



CITY COUNCIL SPECIAL CALLED MEETING CITY OF BAY CITY

Thursday, January 06, 2022 at 5:00 PM
COUNCIL CHAMBERS | 1901 5th Street

COUNCIL MEMBERS

Mayor: Robert K Nelson

Mayor Pro Tem: Jason W. Childers

Council Members: Becca Sitz, Bradley Westmoreland, Floyce Brown, Jim Folse

Bay City is committed to developing and enhancing the long-term prosperity, sustainability, and health of the community.

AGENDA

THE FOLLOWING ITEM WILL BE ADDRESSED AT THIS OR ANY OTHER MEETING OF THE CITY COUNCIL UPON THE REQUEST OF THE MAYOR, ANY MEMBER(S) OF COUNCIL AND/OR THE CITY ATTORNEY:

ANNOUNCEMENT BY THE MAYOR THAT COUNCIL WILL RETIRE INTO CLOSED SESSION FOR CONSULTATION WITH CITY ATTORNEY ON MATTERS IN WHICH THE DUTY OF THE ATTORNEY TO THE CITY COUNCIL UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THE OPEN MEETINGS ACT (TITLE 5, CHAPTER 551, SECTION 551.071(2) OF THE TEXAS GOVERNMENT CODE).

CALL TO ORDER

CERTIFICATION OF QUORUM

APPROVAL OF AGENDA

PUBLIC COMMENTS

State Law prohibits any deliberation of or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff places the item on an agenda for a subsequent meeting.

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

1. Adopt Resolution Authorizing Submission of the 2022 Texas Department of Housing Community Affairs CDBG-CV Community Resiliency Program (CRP) for Bay City.
2. Adopt a Citizen Participation Plan for Bay City.
3. Adopt Duplication of Benefits Policy for Bay City.

4. Approve Bay City and Economic Action Committee of the Gulf Coast Memorandum of Agreement.

ADJOURNMENT

CERTIFICATION OF POSTING

This is to certify that the above notice of a Regular Called Council Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on **December 30, 2021 by 5PM**. Any questions concerning the above items, please contact Mayor Robert K. Nelson at (979) 245-2137.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF BAY CITY, TEXAS, AUTHORIZING THE SUBMISSION OF A COMMUNITY DEVELOPMENT BLOCK GRANT CARES ACT (CDBG-CV), TEXAS *COMMUNITY RESILIENCY PROGRAM* APPLICATION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) FOR THE CDBG-CV, TEXAS COMMUNITY RESILIENCY PROGRAM; AND AUTHORIZING THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT CARES ACT, TEXAS COMMUNITY RESILIENCY PROGRAM.

WHEREAS, the City Council of Bay City desires to develop a viable community, including decent housing and a suitable living environment and expanding the community's long-term resiliency and ability to mitigate future coronavirus outbreaks, principally for persons of low-to- moderate income; and

WHEREAS, it is necessary and in the best interests of Bay City to apply for funding under the Community Development Block Grant CARES Act, Texas Community Resiliency Program;

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

1. That a Community Development Block Grant CARES Act application for the CDBG-CV Texas Community Resiliency Program is hereby authorized to be filed on behalf of the City with the Texas Department of Housing and Community Affairs.
2. That the City's application be placed in competition for funding under the CDBG-CV, Texas Community Resiliency Program.
3. That the application be for \$5,000,000 of grant funds to provide public facilities improvements.
4. That the City Council directs and designates the following to act in all matters in connection with this application and the County's participation in the CDBG-CV, Texas Community Resiliency Program:
 - The Mayor shall serve as the City's Chief Executive Officer and Authorized Representative to execute this application and any subsequent contractual documents;
 - The Mayor is authorized to execute environmental review documents between the Texas Department of Housing and Community Affairs and the County; and
 - If this application is funded, the Mayor or the Director of Finance is authorized to execute the Request for Payment Form documents and/or other forms required for requesting funds to reimburse project costs; and
 - The City's grant administrator, GrantWorks, Inc., is authorized to execute the completion and submission of the application on behalf of the City.
5. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.

6. That it further be stated that Bay City is responsible for committing any additional needed funds from its General Fund as a cash contribution toward the construction activities of public facilities improvement projects if the project budget is exceeded.

Passed and approved this 6th day of January, 2022.

Robert K. Nelson, Mayor
Bay City

Jeanna Thompson, City Secretary
Bay City

**BAY CITY
CITIZEN PARTICIPATION PLAN
COMMUNITY DEVELOPMENT BLOCK GRANT CARES ACT (CDBG-CV)
TEXAS COMMUNITY RESILIENCY PROGRAM**

Note to Grant Recipients regarding Limited English Proficiency (LEP) requirements:

In accordance with federal law, if there is a significant number of the population who are non-English speaking residents and are affected by the CDBG-CV Texas Community Resiliency Program project, such citizens should have ‘meaningful access’ to all aspects of the CDBG-CV project. To provide ‘meaningful access’, Grant Recipients may need to provide interpreter services at public hearings or provide non-English written materials that are routinely provided in English. Examples of such vital documents may include Citizen Participation notices (e.g., complaint procedures, hearings notices), civil rights notices, and any other published notice that may allow an eligible person with limited English proficiency to participate in discussing proposed CDBG-CV activities.

For more information, see LEP.gov

COMPLAINT PROCEDURES

These complaint procedures comply with the requirements of the Texas Department of Housing and Community Affairs (the Department or TDHCA) Community Development Block Grant CARES Act (CDBG-CV) for the *Community Resiliency Program* and Local Government Requirements found in 24 CFR §570.486 (Code of Federal Regulations). Citizens can obtain a copy of these procedures at Bay City, 1901 Fifth Street, Bay City, TX 77414, or may call (979) 245-5311, during regular business hours.

Below are the formal complaint and grievance procedures regarding the services provided under the CDBG-CV project.

1. A person who has a complaint or grievance about any services or activities with respect to the CDBG-CV project, whether it is a proposed, ongoing, or completed CDBG-CV project, may during regular business hours submit such complaint or grievance, in writing to the City Manager, at 1901 Fifth Street, Bay City, TX 77414, or may call (979) 245-5311.
2. A copy of the complaint or grievance shall be transmitted by the City Manager to the entity that is the subject of the complaint or grievance and to the City Attorney within five (5) working days after the date of the complaint or grievance was received.
3. The City Manager shall complete an investigation of the complaint or grievance, if practicable, and provide a timely written answer to the person who made the complaint or grievance within ten (10) days.

4. If the investigation cannot be completed within ten (10) working days per 3 above, the person who made the grievance or complaint shall be notified, in writing, within fifteen (15) days where practicable after receipt of the original complaint or grievance and shall detail when the investigation should be completed.
5. If necessary, the grievance and a written copy of the subsequent investigation shall be forwarded to the CDBG-CV for their further review and comment.
6. If appropriate, provide copies of grievance procedures and responses to grievances in both English and Spanish, or other appropriate language.

TECHNICAL ASSISTANCE

When requested, the City shall provide technical assistance to groups that are representative of persons of low- and moderate-income in developing proposals for the use of CDBG-CV funds. The City, based upon the specific needs of the community's residents at the time of the request, shall determine the level and type of assistance.

PUBLIC HEARING PROVISIONS

For each public hearing scheduled and conducted by the City, the following public hearing provisions shall be observed:

1. Public notice of all hearings must be published at least seventy-two (72) hours prior to the scheduled hearing. The public notice must be published in a local newspaper. Each public notice must include the date, time, location, and topics to be considered at the public hearing. A published newspaper article can also be used to meet this requirement so long as it meets all content and timing requirements. Notices should also be prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups.
2. When a significant number of non-English speaking residents are a part of the potential service area of the CDBG-CV project, vital documents such as notices should be published in the predominant language of these non-English speaking citizens.
3. Each public hearing shall be held at a time and location convenient to potential or actual beneficiaries and will include accommodation for persons with disabilities. Persons with disabilities must be able to attend the hearings and the City must make arrangements for individuals who require auxiliary aids or services if contacted at least two days prior to the hearing.
4. A public hearing held prior to the submission of a CDBG-CV application must be held after 5:00 PM on a weekday or at a convenient time on a Saturday or Sunday.

5. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, an interpreter should be present to accommodate the needs of the non-English speaking residents.

The City shall comply with the following citizen participation requirements for the preparation and submission of an application for a CDBG-CV project:

1. At a minimum, the City shall hold at least one (1) public hearing prior to submitting the application to the Texas Department of Agriculture.
2. The City shall retain documentation of the hearing notice(s), a listing of persons attending the hearing(s), minutes of the hearing(s), and any other records concerning the proposed use of funds for three (3) years from closeout of the grant to the state. Such records shall be made available to the public in accordance with Chapter 552, Texas Government Code.
3. The public hearing shall include a discussion with citizens as outlined in the applicable CDBG-CV application manual to include, but is not limited to, the development of housing and community development needs, the amount of funding available, all eligible activities under the CDBG-CV program, and the use of past CDBG-CV contract funds, if applicable. Citizens, with particular emphasis on persons of low- and moderate-income who are residents of slum and blight areas, shall be encouraged to submit their views and proposals regarding community development and housing needs. Citizens shall be made aware of the location where they may submit their views and proposals should they be unable to attend the public hearing.
4. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, an interpreter should be present to accommodate the needs of the non-English speaking residents.

The City must comply with the following citizen participation requirements in the event that the City receives funds from the CDBG-CV program:

1. The City shall also hold a public hearing concerning any substantial change, as determined by CDBG-CV, proposed to be made in the use of CDBG-CV funds from one eligible activity to another again using the preceding notice requirements.
2. Upon completion of the CDBG-CV project, the City shall hold a public hearing and review its program performance including the actual use of the CDBG-CV funds.
3. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, for either a public hearing concerning substantial change to the CDBG-CV project or for the closeout of the CDBG-CV project, publish notice in both English and Spanish, or other appropriate language and provide an interpreter at the hearing to accommodate the needs of the non-English speaking residents.

4. The City shall retain documentation of the CDBG-CV project, including hearing notice(s), a listing of persons attending the hearing(s), minutes of the hearing(s), and any other records concerning the actual use of funds for a period of three (3) years from closeout of the grant to the state. Such records shall be made available to the public in accordance with Chapter 552, Texas Government Code.

Robert K. Nelson, Mayor

Date

BAY CITY
PLAN DE PARTICIPACIÓN CIUDADANA
PROGRAMA DE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT CARES
ACT (CDBG-CV)
COMMUNITY RESILIENCY PROGRAM

Nota a los receptores de subvención en relación a requisitos de Dominio Limitado del Inglés:

De acuerdo con la ley federal hay un número significativo de población que son residentes y que no hablan inglés y son afectados por el proyecto CDBG-CV, estos ciudadanos deben tener "acceso significativo" a todos los aspectos del proyecto CDBG-CV. Para proporcionar "acceso significativo", los receptores de la subvención pueden ser utilizados para proporcionar servicios de interpretación en las audiencias públicas o proporcionar materiales no escritos en inglés que se proporcionan de manera rutinaria en Inglés. Para obtener más información, consulte LEP.gov.

PROCEDIMIENTOS DE QUEJA

Estos procedimientos de queja cumplen con los requisitos del Departamento de Programa de Agricultura de Texas Community Development Block Grant (CDBG-CV) y los requisitos del gobierno local de Texas se encuentran en 24 CFR §570.486 (Código de Regulaciones Federales). Los ciudadanos pueden obtener una copia de estos procedimientos en la Bay City, 1901 Fifth Street, Bay City, TX 77414, or may call (979) 245-5311, en horario de oficina.

A continuación se presentan los procedimientos formales de quejas y quejas relativas a los servicios prestados en el marco del proyecto CDBG-CV.

1. Una persona que tiene una queja o reclamación sobre cualquiera de los servicios o actividades en relación con el proyecto CDBG-CV, o si se trata de una propuesta, en curso o determinado proyecto CDBG-CV, pueden durante las horas regulares presentar dicha queja o reclamo, por escrito a la Bay City, 1901 Fifth Street, Bay City, TX 77414, or may call (979) 245-5311.
2. Una copia de la queja o reclamación se transmitirá por el Administrador de la ciudad a la entidad que es encargada de la queja o reclamación y al Abogado de la Ciudad dentro de los cinco (5) días hábiles siguientes a la fecha de la queja o día que la reclamación fue recibida.
3. El Administrador de la ciudad deberá cumplir una investigación de la queja o reclamación, si es posible, y dará una respuesta oportuna por escrito a la persona que hizo la denuncia o queja dentro de los diez (10) días.
4. Si la investigación no puede ser completada dentro de los diez (10) días hábiles anteriormente, la persona que hizo la queja o denuncia será notificada, por escrito, dentro de los quince (15) días cuando sea posible después de la entrega de la queja original o quejas y detalla cuando se deba completar la investigación.

5. Si es necesario, la queja y una copia escrita de la investigación posterior se remitirán a la CDBG-CV para su posterior revisión y comentarios.
6. Se proporcionará copias de los procedimientos de queja y las respuestas a las quejas, tanto en Inglés y Español, u otro lenguaje apropiado.

ASISTENCIA TÉCNICA

Cuando lo solicite, la Ciudad proporcionará asistencia técnica a los grupos que son representantes de las personas de bajos y moderados ingresos en el desarrollo de propuestas para el uso de los fondos CDBG-CV. La Ciudad, en base a las necesidades específicas de los residentes de la comunidad en el momento de la solicitud, deberá determinar el nivel y tipo de asistencia.

DISPOSICIONES AUDIENCIA PÚBLICA

Para cada audiencia pública programada y llevada a cabo por la Ciudad, se observarán las disposiciones siguientes de audiencias públicas:

1. El aviso público de todas las audiencias deberá publicarse al menos setenta y dos (72) horas antes de la audiencia programada. El aviso público deberá publicarse en un periódico local. Cada aviso público debe incluir la fecha, hora, lugar y temas a considerar en la audiencia pública. Un artículo periodístico publicado también puede utilizarse para cumplir con este requisito, siempre y cuando cumpla con todos los requisitos de contenido y temporización. Los avisos también deben ser un lugar prominente en los edificios públicos y se distribuyen a las autoridades locales de vivienda pública y otros grupos interesados de la comunidad.
2. Cuando se tenga un número significativo de residentes que no hablan inglés serán una parte de la zona de servicio potencial del proyecto CDBG-CV, documentos vitales como las comunicaciones deben ser publicados en el idioma predominante de estos ciudadanos que no hablan inglés.
3. Cada audiencia pública se llevará a cabo en un momento y lugar conveniente para los beneficiarios potenciales o reales e incluirá alojamiento para personas con discapacidad. Las personas con discapacidad deben poder asistir a las audiencias y la Ciudad debe hacer los arreglos para las personas que requieren ayudas o servicios auxiliares en caso de necesitarlo por lo menos dos días antes de la audiencia será pública.
4. Una audiencia pública celebrada antes de la presentación de una solicitud CDBG-CV debe hacerse después de las 5:00 pm en un día de semana o en un momento conveniente en sábado o domingo.

5. Cuando un número significativo de residentes que no hablan inglés se registra para participar en una audiencia pública, un intérprete debe estar presente para dar cabida a las necesidades de los residentes que no hablan inglés.

La Ciudad deberá cumplir con los siguientes requisitos de participación ciudadana para la elaboración y presentación de una solicitud para un proyecto CDBG-CV:

1. Como mínimo, la Ciudad deberá tener por lo menos una (1) audiencia pública antes de presentar la solicitud al Departamento de Agricultura de Texas.
2. La Ciudad conservará la documentación de la convocatoria(s) audiencia, un listado de las personas que asistieron a la audiencia(s) , acta de la vista(s), y cualquier otra documentación relativa a la propuesta de utilizar los fondos para tres (3) años a partir de la liquidación de la subvención para el Estado . Dichos registros se pondrán a disposición del público, de conformidad con el Capítulo 552, Código de Gobierno de Texas.
3. La audiencia pública deberá incluir una discusión con los ciudadanos como se indica en el manual correspondiente de aplicación CDBG-CV, pero no se limita a, el desarrollo de las necesidades de vivienda y desarrollo comunitario, la cantidad de fondos disponibles, todas las actividades elegibles bajo el programa CDBG-CV y el uso de fondos últimos contratos CDBG-CV, en su caso. Los ciudadanos, con especial énfasis en las personas de bajos y moderados ingresos que son residentes de las zonas de tugurios y tizón, se fomentarán a presentar sus opiniones y propuestas sobre el desarrollo de la comunidad y las necesidades de vivienda. Los ciudadanos deben ser conscientes de la ubicación en la que podrán presentar sus puntos de vista y propuestas en caso de que no puedan asistir a la audiencia pública.
4. Cuando un número significativo de residentes que no hablan inglés se registra para participar en una audiencia pública, un intérprete debe estar presente para dar cabida a las necesidades de los residentes que no hablan inglés.

La Ciudad debe cumplir con los siguientes requisitos de participación ciudadana en el caso de que la Ciudad recibe fondos del programa CDBG-CV:

1. La Ciudad celebrará una audiencia pública sobre cualquier cambio sustancial, según lo determinado por CDBG-CV, se propuso que se hará con el uso de fondos CDBG-CV de una actividad elegible a otro utilizando de nuevo los requisitos de notificación
2. Una vez finalizado el proyecto CDBG-CV, la Ciudad celebrará una audiencia pública y revisará el desempeño del programa incluyendo el uso real de los fondos CDBG-CV.

3. Cuando un número significativo de residentes que no hablan inglés se puede registrar para participar en una audiencia pública, ya sea para una audiencia pública sobre el cambio sustancial del proyecto CDBG-CV o para la liquidación del proyecto CDBG-CV, publicará un aviso en Inglés y Español u otro idioma apropiado y se proporcionará un intérprete en la audiencia para dar cabida a las necesidades de los residentes.
4. La Ciudad conservará la documentación del proyecto CDBG-CV, incluyendo aviso de audiencia(s), un listado de las personas que asistieron a la audiencia(s), acta de la vista(s), y cualquier otro registro concerniente al uso real de los fondos por un período de a tres (3) años a partir de la liquidación del proyecto al estado.

Dichos registros se pondrán a disposición del público, de conformidad con el Capítulo 552, Código de Gobierno de Texas.

Robert K. Nelson, Alcalde

Fecha

BAY CITY

DUPLICATION OF BENEFITS POLICY

Purpose

As a recipient of the U.S. Department of Housing and Urban Development (HUD), through the Texas Department of Housing and Community Affairs (TDHCA) Community Development Block Grant Coronavirus Program (CDBG-CV) funds, BAY CITY is to ensure that CDBG-CV funds are used consistent with the Community Resiliency Program requirements. TDHCA requires that there are adequate procedures in place to prevent any duplication of benefits ("DOB"), and to ensure TDHCA complies with federal regulations and this requirement, this responsibility is passed on to all CDBG-CV subrecipients to effectively manage the multiple active funding streams related to coronavirus response and efficiently target CDBG-CV resources to meet unmet needs in the community. This policy ensures that there is no DOB for any project or program receiving CDBG-CV assistance through this funding award.

Applicability

This policy is applicable to all non-entitlement BAY CITY employees, consultants, or subawardees responsible for the implementation of programs and projects funded under TDHCA's CDBG-CV grants and who oversee agreements or contracts with the subrecipient.

Definitions

- DOB: Duplication of benefits (DOB) occurs when a person, household, business, government, or other financial entity receives financial assistance from multiple sources for the same purpose, and the total assistance received for that purpose is more than the total need for assistance.
- Subrecipient: Subrecipient, for the purpose of this policy, means a non-entitlement City or County, a nonprofit organization, subawardee, or an entity selected by the non-entitlement City or County to receive all or a portion of the non-entitlement City or County's CDBG-CV (or other federal) funds.

Duplication of Benefits due to COVID-19

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed to provide immediate and direct response to the emerging crisis impacting our country as a result of the COVID-19 global pandemic. This allocation was authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136. CDBG-CV funding, intends to address the unmet needs of a community. The funds are supplemental to primary forms of assistance, including private insurance, and FEMA funds, and cannot be used simultaneously. To avoid duplicative assistance and potential de-obligation of funding, TDHCA must account for all possible funding sources before applying CDBG-CV dollars to a project. Any entity receiving CDBG-CV assistance (including subrecipients and subawardees) must agree to repay assistance that is determined to be duplicative. This may be documented through a contract, exhibit, and/or affidavit with the entity (subrecipients or subawardees).

Analyzing Duplication of Benefits (DOB)

To analyze duplication of benefits, BAY CITY will complete the following steps:

1. Assess Need
 - a. Determine the total cost of the project/program.
 - b. Determine the total cost of eligible CDBG-CV project/program expenses.
2. Determine Assistance
 - a. Determine the amount of assistance that has been or will be provided from all sources to pay for all costs of the project/program.
 - b. Determine the amount of all sources that can pay for eligible CDBG-DV project/program expenses.
3. Calculate Unmet CDBG-CV Project/Program Costs
 - a. Determine the amount of assistance already provided for the total project and/or program compared to CDBG-CV eligible expenses to determine the maximum CDBG-CV award (unmet need).
4. Document Analysis
 - a. Document the calculation and maintain adequate documentation justifying determination of maximum award.
 - i. Example:

How much will the overall project or program cost?

- (subtract)

How much of the project or program costs are ineligible CDBG-CV costs?

Amount of assistance that has been or will be provided by all sources to pay the eligible CDBG-CV cost (other than CDBG-CV).

= (equals)

Unmet CDBG-CV Need

Recapture/Repayment Process

If a Duplication of Benefits does occur, the subrecipient agrees that TDHCA will require the subrecipient to repay the CDBG-CV grant with non-federal funds within ten calendar days of discovery of the duplication.

These Policies and Procedures are implemented through Bay City's CDBG-CV Review Team:

Bay City Mayor

Bay City Director of Finance

Bay City Manager

Adopted on this day of January 6, 2022

THE STATE OF TEXAS §

MEMORANDUM OF AGREEMENT

BAY CITY §

This AGREEMENT is made between BAY CITY, TEXAS, hereinafter referred to as the BAY CITY, acting through its City Council, and the ECONOMIC ACTION COMMITTEE OF THE GULF COAST (EAC) hereinafter referred to as the EAC, acting through its Board of Directors.

BAY CITY agrees to provide grant funds budgeted from its Program Year 2022 Community Development Block Grant CARES Act, Texas Community Resiliency Program Fund contract to construct a public facility improvements project on behalf of the EAC benefitting the clientele of the EAC if such is awarded to BAY CITY by the Texas Department of Housing and Community Affairs (TDHCA), hereinafter referred to as the GRANT. The term of this Agreement shall be from JANUARY 6, 2022, until the GRANT is administratively closed by TDHCA. Either party may terminate this Agreement with thirty (30) days written notice to the other party, but such early termination shall not relieve the parties from the financial obligations addressed below.

Parties agree that the BAY CITY shall:

1. Endeavor to execute its GRANT responsibilities in a timely and efficient manner.
2. Be the repository of all receipts and documentation pertinent to the GRANT and furnish such to TDHCA upon its request.
3. Serve as the primary contact in all matters pertaining to the GRANT and the conduit for communication between itself, the EAC, and TDHCA.
4. Provide pre-bid project design and change orders to the EAC for its review and approval prior to approval by BAY CITY.
5. Not award a construction contract or approve a contract modification, including change orders, to complete the activities described in the GRANT in which the cost exceeds the funds available in the GRANT budget unless funds sufficient to cover the shortfall are committed in writing by BAY CITY the EAC, or another party.
6. Attempt to modify the GRANT contract with TDHCA in order to bring costs within the GRANT budget if construction bids exceed the GRANT budget and funds sufficient to cover the shortfall are not available.
7. Maintain full ownership of the GRANT-funded improvements upon receipt of the Certificate of Construction Completion.
8. Be responsible for the continued maintenance and operation of any proposed improvements/services for the duration of the grant required timeframe (5 years).
9. Provide any GRANT matching funds that it has separately committed by resolution of its City Council.

Parties agree that the EAC shall:

1. Comply with all BAY CITY requests for information required to fulfill BAY CITY'S obligations under the GRANT.
2. Offer to provide access to the improved services to all beneficiaries of this project/project site.
3. Permit unrestricted access by BAY CITY and its selected engineering, administrative, and construction contractors to those portions of the construction site under EAC control, to allow performance of the GRANT-related duties outlined in agreements these entities shall have with BAY CITY.

4. Be solely responsible for the continued maintenance and operation of any proposed improved services.
5. Pay for any cost overruns attributable to the award of a construction contract or a contract modification, including change orders, to complete the activities described in the GRANT that it has approved in writing.
6. Cooperate with the BAY CITY in any attempt to modify the GRANT contract with TDHCA in order to bring costs within the GRANT budget if construction bids exceed the GRANT budget and the EAC is unable to provide funds sufficient to cover the shortfall.
7. Pay any GRANT-related expenses incurred by the BAY CITY that are unreimbursed by or repaid to TDHCA, in the event the GRANT project fails to provide the public improvements and benefits required under the GRANT contract.
8. Pay for any costs resulting from violation or early termination of this Agreement by the EAC.
9. Be responsible for the continued maintenance and operation of any proposed improvements/services for the duration of the grant required timeframe (5 years).
10. Provide any GRANT matching funds that it has separately committed in writing through its Board of Directors.

The parties further agree that any GRANT funds provided by BAY CITY are without warranty of any kind to the EAC or any third party, and the EAC hereby agrees, to the extent allowable by law, to defend, hold harmless, and indemnify BAY CITY its officers, agents, and employees for any claims for injury or death of any person or any property damage arising out of BAY CITY'S performance of its obligations under this Agreement. Nothing herein shall be construed to create any rights in third parties.

BAY CITY, TEXAS

ECONOMIC ACTION COMMITTEE

ROBERT K. NELSON
CITY MAYOR

NAME
PRESIDENT OF THE BOARD

ATTEST:

JEANNA THOMPSON
CITY SECRETARY

NAME
BOARD SECRETARY