents of its new address, phone and/or fax numbers for billing or payment purposes. Notwithstanding any other provisions of this Agreement to the contrary, Emergicon will not be responsible for mail, deliveries, faxes, messages or other communications

sent in Client's name to Emergicon after a 90-day close-out period following the effective termination date of this Agreement, and Emergicon shall have no duty to accept, maintain, copy, deliver or forward any such communications to Client following termination and close-out of this Agreement.

h. Costs for copies of documents required and/or requested by Client beyond the requirement of the normal daily claim handling requirements will be invoiced to Client by Emergicon at a per copy price per the Texas Medical Board rules at the time of the request.

6. Client Accounting and Auditing Requirements. If Client requires Emergicon's assistance in Client's accounting or other internal audits, Emergicon will charge Client for said audit support services at its customary rates, to be established by Emergicon from time to time. Upon written request of Client for same, Emergicon shall furnish said rates to Client in writing prior to undertaking any work pursuant to this Paragraph.

7. Term and Termination.

a. This Agreement is for an initial term of one year and will automatically renew for successive like terms unless terminated hereunder.

b. This Agreement may be terminated with or without cause, by either party, upon written notice to the other party with thirty (30) days' notice and a 90-day close-out period to follow.

c. This Agreement may be terminated by Emergicon immediately upon written notice to Client for any of the following reasons:

- i. If Client makes an assignment indicating Client financial insecurity for the benefit of creditors, files a voluntary or involuntary petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for the appointment of any receiver of any trustee over its assets or properties, commences any proceeding under any reorganization, arrangement, readjustment of debt or similar law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against the other party any such proceeding which remains un-dismissed, un-stayed, or the other party by any act or any omission to act indicated its consent to, approval of or acquiescence in any such proceeding or the appointment of any receiver or of any trustee, or suffers any such receivership or trusteeship to continue undischarged, un-stayed, or un-vacated for a period of thirty (30) days.
- ii. If Client loses its license, permit or certification necessary to do business, or is excluded from any state or federal health care program.
- iii. If Client fails to perform any of its responsibilities as set forth in this Agreement, fails to pay Emergicon for its Specialized Professional Services within thirty (30) days of the date such payment becomes due,



takes any actions which Emergicon, in its sole discretion, determines to be unethical, illegal, immoral or non-compliant, or fails to cooperate with Emergicon in any way that prevents, impedes, obstructs, or delays Emergicon in the performance of the Specialized Professional Services set forth in this Agreement.

d. Upon termination for any reason, Emergicon shall perform follow-up on any open accounts submitted by Emergicon on Client's behalf for a period not to exceed ninety (90) days from the date of termination. Emergicon shall have no responsibility to perform such follow-up in the event Client takes any actions which prevent Emergicon from engaging in such follow-up, or in the event that Client has any unpaid balances due to Emergicon on the date of termination of this Agreement.

e. Upon termination for any reason, Client shall be responsible to pay the fees set forth in Paragraph 10(a), below, for all revenues collected by Emergicon on Client's behalf and for all claims billed on Client's behalf pursuant to Paragraph 10(b), below, during the 90-day follow-up period set forth in Paragraph 7(d), above. After notice of termination is given, all Emergicon invoices are due and payable by Client within five (5) days of same. In the event that Client does not remit payment on any such invoice within five (5) days of the invoice, Emergicon shall have no responsibility to perform any further follow-up on open accounts, notwithstanding the provisions of Paragraph 7(d), above.

8. External and Internal Audits.

a. Client shall immediately notify Emergicon if there has been any prepayment audit or review, post payment audit or review, or any investigation or other formal inquiry into the billing practices of Client and/or Emergicon, or claims submitted by Emergicon on behalf of Client, where such audit or investigation is or appears to have been initiated by any governmental agency, insurer, payer, carrier, Medicare Administrative Contractor, Recovery Audit Contractor, Zone Program Integrity Contractor, Unified Program Integrity Contractor, Medicaid Fraud Control Unit, other Medicare or Medicaid contractor or other agency or entity authorized to carry out any such audit or investigation. This obligation shall survive termination of this Agreement for any reason.

b. The Client bears sole responsibility for obtaining and paying for any legal or consulting assistance necessary in defending itself in any such audit or investigation. Emergicon shall assist Client in producing any records, reports or documents in its possession which pertain to the audit or investigation and may charge Client a reasonable fee, as determined by Texas Medical Board rules at the time of the request, for copying, preparation, assembly or retrieval of such documents or reports. Emergicon shall have no obligation to perform any duties under this Paragraph 8(b) following termination of this Agreement for any reason.

c. Client is solely responsible for repaying any overpayments or recoupments sought or imposed by any insurer, carrier, payer or governmental agency or contractor, including interest, civil monetary penalties, fines or other such assessments.

d. Client understands and acknowledges that Emergicon, as part of its

compliance program, may on occasion, and at its sole discretion, perform or contract for the performance of periodic, random, internal audits of its coding, billing and other business practices. These voluntary, internal compliance audits may reveal the existence of Client overpayments, and Client agrees that any such overpayments identified by Emergicon in its internal auditing process will be refunded by Client as described in more detail in Paragraph 2(h) of this Agreement.

9. Disposition of Funds.

a. All funds Emergicon receives from third party payers, patients or other sources for ambulance services provided by Client shall be made in the name Client. Client authorizes Emergicon to endorse, deposit, and otherwise negotiate items as the Client's representative and forward monthly to Client or deposit into a Client account as directed by Client.

b. If Client desires that its patients be able to pay their accounts utilizing credit cards, then Emergicon shall accept credit card payments on behalf of Client's patients in a manner that is secure and agreed upon by the parties, and only to the extent possible and feasible, without making Emergicon a collection agency and responsible for compliance with the federal Fair Debt Collection Practices Act and other state or federal debt collection laws.

c. Emergicon shall not accept a reassignment of any benefits where prohibited by law.

10. Compensation.

a. In exchange for the Specialized Professional Services described in this Agreement, Client shall pay Emergicon a fee equivalent to        percent ( .0%) of all revenues collected by Emergicon on behalf of Client. Credit card payments accepted by Emergicon will be charged an additional        percent ( .0%) unless it has been offset by a payer convenience fee.

b. For all payers that prohibit percentage-based billing arrangements, such as Department of State Health Services' (DSHS') Children with Special Health Care Needs (CSHCN) Services Program, Client shall pay Emergicon a flat fee of \$        per trip, to be invoiced at the time of billing.

c. If Client instructs Emergicon to collect on an account(s) initially billed by another contractor or by Client's own collections team, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: -  
Percent (        %) of the total amount collected on the account.

d. If Client instructs Emergicon to continue to pursue accounts with balances beyond 120 days from the date of transport, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule:        Percent (        %) of the total amount collected on the account from such initial day Emergicon initiates such efforts.

e. If Client instructs Emergicon to place accounts with a third-party collection agency beyond 120 days from the date of transport, Emergicon shall be compensated

and paid for the collection efforts on said account in accordance with the following schedule:  
1        Percent (1 %) of the total amount collected on the account from such initial day  
Emergicon initiates such efforts.

f.        If Client is disenrolled or inactive as a Medicare or Medicaid provider prior to the effective date of this Agreement, Emergicon shall re-enroll Client for an additional fee of        for Medicare and        ) for Medicaid, plus any fees assessed by the Centers for Medicare & Medicaid Services.

g.        If Client switches the bank account to which Emergicon has been instructed to deposit collections, Client shall pay Emergicon a one-time fee of \$        to be payable in connection with the next subsequent invoice submitted by Emergicon.

h.        Emergicon will retain any commissions owed net cash receipts collected for a given month received directly by Emergicon. Any invoices submitted to Client by Emergicon are subject to net 30 terms from the date invoiced for any balance owed on accounts. Emergicon reserves the right to add simple interest at an annual rate of        %, compounded daily, on all where Emergicon has not received payment within (30) days of the invoice date.

i.        In the event that Client is obligated to refund any overpayment or credit balance as set forth in Paragraph 2(h), fees paid to Emergicon by Client for such refunded overpayment or credit balance shall not be credited or refunded to Client unless Emergicon bears responsibility for the overpayment or credit balance.

j.        Client agree to reimburse \$35 for any checks returned for insufficient funds as a result of this Agreement.

k.        Emergicon agrees to notify Client sixty (60) days in advance of any price increase.

#### 11.        Indemnification and Insurance.

a.        In addition to any specific provisions set forth in this Agreement, to the extent allowed by law, Client shall reimburse Emergicon and/or its employees, officers, directors and agents for any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines, and causes of action to the extent caused by any willful or grossly negligent act or omission on the part of Client or its agents, servants, volunteers, contractors or employees including but not limited to incomplete or inaccurate patient care reports, improperly completed PCS forms, or other documentation issues that make it impossible for Emergicon to properly code and bill claims. This provision shall include all costs and disbursements, including without limitation court costs and reasonable attorneys' fees.

b.        In addition to any specific indemnification provisions set forth in this Agreement, to the extent allowed by law, Emergicon shall hold harmless, indemnify and defend Client and/or its employees, officers, directors and agents from and against any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines and causes of action to the extent caused by any willful or grossly negligent misconduct of any Emergicon agent, servant,

contractor or employee and which relate to the Specialized Professional Services performed by Emergicon under this Agreement.

c. Emergicon shall maintain errors and omissions insurance coverage in an amount not less than \$4,000,000. Client will be named as an additional insured under the policy and Emergicon shall provide proof of such coverage to Client upon reasonable written request for same.

d. Notwithstanding any other provision of this Agreement, Emergicon shall not be liable for any damages, including but not limited to loss in profits, or for any special, incidental, indirect, consequential or other similar damages suffered in whole, or in part, in connection with this Agreement. Any liability of Emergicon for any disputed billing performed by Emergicon on behalf of Client shall not exceed any amounts paid to Emergicon by Client under this Agreement.

e. Where any provision of this Agreement obligates either party to defend, indemnify, hold harmless, and/or reimburse the other party, such agreement shall include any claims, losses, assessments or damages of any kind, and shall apply equally to that party and to its employees, owners, agents, contractors, attorneys, consultants, accountants, and servants.

f. It is expressly agreed and understood by both parties that certain repayment or refund demands may be made by insurance payers that are not the result of negligence on the part of either party and therefore are not subject to indemnity as set forth in paragraph 11. Specifically, there may be claims that are audited or reviewed and later determined not to be medically necessary, not to justify the level of care provided and/or billed or otherwise denied or down-coded to a lower level of service. In this situation, the parties will work together to respond to and appeal such denials, and if determined that repayment is in fact due after the exhaustion of such available appeals, the parties will pay their pro-rata share of refund based on the % set forth in paragraph 10.a. above.

## 12. Software Recoupment.

a. Emergicon shall pay the software licensing and related fees (the "ESO Fees") directly to ESO Solutions, Inc. ("ESO") on behalf of Client to facilitate uninterrupted access to the ESO software required for EMS billing and records management only. This does not include ESO services related to fire billing or other non-EMS modules.

b. Client acknowledges and agrees that all ESO Fees paid by Emergicon on its behalf shall be fully reimbursed by Client, regardless of the Client's financial condition, collections performance, or termination of this Agreement.

c. Emergicon shall deduct ESO Fees in equal installments from Client's net collections before remitting the remaining balance to Client. If collections in any given month are insufficient to cover the installment, the outstanding amount will roll over to the next collection period until fully satisfied.

d. Emergicon's obligation to pay ESO Fees shall cease immediately upon

termination of this Agreement, and Client shall assume direct responsibility for any outstanding ESO Fees owed to ESO.

e. If this Agreement is terminated for any reason, Client shall immediately assume all financial obligations to ESO and hold Emergicon harmless from any further ESO-related costs.

f. Client agrees that any outstanding ESO Fees shall be due within fifteen (15) days of termination, and Client shall work directly with ESO to continue or terminate its subscription.

g. Client waives any claims against Emergicon for fees, penalties, or service disruptions resulting from termination of ESO access due to non-payment.

h. Client acknowledges that Emergicon is only facilitating ESO payment as a financial intermediary and has no independent obligation to ESO beyond the terms of this Agreement.

i. In the event of termination, Client agrees to indemnify, defend, and hold harmless Emergicon from any liability, costs, or legal claims from ESO related to unpaid fees or contract disputes.

j. Client further agrees that Emergicon shall be automatically released from the ESO SPA upon termination of this Agreement, and any obligations to ESO shall transfer to Client.

k. Emergicon's commitment to pay ESO Fees is contingent upon the continued execution of this Agreement, including but not limited to the agreed-upon go-live date and onboarding process. 5.2. Any delays, interruptions, or modifications to the onboarding process or billing cycle initiated by Client shall not relieve Client from its ESO Fee repayment obligations.

13. Confidentiality. Neither Emergicon nor Client shall, during the term of this Agreement or for any extension hereof, for any reason, disclose to any third parties any proprietary information regarding the other party unless required to do so by law, regulation or subpoena. Emergicon acknowledges the Client requirements under the Public Information Act. For purposes of this Agreement, "proprietary information" shall include, but not be limited to, pricing or rate information, information pertaining to contracts with payers, insurers, facilities, ambulance providers, health care systems, or other such parties, audit requests, audit results, billing processes, client lists or other such information.

14. Compliance.

a. Emergicon will conduct its activities and operations in compliance with all state and federal statutes, rules and regulations applicable to billing activities.

b. Client shall conduct its activities, operations and documentation in compliance with all applicable state and federal statutes, rules and regulations. Client expressly represents and warrants that it is under no legal impediment to billing or receiving reimbursement

for its services, and that all of Client's personnel are appropriately licensed and/or certified to furnish the services provided by Client. Client agrees to reimburse Emergicon, to the extent allowed by law, for any and all claims, damages and losses caused by Client sending accounts to Emergicon which are ineligible for billing and/or reimbursement for any reason.

c. Each party is responsible for monitoring and ensuring its own compliance with all applicable state and federal laws and regulations pertaining to billing and reimbursement for its services. However, either party which becomes aware of a violation of any such state or federal laws or regulations or of a questionable claim or claim practice agrees to notify the other party within fifteen (15) days so the other party may appropriately address the matter.

d. The parties represent that they are not the subject of any actions or investigations pertaining to its participation in or standing with any state or federal health care program, are not subject to exclusion from any state and/or federal health care program, and that no persons providing services for which reimbursement is sought were at the time such services were rendered excluded from any state or Federal health care program.

e. The parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

15. Non-Engagement of Individuals on the OIG Exclusion List. The parties further warrant that each will take all reasonable steps as set forth by the Office of Inspector General, United States Department of Health and Human Service, to ensure that it does not employ or otherwise engage individuals who have been excluded from participation in federal health care programs. The parties agree to periodically check the OIG exclusion website to ensure that employees, volunteers and all others providing services for each respective organization are not excluded. The website is: <http://exclusions.oig.hhs.gov>.

16. Independent Contractor Relationship. Emergicon and Client stand in an independent contractor relationship to one another and shall not be considered as joint ventures or partners, and nothing herein shall be construed to authorize either party to act as general agent for the other. There is no liability on the part of Emergicon to any entity for any debts, liabilities or obligations incurred by or on behalf of the Client.

17. Prevention of Performance. If a party's obligation to perform any duty hereunder is rendered impossible of performance due to any cause beyond such party's control, including, without limitation, an act of God, war, civil disturbance, fire or casualty, labor dispute, hardware or software failures beyond the party's control, or governmental rule, such party, for so long as such condition exists, shall be excused from such performance, provided it promptly provides the other party with written notice of its inability to perform stating the reasons for such inability and provided that the party takes all appropriate steps as soon as reasonably practicable upon the termination of such condition to recommence performance.

18. Assignment. This Agreement may be assigned by Emergicon to any successors or assigns of Emergicon with the express written consent of the Client. This Agreement may not be assigned by Client without the express written consent of Emergicon. This Agreement shall be binding upon all successors and assigns.

19. Notices. Notices required to be given under this Agreement shall be made to the parties at the following addresses and shall be presumed to have been received by the other party (i) three days after mailing by the party when notices are sent by first class mail, postage prepaid; (ii) upon transmission (if sent via facsimile with a confirmed transmission report); or (iii) upon receipt (if sent by hand delivery or courier service).

<u>Emergicon:</u>	<u>City of Kingsville:</u>
Emergicon, LLC.	400 West King Avenue
PO Box 180446	Kingsville, TX 78363
Dallas, TX 75218	Phone: (361) 595-8002
Phone: (972)-602-2060)	
Fax:(469) 602-5542	

20. Non-Competition and Non-Solicitation Clause. Without prior, written authorization from Emergicon, Client shall not:

a. During the term of this Agreement, or for two (2) years following its expiration or termination for any reason, employ, retain as an independent contractor, or otherwise in any way hire any personnel currently employed or employed at any time during the term of this Agreement by Emergicon without compensation to Emergicon of a placement fee of two times the annual salary paid by Emergicon to such employee at the time such employee left employment of Emergicon.

b. During the term of this Agreement, or for a period of two (2) years following its expiration or termination for any reason, engage in the provision of billing services for any other ambulance service, medical transportation organization, fire department, or emergency medical services organization without compensation to Emergicon equivalent to two times the annual average of fees during the term of this Agreement as paid to Emergicon for these services. Nothing in this Paragraph shall be interpreted to prohibit Client from performing its own in-house billing and/or accounts receivable management following the expiration or proper termination of this Agreement.

21. Governing Law and Forum Selection Clause. This Agreement shall be deemed to have

been made and entered into in Texas and shall be interpreted in accordance with the laws thereof, without regard to conflicts of laws principles. The parties expressly agree that the exclusive forum for resolving any legal disputes under this Agreement shall be the state or federal courts serving [Dallas County, Texas]. Client expressly agrees to personal jurisdiction and venue in any such court.

22. Entire Agreement. This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings, written or oral agreements between the parties with respect to this subject matter.

23. Authorization. Each party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement.

24. Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

25. Amendments. This Agreement may be amended only by the mutual written agreement of the parties.

26. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

27. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

28. Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

29. Conflicts of Interests. Special Assessor represents that no official or employee of the Client has any direct or indirect pecuniary interest in this Agreement.

30. Force Majeure. The parties shall be excused for the period of any delay in or impossibility of the performance of any obligations hereunder, when prevented from doing so by any cause or causes beyond a party's control, which shall include without limitation: all labor disputes, civil commotion, war, nuclear disturbances, hostilities, sabotage, terroristic acts, governmental regulations or controls, fire, accident or other casualty, interruption in the supply of any utilities or fuel, inability to obtain any material or services, public health emergencies, or through acts of God.

31. Regulatory Changes. The parties recognize that this Agreement is at all times subject to



applicable state, local, and federal laws and shall be construed accordingly. The parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

32. Independent Contractor Relationship. The relationship of the parties is that of independent contractors. Neither party shall be deemed to be the agent nor partner nor fiduciary of the other, and neither is authorized to take any action binding upon the other.

IN WITNESS WHEREOF, the parties have executed this Agreement to commence on the date first above written. Client represents that the individual who has executed this Agreement on behalf of the Client is authorized by Client and by law to do so.

EMERGICON, LLC.

CITY OF KINGSVILLE

By:

By:

\_\_\_\_\_  
Signature Date

Christopher Turner

Print Name

Founder and CEO

Title

\_\_\_\_\_  
Signature Date

Charlie Sosa

Print Name

Interim City Manager

Title

# **AGENDA ITEM #9**

Accepting-  
LEOSE  
Funds

**City of Kingsville  
Police Department**

---

**TO:** Mayor and City Commissioners  
**CC:** Charlie Sosa, Interim City Manager  
**FROM:** John Blair, Chief of Police  
**DATE:** March 11, 2025  
**SUBJECT:** Receipt of the Law Enforcement Officer Standards and Education (LEOSE) Funds from Texas Comptroller of Public Accounts

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**Summary:**

The police department is requesting approval for acceptance of funds from the Texas Comptroller of Public Accounts and a budget amendment to place the funds in Fund 009 for training.

**Background:**

A direct deposit was made into the City of Kingsville account from the Law Enforcement Officer Standards and Education (LEOSE) account. These payments are necessary to ensure the continuing education of persons licensed under Chapter 1701, Occupations Code, or to provide necessary training, as determined by the agency head, to full-time, fully paid law enforcement support personnel in our agency.

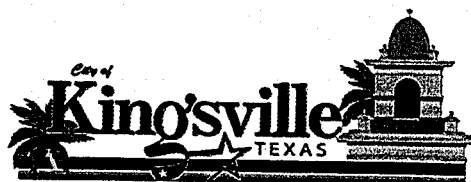
The Comptroller is directed by the Occupations Code, Section 1701.157 to make an annual allocation from the LEOSE account to qualified law enforcement agencies for expenses related to the continuing education of persons licensed under Chapter 1701, Occupations Code. Of the account, 20 percent is allocated equally among the qualified agencies. The remaining 80 percent is allocated on the basis of the number of eligible law enforcement positions each agency has as of January 1 of the preceding calendar year.

**Financial Impact:**

A total of \$8,395.42 was received for use for training of City of Kingsville Police personnel.

**Recommendation:**

We request that the City Commission authorize the receipt and expenditure of these funds in the manner for which they were provided by the Texas Comptroller of Public Accounts.





**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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P.O. Box 13528 • Austin, TX 78711-3528

February 28, 2025

CITY OF KINGSVILLE POLICE DEPARTMENT  
1700 E KING AVE  
KINGSVILLE TX 78363-5928

Vendor number: 17460015138 009

Two payments have been issued to your agency for the 2025 Law Enforcement Officer Standards and Education (LEOSE) Fund Allocation. One payment of \$3775.39 and a second payment of \$4620.03 for a total payment of \$8395.42. That second payment is enclosed.

The Comptroller is directed by the Occupations Code, Section 1701.157 to make an annual allocation from the LEOSE account to qualified law enforcement agencies for expenses related to the continuing education of persons licensed under Chapter 1701, Occupations Code. These funds must be used to ensure the continuing education of persons licensed under Chapter 1701 or to provide necessary training, as determined by the agency head, to full-time fully paid law enforcement support personnel in the agency.

Twenty percent of the funds are allocated equally among qualified agencies. The remaining eighty percent is distributed based on the number of eligible law enforcement positions each agency had as of January 1 of the preceding calendar year. Each agency must maintain complete and detailed records of all money received and spent. All funds received are subject to audit by the Comptroller of Public Accounts, and all expenditures are subject to audit by the State Auditor.

An eligible law enforcement position is defined as one held by a person licensed under Chapter 1701, Occupations Code, who works as a peace officer, licensed jailer or telecommunicator on the average of at least 32 hours a week, is compensated by a political subdivision of the state at the minimum wage rate or higher and is entitled to all employee benefits offered to a peace officer.

You must complete and return the enclosed Law Enforcement Officer Standards and Education Account 2026 Allocation Basis form to us no later than October 31st, 2025, to receive your agency's share of the LEOSE account in 2026. The information provided in this report must be accurate and returned timely to our office to ensure the correct allocation of the LEOSE account.

Please call us at 800-531-5441, ext. 3-4530, or 512-463-4530 if you have any questions or if we can be of assistance.

Enclosures

Form 40-215 (Rev.1-17/6)

# **AGENDA ITEM #10**

City of Kingsville  
Police Department

Budget Am-  
LEOSE  
Funds

---

TO: Mayor and City Commissioners

CC: Charlie Sosa, Interim City Manager

FROM: John Blair, Chief of Police

DATE: March 11, 2025

SUBJECT: Receipt of the Law Enforcement Officer Standards and Education (LEOSE) Funds from Texas Comptroller of Public Accounts

---

**Summary:**

The police department is requesting approval for acceptance of funds from the Texas Comptroller of Public Accounts and a budget amendment to place the funds in Fund 009 for training.

**Background:**

A direct deposit was made into the City of Kingsville account from the Law Enforcement Officer Standards and Education (LEOSE) account. These payments are necessary to ensure the continuing education of persons licensed under Chapter 1701, Occupations Code, or to provide necessary training, as determined by the agency head, to full-time, fully paid law enforcement support personnel in our agency.

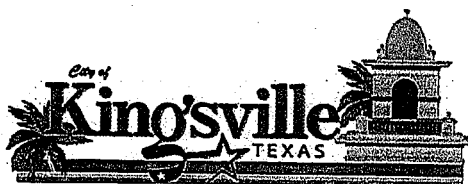
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**Financial Impact:**

A total of \$8,395.42 was received for use for training of City of Kingsville Police personnel.

**Recommendation:**

We request that the City Commission authorize the receipt and expenditure of these funds in the manner for which they were provided by the Texas Comptroller of Public Accounts.





**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

P.O. Box 13528 • Austin, TX 78711-3528

February 28, 2025

CITY OF KINGSVILLE POLICE DEPARTMENT  
1700 E KING AVE  
KINGSVILLE TX 78363-5928

Vendor number: 17460015138 009

Two payments have been issued to your agency for the 2025 Law Enforcement Officer Standards and Education (LEOSE) Fund Allocation. One payment of \$3775.39 and a second payment of \$4620.03 for a total payment of \$8395.42. That second payment is enclosed.

The Comptroller is directed by the Occupations Code, Section 1701.157 to make an annual allocation from the LEOSE account to qualified law enforcement agencies for expenses related to the continuing education of persons licensed under Chapter 1701, Occupations Code. These funds must be used to ensure the continuing education of persons licensed under Chapter 1701 or to provide necessary training, as determined by the agency head, to full-time fully paid law enforcement support personnel in the agency.

Twenty percent of the funds are allocated equally among qualified agencies. The remaining eighty percent is distributed based on the number of eligible law enforcement positions each agency had as of January 1 of the preceding calendar year. Each agency must maintain complete and detailed records of all money received and spent. All funds received are subject to audit by the Comptroller of Public Accounts, and all expenditures are subject to audit by the State Auditor.

An eligible law enforcement position is defined as one held by a person licensed under Chapter 1701, Occupations Code, who works as a peace officer, licensed jailer or telecommunicator on the average of at least 32 hours a week, is compensated by a political subdivision of the state at the minimum wage rate or higher and is entitled to all employee benefits offered to a peace officer.

You must complete and return the enclosed Law Enforcement Officer Standards and Education Account 2026 Allocation Basis form to us no later than October 31st, 2025, to receive your agency's share of the LEOSE account in 2026. The information provided in this report must be accurate and returned timely to our office to ensure the correct allocation of the LEOSE account.

Please call us at 800-531-5441, ext. 3-4530, or 512-463-4530 if you have any questions or if we can be of assistance.

Enclosures

Form 40-215 (Rev.1-17/6)

**ORDINANCE NO. 2025-\_\_\_\_\_**

**AN ORDINANCE AMENDING THE FISCAL YEAR 2024-2025 BUDGET TO ACCEPT AND EXPEND FUNDING FROM LEOSE FOR POLICE OFFICER TRAINING.**

**WHEREAS**, it was unforeseen when the budget was adopted that there would be a need for funding for this expenditure in this fiscal year.

I.

**BE IT ORDAINED** by the City Commission of the City of Kingsville that the Fiscal Year 2024-2025 budget be amended as follows:

CITY OF KINGSVILLE  
DEPARTMENT EXPENSES  
BUDGET AMENDMENT – BA#34

Dept No.	Dept Name	Account Name	Account Number	Budget Increase	Budget Decrease
<b>Fund 009 - LEOSE</b>					
<u>Revenues</u>					
2100	Police	State Grants	72010	\$8,395.42	
<u>Expenditures</u>					
2100	Police	Training & Travel	31600	\$8,395.42	

[To amend the City of Kingsville FY 24-25 budget to accept and expend funding from LEOSE for officer training. Funding is provided by the grant funds received for the stated purpose.]

II.

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.



IV.

**THAT** this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 24th day of March 2025.

**PASSED AND APPROVED** on this the 14th day of April 2025.

**EFFECTIVE DATE:** \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney

# **AGENDA ITEM #11**



# CITY OF KINGSVILLE LEGAL DEPARTMENT

P.O. Box 1458, Kingsville Texas 78364 Phone: 361-595-8016 Fax: 361-592-4696

---

Date: March 20, 2025

To: City Commission Members

From: Courtney Alvarez, City Attorney

Re: Abandonment of Part of Undeveloped 13<sup>th</sup> Street for Kenedy Park Sale

---

**AGENDA ITEM:** Consider an ordinance vacating, abandoning, and closing the easternmost 40-foot-wide right-of-way on undeveloped S. 13<sup>th</sup> Street between Kenedy Avenue and the southmost edge of the alley nearest King Avenue in Fifth Addition, Block 4, while retaining a utility easement.

**BACKGROUND:** The City adopted a Parks Master Plan in 2017 that identified Kenedy Park as a location no longer needed as a park given the proximity of other neighborhood parks. Thereafter, the City went through the lengthy process to decommission the park, which included getting voter approval (done in May of 2019). The City Commission authorized the real property of Kenedy Park to be placed for sale on July 26, 2021 via Resolution #2021-47. On June 10, 2024, the City Commission approved Resolution #2024-60 authorizing staff to move forward with the sale of Kenedy Park as an offer had been received and accepted. The prospective buyer requested a 210-day feasibility period. Since that time, the prospective buyer has advised they could not locate any documents at the Kleberg County Courthouse reflecting abandonment of the 40-feet of undeveloped road right-of-way, even though the Appraisal District included that land within its legal description of Kenedy Park. In order to clean up the title to this portion of the park land, it is recommended that this ordinance be approved prior to completing the sale of Kenedy Park.

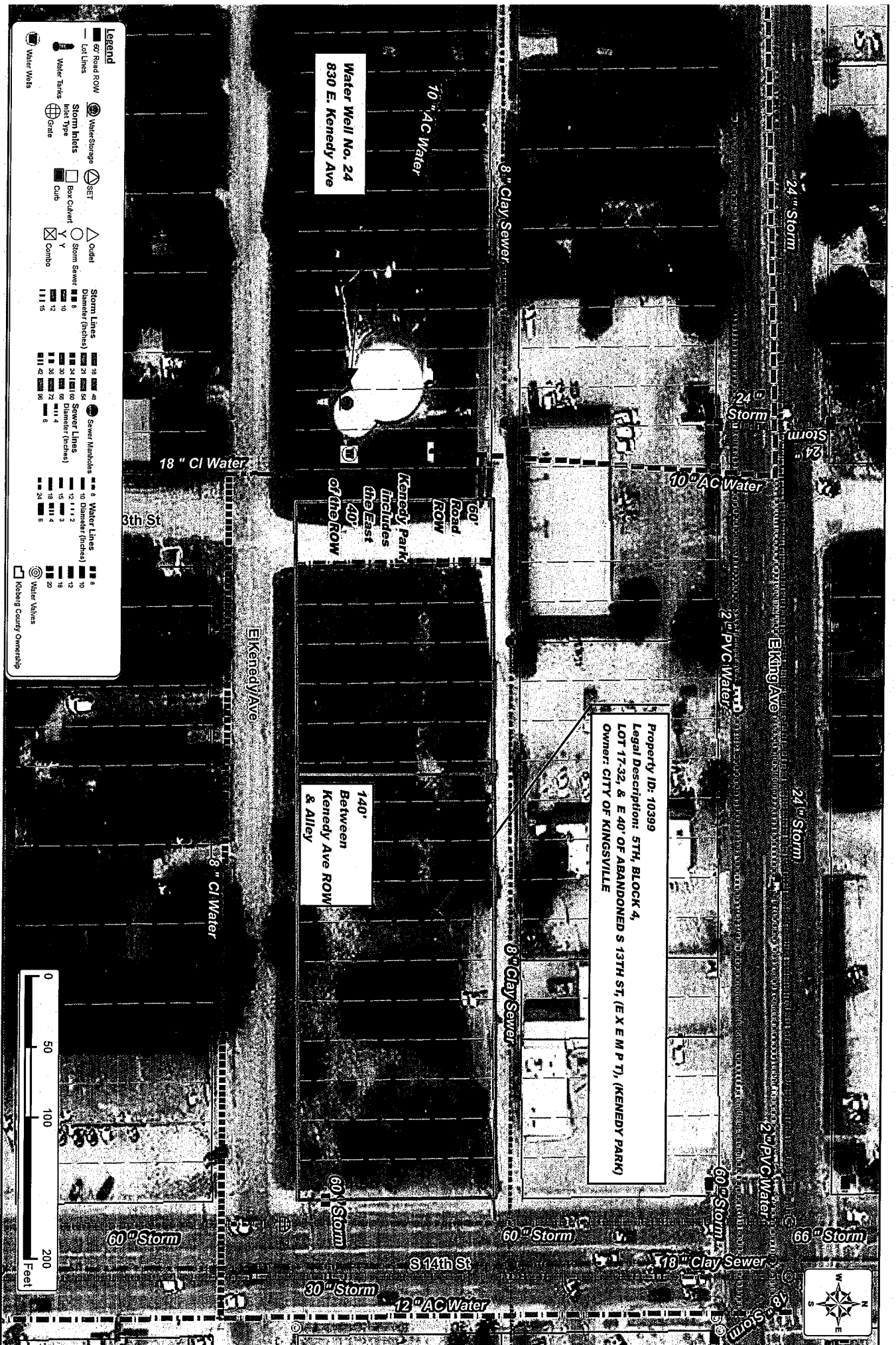
**FUNDING:** There is no cost to the City from authorizing this ordinance, other than a minor fee to file the document at the Kleberg County Clerk's Office once approved.

**CONCLUSION & RECOMMENDATION:** Approve the ordinance as presented so that the title can be cleared up and allow the sale of Kenedy Park to move forward as previously approved.

[illegible]

Office: (361) 595-8007

# COK-Kennedy Park



**Legend**

- Road ROW
- Lot Lines
- Water Tanks
- Water Mains
- Water Valves
- Water Storage
- Sewer Manholes
- Storm Inlets
- Box Culvert
- Curb
- Grate
- Sewer Lines
- Storm Sewer
- Combo
- Water Lines
- Kobberg County Ownership

**Storm Lines**

Diameter (Inches)

6"	8"	10"	12"	14"	16"	18"	20"	24"	30"	36"	42"	48"	54"	60"
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**Sewer Lines**

Diameter (Inches)

6"	8"	10"	12"	14"	16"	18"	20"	24"	30"	36"	42"	48"	54"	60"
----	----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

**Water Lines**

Diameter (Inches)

6"	8"	10"	12"	14"	16"	18"	20"	24"	30"	36"	42"	48"	54"	60"
----	----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----



Drawn By: R. PICK

Last Update: 3/18/2025

Page: 1/1

Note: See attached documents

**DISCLAIMER:**

THIS MAP IS FOR VISUAL PURPOSES ONLY. THE INFORMATION ON THIS SHEET MAY CONTAIN INACCURACIES OR ERRORS. THE CITY OF KINGSVILLE IS NOT RESPONSIBLE IF THE INFORMATION CONTAINED HEREIN IS USED FOR ANY DESIGN, CONSTRUCTION, PLANNING, BUILDING.

**CITY OF KINGSVILLE**

**ENGINEERING DEPARTMENT**

400 W King Ave, Kingsville, TX 78363

Office: (361) 595-8007

Property ID: 10399

Legal Description: 5TH, BLOCK 4, LOT 17-32, & E 40' OF ABANDONED S 13TH ST, (E X E M P T), (KENEDY PARK)

Owner: CITY OF KINGSVILLE

140' Between Kennedy Ave ROW & Alley

Water Well No. 24  
830 E. Kennedy Ave

Kennedy Park Includes the East 40' of the ROW

ORDINANCE NO. #2025- \_\_\_\_\_

**AN ORDINANCE VACATING, ABANDONING, AND CLOSING THE EASTERMOST 40-FOOT-WIDE RIGHT-OF-WAY ON UNDEVELOPED S. 13<sup>TH</sup> STREET BETWEEN KENEDY AVENUE AND THE SOUTHMOST EDGE OF THE ALLEY NEAREST KING AVENUE IN THE FIFTH ADDITION, BLOCK 4, WHILE RETAINING A UTILITY EASEMENT; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.**

**WHEREAS**, a 60-foot-wide street Right-of-Way (ROW) that is undeveloped as a thoroughfare exists on S. 13<sup>th</sup> Street between Kenedy Avenue and the southmost edge of the alley nearest King Avenue;

**WHEREAS**, the City's Kenedy Park property went through the process to be sold and a sales offer was accepted by City Commission via Resolution #2024-60 on June 10, 2024

**WHEREAS**, the sale of Kenedy Park is supposed to include the easternmost 40-foot-wide right-of-way of undeveloped S. 13<sup>th</sup> Street between Kenedy Avenue and the Southmost edge of the alley nearest King Avenue in the Fifth Addition, Block 4, but staff learned that no record exists at the Kleberg County Courthouse showing that section of the property being previously abandoned;

**WHEREAS**, the City now desires to clarify that the easternmost 40-foot-wide right-of-way of undeveloped S. 13<sup>th</sup> Street between Kenedy Avenue and the Southmost edge of the alley nearest King Avenue in the Fifth Addition, Block 4 be vacated, abandoned, and closed as it is not planned to be developed as a thoroughfare;

**WHEREAS**, pursuant to Section 311.007 of the Texas Transportation Code, a home-rule municipality, such as the City of Kingsville, may vacate, abandon, or close a street or alley;

**WHEREAS**, the City currently owns the Kenedy Park property, the entire undeveloped 13<sup>th</sup> Street road right-of-way, the alley to the north of Kenedy Park, and the property to the west of Kenedy Park;

**WHEREAS**, staff recommends the above-stated 40-foot portion of the road ROW be vacated, but a utility easement be retained, as it is to be included with the sale of Kenedy Park as referenced in Resolution #2024-60;

**WHEREAS**, the City finds that the 40-foot portion of ROW is not necessary as a public thoroughfare and has no other public use;

**WHEREAS**, the City finds that vacating, abandoning, and closing this 40-foot portion of ROW would have no adverse effect on adjacent properties;

**WHEREAS**, the City desires to sell the vacated, abandoned, and closed 40-foot portion of ROW to the eastern adjacent property owner;

**WHEREAS**, pursuant to Section 272.001 of the Texas Local Government Code, the City may sale or exchange land streets or alleys, owned in fee or used by easement to abutting property owners in proportion to their abutting ownership in an equitable manner;

**WHEREAS**, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:**

I.

**THAT** it is in the best interest of the City of Kingsville, Texas, that the easternmost 40-foot-wide right-of-way of undeveloped S. 13<sup>th</sup> Street between Kenedy Avenue and the Southmost edge of the alley nearest King Avenue in the Fifth Addition, Block 4 be closed, vacated, and abandoned as a thoroughfare, but the City shall retain a utility easement; and, the foregoing recitals are incorporated into this ordinance by reference as findings of fact as if set forth herein at length.

II.

**THAT** the City of Kingsville abandons and relinquishes any and all interest in the easternmost 40-foot-wide right-of-way of undeveloped S. 13<sup>th</sup> Street between Kenedy Avenue and the Southmost edge of the alley nearest King Avenue in the Fifth Addition, Block 4 as a street, while retaining a utility easement.

III.

**THAT** the Interim City Manager is authorized to execute the conveyance of said property described hereinabove pursuant to Texas Law; and, the City Secretary is hereby authorized and instructed to file a signed and sealed copy of this ordinance in and among the records of the City, and in the land records of Kleberg County.

IV

**THAT** all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

V.

**THAT** if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

VI.

**THAT** this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

**INTRODUCED** on this the 24th day of March, 2024.

**PASSED AND APPROVED** on this the 14th day of April, 2024.

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Sam R. Fugate, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Courtney Alvarez, City Attorney



# **AGENDA ITEM #12**



**CITY OF KINGSVILLE  
LEGAL DEPARTMENT**

P.O. Box 1458, Kingsville Texas 78364 Phone: 361-595-8016 Fax: 361-592-4696

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Date: March 20, 2025

To: City Commission Members

From: Courtney Alvarez, City Attorney

Re: Kenedy Park Sale

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**AGENDA ITEM:** Consider approval of a resolution authorizing Interim City Manager to execute Kenedy Park sale documents.

**BACKGROUND:** The City adopted a Parks Master Plan in 2017 that identified Kenedy Park as a location no longer needed as a park given the proximity of other neighborhood parks. Thereafter, the City went through the lengthy process to decommission the park, which included getting voter approval (done in May of 2019). The City Commission authorized the real property of Kenedy Park to be placed for sale on July 26, 2021 via Resolution #2021-47. On June 10, 2024, the City Commission approved Resolution #2024-60 authorizing staff to move forward with the sale of Kenedy Park as an offer had been received and accepted. The prospective buyer requested a 210-day feasibility period. Since that time, the City Manager authorized to execute the closing documents is no longer with the City and the Interim City Manager needs to be authorized to execute the sale documents.

**FUNDING:** There is no cost to the City by authorizing this resolution.

**CONCLUSION & RECOMMENDATION:** Approve the resolution as presented so that the Interim City Manager can execute the real estate sale documents for Kenedy Park as the offer was previously approved.

**RESOLUTION #2024   60**

**A RESOLUTION AUTHORIZING STAFF TO MOVE FORWARD WITH SALE OF THE CITY'S REAL PROPERTY KNOWN AS KENEDY PARK LOCATED OFF 14<sup>th</sup> STREET AND EAST KENEDY STREET (5<sup>TH</sup> ADDITION, BLOCK 4, LOTS 17-32 & E 40' OF ABANDONED S. 13<sup>TH</sup> ST.) IN KINGSVILLE, TEXAS.**

**WHEREAS**, the City of Kingsville owns approximately 1.4141 acres of land off the corner of 14<sup>th</sup> Street and East Kenedy Street known as Kenedy Park (5<sup>th</sup> Addition, Block 4, Lots 17-32 & E40' of abandoned South 13<sup>th</sup> Street), in Kingsville, Texas;

**WHEREAS**, the property was purchased by the City from the Kleberg Town & Improvement Company in 1944 as recorded in the Kleberg County records office in Volume 64, Page 263, #28529;

**WHEREAS**, the Parks Master Plan adopted in 2017 identified Kenedy Park as a location that was not needed as a park property given the proximity of other neighborhood parks that have amenities in them to service the area; and

**WHEREAS**, due to its size the land is underdeveloped as a park and the City has no future plans for the land;

**WHEREAS**, the City's Parks Master Plan determined there was already a sufficient amount of park land to serve the needs of the residents;

**WHEREAS**, the Texas Parks and Wildlife Code (Chapter 26) and the Texas Local Government Code (Chapter 253) require certain actions be taken prior to the use or taking of park land for non-park purposes;

**WHEREAS**, the City advertised in the Kingsville Record on February 3, 10 & 17, 2019 and in the Corpus Christi Caller-Times on February 3, 10 & 17, 2019 that a public hearing would be held at a City Commission meeting on February 25, 2019 for the purpose of considering decommissioning three pieces of park land, with the above-referenced property being one of those three properties;

**WHEREAS**, the City called for and then held a special election on May 4, 2019 to seek voter approval for the decommissioning of three pieces of park land and the measures were approved by local voters;

**WHEREAS**, the City Commission of the City of Kingsville via Resolution #21-46 on July 26, 2021 found it was in the best interest of the citizens of Kingsville that the approximately 1.4141 acres of land off the corner of 14<sup>th</sup> Street and East Kenedy Street known as Kenedy Park (5<sup>th</sup> Addition, Block 4, Lots 17-32 & E40' of abandoned South 13<sup>th</sup> Street), in Kingsville, Texas be decommissioned as park land to allow for it to be placed for sale as authorized by the Texas Local Government Code with any sale proceeds being placed back into the park system;

**WHEREAS**, the City has contacted the King Ranch regarding this proposal and they have no objection and the City desires that the proceeds from the sale of Kenedy Park be used for the development of the Chamberlain Park project to the north of City Hall;

**WHEREAS**, the City Commission of the City of Kingsville found on July 26, 2021 via Resolution #2021-47 that it was in the best interest of the citizens of Kingsville that the approximately 1.4141 acres of land off the corner of 14<sup>th</sup> Street and East Kenedy Street at 5<sup>th</sup> Addition, Block 4, Lots 17-32 & E 40' of abandoned S. 13<sup>th</sup> St., in Kingsville, Texas be placed for sale as authorized by the Texas Local Government Code;

**WHEREAS**, the City believes that placing the land for sale would place the property back on the tax roll which would allow for future development of the property;

**WHEREAS**, pursuant to the Texas Local Government Code, real property owned by the City can be sold via public auction, sealed bids, or for home-rule cities through a broker, unless an exception is met;

**WHEREAS**, the City finds the property does not meet any of the exceptions to the bidding requirement as set out in Texas Local Government Code Section 272.001, staff previously recommended the property be sold via a broker as allowed by Texas Local Government Code Section 253.014 with the best offer coming back before the Commission for approval of the sale;

**WHEREAS**, the City previously approved Resolution #2021-50 on August 08, 2021 to enter into a Commercial Real Estate Listing Agreement with the exclusive right to sell with a local broker Connie Womack in order to list the property through a multiple-listing service pursuant to state law;

**WHEREAS**, the property was listed by the real estate broker on a multiple-listing service for at least 30 days;

**WHEREAS**, an offer has been received by the broker using the multiple-listing service from a ready, willing, and able buyer who submitted the highest cash offer;

**WHEREAS**, the City Manager now needs authority from the City Commission to execute a contract for the purchase of this real property and to take actions necessary to sell the identified property;

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Commission of the City of Kingsville finds that all conditions precedent to the placing this land for sale have been met and authorizes and directs the City Manager as an act of the City of Kingsville, Texas to take actions necessary to complete the real property sale in compliance with the Texas Local Government Code for the City's approximately 1.4141 acres of real property off the corner of 14<sup>th</sup> Street and East Kenedy Street at 5<sup>th</sup> Addition, Block 4, Lots 17-32 & E 40' of abandoned S. 13<sup>th</sup> St., in Kingsville, Texas.

II.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

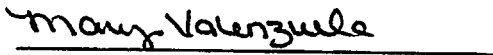
**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission the 10th day of June, 2024.



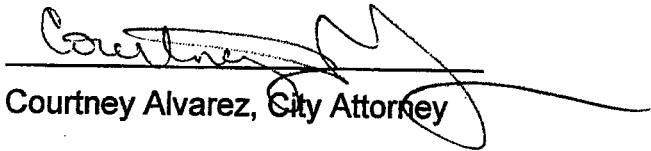
Sam Fugate, Mayor

**ATTEST:**



Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**



Courtney Alvarez, City Attorney



## COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.  
©Texas Association of REALTORS®, Inc. 2021

1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: City of Kingsville

Address: PO Box 1458, Kingsville, TX 78364

Phone: 361-595-8002

Fax: \_\_\_\_\_

E-mail: mmclaughlin@cityofkingsville.com

Other: \_\_\_\_\_

Buyer: Fortierra, LLC

Address: 5473 Blair Rd, Ste 100 PMB 868018, Dallas, TX 75231

Phone: 817-773-6790

Fax: \_\_\_\_\_

E-mail: kirk@fortierrallc.com

Other: \_\_\_\_\_

## 2. PROPERTY:

- A. "Property" means that real property situated in Kleberg County, Texas  
at 900 E Kenedy Ave, Kingsville, TX 78363 (address)  
and that is legally described on the attached Exhibit \_\_\_\_\_ or as follows:

5TH, BLOCK 4, LOT 17-32, & E 40' OF ABANDONED S 13TH ST, (E X E M P T), (KENEDY PARK)

- B. Seller will sell and convey the Property together with:

- (1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
- (2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
- (3) Seller's interest in all licenses and permits related to the Property.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)

(If mineral rights are to be reserved an appropriate addendum should be attached.)

## 3. SALES PRICE:

- A. At or before closing, Buyer will pay the following sales price for the Property:

(1) Cash portion payable by Buyer at closing. .... \$ 315,000

(2) Sum of all financing described in Paragraph 4 ..... \$ 0

(3) Sales price (sum of 3A(1) and 3A(2)) ..... \$ 315,000

MM

**B. Adjustment to Sales Price: (Check (1) or (2) only.)**

- ☒ (1) The sales price will not be adjusted based on a survey.  
☐ (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of \$\_\_\_\_\_ per:

- ☐ (i) square foot of ☐ total area ☐ net area.  
☐ (ii) acre of ☐ total area ☐ net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:

- ☐ (i) public roadways;  
☐ (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and  
☐ (iii) \_\_\_\_\_

(c) If the sales price is adjusted by more than \_\_\_\_\_ % of the stated sales price, either party may terminate this contract by providing written notice to the other party within \_\_\_\_\_ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

**4. FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

- ☐ A. Third Party Financing: One or more third party loans in the total amount of \$\_\_\_\_\_. This contract:  
☐ (1) is not contingent upon Buyer obtaining third party financing.  
☐ (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TXR-1931).
- ☐ B. Assumption: In accordance with the attached Commercial Contract Financing Addendum (TXR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$\_\_\_\_\_.
- ☐ C. Seller Financing: The delivery of a promissory note and deed of trust to Seller under the terms of the attached Commercial Contract Financing Addendum (TXR-1931) in the amount of \$\_\_\_\_\_.

**5. EARNEST MONEY:**

A. Not later than 3 days after the effective date, Buyer must deposit \$ 2,000 as earnest money with Kensington Vanguard Title (title company) at 5005 LBJ Freeway, Suite 200, Dallas, TX 75244 (address) Phil Prounh (closer).  
 If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.

B. Buyer will deposit an additional amount of \$\_\_\_\_\_ with the title company to be made part of the earnest money on or before:  
☐ (i) \_\_\_\_\_ days after Buyer's right to terminate under Paragraph 7B expires; or  
☐ (ii) \_\_\_\_\_

Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

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C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

## 6. TITLE POLICY AND SURVEY:

### A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
  - (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
  - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
  - ☐ (a) will not be amended or deleted from the title policy.
  - ☐ (b) will be amended to read "shortages in areas" at the expense of ☐ Buyer ☐ Seller.
- (3) Within 20 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

### B. Survey: Within 5 days after the effective date:

- ☐ (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer \_\_\_\_\_ (insert amount) of the cost of the survey at closing, if closing occurs.
- ☐ (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- ☒ (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, ☐ Seller ☒ Buyer (updating party), will, at the updating party's expense, obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to the other party and the title company within 20 days after the title company notifies the parties that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for the updating party to deliver an acceptable survey within the time required. The other party will reimburse the updating party \$0 (insert amount or percentage) of the cost of the new or updated survey at closing, if closing occurs.

### C. Buyer's Objections to the Commitment and Survey:

- (1) Within 20 days after Buyer receives the last of the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If the commitment or survey is



revised or any new document evidencing a title exception is delivered, Buyer may object to any new matter revealed in such revision or new document. Buyer's objection must be made within the same number of days stated in this paragraph, beginning when the revision or new document is delivered to Buyer. If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.

- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

## 7. PROPERTY CONDITION:

- A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: \_\_\_\_\_

- B. Feasibility Period: Buyer may terminate this contract for any reason within 210 days after the effective date (feasibility period) by providing Seller written notice of termination.

(1) Independent Consideration. (Check only one box and insert amounts.)

- ☒ (a) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 2,000 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

- ☐ (b) Not later than 3 days after the effective date, Buyer must pay Seller \$ \_\_\_\_\_ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

- (2) Feasibility Period Extension: Prior to the expiration of the initial feasibility period, Buyer may extend the feasibility period for three periods of an additional 30 days by depositing additional earnest money in the amount of \$ 5,000 with the title company. If no dollar amount is stated in this Paragraph or if Buyer fails to timely deposit the additional earnest money, the extension of the feasibility period will not be effective. All "Feasibility Period Extension" deposits are non-refundable.

- C. Inspections, Studies, or Assessments:

DS  
MM

- (1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.
- (2) Buyer must:
- (a) employ only trained and qualified inspectors and assessors;
  - (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
  - (c) abide by any reasonable entry rules or requirements of Seller;
  - (d) not interfere with existing operations or occupants of the Property; and
  - (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.
- (3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

**D. Property Information:**

- (1) Delivery of Property Information: Within 20 days after the effective date, Seller will deliver to Buyer: *(Check all that apply.)* if they are in Seller's possession or reasonably available to Seller at no cost.
- ☒ (a) copies of all current leases, including any mineral leases, pertaining to the Property, including any modifications, supplements, or amendments to the leases;
  - ☒ (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
  - ☒ (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
  - ☒ (d) copies property tax statements for the Property for the previous 2 calendar years;
  - ☒ (e) plats of the Property;
  - ☒ (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
  - ☐ (g) \_\_\_\_\_

- (2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*
- ☒ (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
  - ☐ (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied in any format; and
  - ☐ (c) deliver to Seller copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.

This Paragraph 7D(2) survives termination of this contract.

- E. Contracts Affecting Operations:** Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

**8. LEASES:**

- A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:
- (1) any failure by Seller to comply with Seller's obligations under the leases;
  - (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
  - (3) any advance sums paid by a tenant under any lease;
  - (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
  - (5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.
- B. Estoppel Certificates: Within N/A days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than N/A by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TXR Form 1938 – Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

**9. BROKERS:**

- A. The brokers to this sale are:

Principal Broker: eXp Realty LLC

Agent: Connie Womack

Address: 5605 N McArthur Blvd  
Irving, TX 75038

Phone & Fax: 361-455-9587

E-mail: cwomack7863@gmail.com

License No.: 0714184

Cooperating Broker: Coldwell Banker Commercial RGV

Agent: Harry D. Urey Sr.

Address: 508 E Dove  
McAllen, TX 78504

Phone & Fax: 956-631-1322

E-mail: harryureysr@cbcriograndevalley.com

License No.: 524168

Principal Broker: (Check only one box)

☒ represents Seller only.

☐ represents Buyer only.

☐ is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

- B. Fees: (Check only (1) or (2) below.)  
(Complete the Agreement Between Brokers on page 14 only if (1) is selected.)

- ☐ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

- ☒ (2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:

☒ 3 % of the sales price. DS  
MM

Buyer will pay

Cooperating Broker a total cash fee of:

☒ 3 % of the sales price.

☐ \_\_\_\_\_ ☐ \_\_\_\_\_

The cash fees will be paid in Kleberg County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

*NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.*

- C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

#### 10. CLOSING:

- A. The date of the closing of the sale (closing date) will be on or before the later of:

(1) ☒ 30 days after the expiration of the feasibility period.

☐ \_\_\_\_\_ (specific date).

☐ \_\_\_\_\_

(2) 7 days after objections made under Paragraph 6C have been cured or waived.

- B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

- C. At closing, Seller will execute and deliver, at Seller's expense, a ☐ general ☒ special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:

- (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
- (2) without any assumed loans in default; and
- (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.

- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:

- (1) tax statements showing no delinquent taxes on the Property;
- (2) an assignment of all leases to or on the Property;
- (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
- (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
- (5) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply with applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
- (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.

- E. At closing, Buyer will:

- (1) pay the sales price in good funds acceptable to the title company;
- (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
- (3) sign and send to each tenant in a lease for any part of the Property a written statement that:
  - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
  - (b) specifies the exact dollar amount of the security deposit;
- (4) sign an assumption of all leases then in effect; and
- (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

*MM*

F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

**11. POSSESSION:** Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

**12. SPECIAL PROVISIONS:** The following special provisions apply and will control in the event of a conflict with other provisions of this contract. *(If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)*

**13. SALES EXPENSES:**

A. Seller's Expenses: Seller will pay for the following at or before closing:

- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
- (2) release of Seller's loan liability, if applicable;
- (3) tax statements or certificates;
- (4) preparation of the deed;
- (5) one-half of any escrow fee;
- (6) costs to record any documents to cure title objections that Seller must cure; and
- (7) other expenses that Seller will pay under other provisions of this contract.

B. Buyer's Expenses: Buyer will pay for the following at or before closing:

- (1) all loan expenses and fees;
- (2) preparation of any deed of trust;
- (3) recording fees for the deed and any deed of trust;
- (4) premiums for flood insurance as may be required by Buyer's lender;
- (5) one-half of any escrow fee;
- (6) other expenses that Buyer will pay under other provisions of this contract.

**14. PRORATIONS:**

A. Prorations:

- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
- (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
- (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

- B. **Rollback Taxes:** If Seller's use or change in use of the Property before closing results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
- C. **Rent and Security Deposits:** At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

**15. DEFAULT:**

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(3) which Seller may pursue, or  
(Check if applicable)  
☐ enforce specific performance, or seek such other relief as may be provided by law.
- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:  
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or  
(2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:  
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or  
(2) enforce specific performance, or seek such other relief as may be provided by law, or both.

**16. CONDEMNATION:** If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

- A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
- B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:  
(1) Seller and the sales price will be reduced by the same amount; or  
(2) Buyer and the sales price will not be reduced.

**17. ATTORNEY'S FEES:** If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.**18. ESCROW:**

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.

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- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.
- C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. ☐ Seller ☐ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

**19. MATERIAL FACTS:** To the best of Seller's knowledge and belief: *(Check only one box.)*

- ☐ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TXR-1408).
- ☐ B. Except as otherwise provided in this contract, Seller is not aware of:
- (1) any subsurface: structures, pits, waste, springs, or improvements;
  - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
  - (3) any environmental hazards or conditions that materially affect the Property;
  - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
  - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
  - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
  - (7) any threatened or endangered species or their habitat on the Property;
  - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
  - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
  - (10) any condition on the Property that violates any law or ordinance.

*(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)*

**20. NOTICES:** All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- ☒ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.

- ☒ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

**21. DISPUTE RESOLUTION:** The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

**22. AGREEMENT OF THE PARTIES:**

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.
- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
- D. Addenda which are part of this contract are: *(Check all that apply.)*
- ☐ (1) Property Description Exhibit identified in Paragraph 2;
  - ☐ (2) Commercial Contract Financing Addendum (TXR-1931);
  - ☐ (3) Commercial Property Condition Statement (TXR-1408);
  - ☐ (4) Commercial Contract Addendum for Special Provisions (TXR-1940);
  - ☐ (5) Notice to Purchaser of Real Property in a Water District (MUD);
  - ☐ (6) Addendum for Coastal Area Property (TXR-1915);
  - ☐ (7) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916);
  - ☐ (8) Information About Brokerage Services (TXR-2501);
  - ☐ (9) Information About Mineral Clauses in Contract Forms (TXR-2509);
  - ☐ (10) Notice of Obligation to Pay Improvement District Assessment (TXR-1955, PID); and
  - ☐ (11) \_\_\_\_\_

*(Note: Counsel for Texas REALTORS® has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by Texas REALTORS® are appropriate for use with this form.)*

- E. Buyer ☒ may ☐ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

**23. TIME:** Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

**24. EFFECTIVE DATE:** The effective date of this contract for the purpose of performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

**25. ADDITIONAL NOTICES:**

- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.

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- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.
- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract (*the Addendum for Coastal Area Property (TXR-1915) may be used*).
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract (*the Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916) may be used*).
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.
- H. NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

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Commercial Contract - Unimproved Property concerning 900 E Kenedy Ave, Kingsville, TX 78363

I. **LICENSE HOLDER DISCLOSURE:** Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable:  
J. Kirk Searcy, Jr.; License Number: 650194

J. **PUBLIC IMPROVEMENT DISTRICTS:** If the Property is in a public improvement district, Seller must give Buyer written notice as required by §5.014, Property Code. An addendum containing the required notice shall be attached to this contract.

**26. CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on June 30, 2024, the offer will lapse and become null and void.

**READ THIS CONTRACT CAREFULLY.** The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. **CONSULT your attorney BEFORE signing.**

Seller: City of Kingsville

Buyer: Fortierra, LLC

By: Mark McLaughlin DocuSigned by:

By: J. Searcy

By (signature):

By (signature):

Printed Name:

Printed Name:

Title: City Manager

Title: Owner

By:

By:

By (signature):

By (signature):

Printed Name:

Printed Name:

Title:

Title:

Commercial Contract - Unimproved Property concerning 900 E Kenedy Ave, Kingsville, TX 78363**AGREEMENT BETWEEN BROKERS***(use only if Paragraph 9B(1) is effective)*

Principal Broker agrees to pay \_\_\_\_\_  
 (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to  
 Cooperating Broker will be:

- ☐ \$ \_\_\_\_\_, or  
☐ \_\_\_\_\_ % of the sales price, or  
☐ \_\_\_\_\_ % of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's  
 fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for  
 compensation between brokers.

Principal Broker: \_\_\_\_\_ Cooperating Broker: \_\_\_\_\_  
 \_\_\_\_\_  
 By: \_\_\_\_\_ By: \_\_\_\_\_

**ATTORNEYS**

Seller's attorney: \_\_\_\_\_ Buyer's attorney: \_\_\_\_\_  
 \_\_\_\_\_  
 Address: \_\_\_\_\_ Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone & Fax: \_\_\_\_\_ Phone & Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_ E-mail: \_\_\_\_\_

Seller's attorney requests copies of  
 documents, notices, and other information:  
☐ the title company sends to Seller.  
☐ Buyer sends to Seller.

Buyer's attorney requests copies of  
 documents, notices, and other information:  
☐ the title company sends to Buyer.  
☐ Seller sends to Buyer.

**ESCROW RECEIPT**

The title company acknowledges receipt of:

- ☐ A. the contract on this day \_\_\_\_\_ (effective date);  
☐ B. earnest money in the amount of \$ \_\_\_\_\_ in the form of \_\_\_\_\_ on \_\_\_\_\_.

Title company: \_\_\_\_\_ Address: \_\_\_\_\_  
 \_\_\_\_\_  
 By: \_\_\_\_\_ Phone & Fax: \_\_\_\_\_  
 Assigned file number (GF#): \_\_\_\_\_ E-mail: \_\_\_\_\_

**RESOLUTION #2025 \_\_\_\_\_**

**A RESOLUTION AUTHORIZING STAFF TO ACCEPT BID FOR SALE OF THE CITY'S REAL PROPERTY KNOWN AS KENEDY PARK LOCATED OFF 14<sup>TH</sup> STREET AND EAST KENEDY STREET (5<sup>TH</sup> ADDITION, BLOCK 4, LOTS 17-32 & E 40' OF ABANDONED S. 13<sup>TH</sup> ST.) IN KINGSVILLE, TEXAS.**

**WHEREAS**, the City of Kingsville owns approximately 1.4141 acres of land off the corner of 14<sup>th</sup> Street and East Kenedy Street known as Kenedy Park (5<sup>th</sup> Addition, Block 4, Lots 17-32 & E40' of abandoned South 13<sup>th</sup> Street), in Kingsville, Texas;

**WHEREAS**, the property was purchased by the City from the Kleberg Town & Improvement Company in 1944 as recorded in the Kleberg County records office in Volume 64, Page 263, #28529;

**WHEREAS**, the Parks Master Plan adopted in 2017 identified Kenedy Park as a location that was not needed as a park property given the proximity of other neighborhood parks that have amenities in them to service the area; and

**WHEREAS**, due to its size the land is underdeveloped as a park and the City has no future plans for the land;

**WHEREAS**, the City's Parks Master Plan determined there was already a sufficient amount of park land to serve the needs of the residents;

**WHEREAS**, the Texas Parks and Wildlife Code (Chapter 26) and the Texas Local Government Code (Chapter 253) require certain actions be taken prior to the use or taking of park land for non-park purposes;

**WHEREAS**, the City advertised in the Kingsville Record on February 3, 10 & 17, 2019 and in the Corpus Christi Caller-Times on February 3, 10 & 17, 2019 that a public hearing would be held at a City Commission meeting on February 25, 2019 for the purpose of considering decommissioning three pieces of park land, with the above-referenced property being one of those three properties;

**WHEREAS**, the City called for and then held a special election on May 4, 2019 to seek voter approval for the decommissioning of three pieces of park land (one of which was Kenedy Park) and the measures were approved by local voters;

**WHEREAS**, the City Commission of the City of Kingsville via Resolution #21-46 on July 26, 2021 found it was in the best interest of the citizens of Kingsville that the approximately 1.4141 acres of land off the corner of 14<sup>th</sup> Street and East Kenedy Street known as Kenedy Park (5<sup>th</sup> Addition, Block 4, Lots 17-32 & E40' of abandoned South 13<sup>th</sup> Street), in Kingsville, Texas be decommissioned as park land to allow for it to be placed for sale as authorized by the Texas Local Government Code with any sale proceeds being placed back into the park system;

**WHEREAS**, the City has contacted the King Ranch regarding this proposal and they have no objection and the City desires that the proceeds from the sale of Kenedy Park be used for the development of the Chamberlain Park project to the north of City Hall;

**WHEREAS**, the City Commission of the City of Kingsville found on July 26, 2021 via Resolution #2021-47 that it was in the best interest of the citizens of Kingsville that the approximately 1.4141 acres of land off the corner of 14<sup>th</sup> Street and East Kenedy Street at 5<sup>th</sup> Addition, Block 4, Lots 17-32 & E 40' of abandoned S. 13<sup>th</sup> St., in Kingsville, Texas be placed for sale as authorized by the Texas Local Government Code;

**WHEREAS**, the City believes that placing the land for sale would place the property back on the tax roll which would allow for future development of the property;

**WHEREAS**, pursuant to the Texas Local Government Code, real property owned by the City can be sold via public auction, sealed bids, or for home-rule cities through a broker, unless an exception is met;

**WHEREAS**, the City finds the property does not meet any of the exceptions to the bidding requirement as set out in Texas Local Government Code Section 272.001, staff previously recommended the property be sold via a broker as allowed by Texas Local Government Code Section 253.014 with the best offer coming back before the Commission for approval of the sale;

**WHEREAS**, the City previously approved Resolution #2021-50 on August 08, 2021 to enter into a Commercial Real Estate Listing Agreement with the exclusive right to sell with a local broker Connie Womack in order to list the property through a multiple-listing service pursuant to state law;

**WHEREAS**, the property was listed by the real estate broker on a multiple-listing service for at least 30 days;

**WHEREAS**, an offer has been received by the broker using the multiple-listing service from a ready, willing, and able buyer who submitted the highest cash offer;

**WHEREAS**, on June 10, 2024, the City Commission approved Resolution #2024-60 to authorize the City Manager to execute a contract for the purchase of the real property after which the buyer requested a 210 day feasibility study period;

**WHEREAS**, that time is ending and the parties desire to move forward with the sale, the Interim City Manager now needs authority from the City Commission to execute a contract for the purchase of this real property and to take actions necessary to sell the identified property;

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Kingsville, Texas:

I.

**THAT** the City Commission of the City of Kingsville finds that all conditions precedent to the placing this land for sale have been met and authorizes and directs the Interim City Manager as an act of the City of Kingsville, Texas to take actions necessary to complete the real property sale in compliance with the Texas Local Government Code for the City's approximately 1.4141 acres of real property off the corner of 14<sup>th</sup> Street and East Kenedy Street at 5<sup>th</sup> Addition, Block 4, Lots 17-32 & E 40' of abandoned S. 13<sup>th</sup> St., in Kingsville, Texas.

II.

**THAT** all resolutions or parts of resolutions in conflict with this resolution are repealed to the extent of such conflict only.

III.

**THAT** this Resolution shall be and become effective on and after adoption.

**PASSED AND APPROVED** by a majority vote of the City Commission the 24th day of March, 2025.

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Sam Fugate, Mayor

**ATTEST:**

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Mary Valenzuela, City Secretary

**APPROVED AS TO FORM:**

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Courtney Alvarez, City Attorney