

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