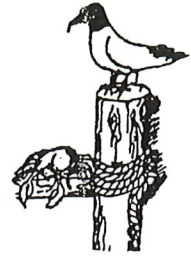




Incorporated December 27, 1912
www.seadrifftx.org

CITY OF SEADRIFT

Post Office Box 159/501 S. Main St.
Seadrift, Texas 77983
Tel: (361) 785-2251
Fax: (361) 785-2208
seadrift@seadrifftx.org



NOTICE OF CITY COUNCIL MEETING

ALL MEETINGS OF THE CITY COUNCIL ARE OPEN TO THE PUBLIC.
CLOSED SESSIONS CAN ONLY BEGIN FROM AN OPEN SESSION.

PUBLIC HEARING AGENDA

TUESDAY, OCTOBER 8, 2024, AT 5:45 P.M.

SEADRIFT CITY HALL, COUNCIL CHAMBERS, 501 S. MAIN ST., SEADRIFT, TX 77983

2021 Texas CDBG Program Community Development Contract CDV21-0030

The City of Seadrift invites all citizens to a public hearing at 5:45 p.m. on Tuesday, October 8, 2024, at the Seadrift City Hall, 501 S. Main Street, Seadrift TX 77983 to review performance and obtain comments regarding its 2021 Texas CDBG Program Community Development Contract CDV21-0030. Disabled persons or those who require auxiliary aids or services who wish to attend this meeting should contact Gabriela Torres, City Secretary, at (361) 785-2251 at least two days before the meeting to make arrangements.

Project Scope:

Install 3,780 linear feet of eight-inch and ten-inch sewer line and provide service reconnections. The locations for this project are:

- Alley between Bay Avenue and Washington Avenue
- Alley between Washington Avenue and Baltimore Avenue
- Alley between Baltimore Avenue and Dallas Avenue

Construction Completion Date: 6/28/2024


REGULAR MEETING AGENDA

TUESDAY, OCTOBER 8, 2024, AT 6:00 P.M.

SEADRIFT CITY HALL, COUNCIL CHAMBERS, 501 S. MAIN ST., SEADRIFT, TX 77983


Public notice is hereby given that the Seadrift City Council of the City of Seadrift will meet in a Regular Meeting on **Tuesday, October 8, 2024**, beginning at **6:00 PM** at the **Seadrift City Hall, Council Chambers, 501 S. Main St., Seadrift, TX 77983**, for the purpose of discussing, considering, reviewing, and taking any action needed on the following items. *The following items may be considered in order of sequence OR the order may be moved around at the discretion of the Mayor or presiding officer during the meeting.*

1. **Call to Order & Quorum Call**
2. **Invocation & Pledge of Allegiance**
3. **Meeting Minutes.** Approve the previous month's meeting minutes.
4. **Accounts Payable.** Approve bills for October 2024.


10/03/2024
10:15 AM

CITY OF SEADRIFT – OCTOBER 8, 2024, CITY COUNCIL MEETING

5. **Department Head Monthly Reports.** Items in this section will not have any City Council action taken and are for general information only.
 - a. **Public Utilities,** *Kenneth Reese*
 - b. **Public Safety,** *Paul Gonzales*
 - c. **Municipal Harbor,** *Johnny Mikolas*
 - d. **Streets & Drainage, and Solid Waste,** *Alysa Jarvis*
 - e. **Parks & Recreation,** *Tracey Johnson*
 - f. **City Hall Administration**
6. **Citizen Comments.** Rules for speakers: Speakers have an allotted time of 3 minutes to speak, but those needing a translator will be allocated 6 minutes. Speakers will need to approach the podium and state their names. No Council discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law. If an individual desires to speak to a specific agenda item listed, it is recommended that the individual address that item when it comes up during the meeting.
7. **Seawall Restoration Project (PW 4450):** Discuss/Consider/Take any action to:
 - a. Authorize payment of Pay Application #14 (Final-Retainage) to SR Trident for \$345,296.76.
 - b. Approve G&W Engineers Invoice 9697.088-0724 for \$55,000 for professional services provided for the Seawall Restoration Project.
 - c. Approve G&W Engineers Invoice Final Invoice 9697.088-0924 for \$55,000 for professional services provided for the Seawall Restoration Project.
8. **GLO MIT MOD (24-065-084-E760):** Discuss/Consider/Take any action to:
 - a. Readopt the Resolution Regarding the Civil Rights Policies for the GLO Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) Program, Contract #24-065-084-E760.
 - b. Approve the Resolution Designating Authorized Signatories for Contractual and Financial Documents pertaining to the GLO Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) Program, Contract #24-065-084-E760.
 - c. Proclamation declaring January as the City of Seadrift- Fair Housing Month.
 - d. Approve Amendment #2 for the Grant Administration and Environmental Services contract for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) Program Contract Number #24-065-084-E760.
9. **GLO CDBG DR (20-065-103-C278):** Discuss/Consider/Take any action to:
 - a. Approve Resolution regarding Labor Standards and Oversight.
 - b. Approve updated Financial Policy.
 - c. Approve updated Procurement Policy & Procedures for Federal Grants.
10. **GLO CDBG DR (20-065-103-C278) – Amendment regarding Bayfront Park Restroom:**
Discuss, Consider, Take any action on using sufficient funds left in the C278 GLO grant to the Bayfront. Park Restroom due to FEMA changing the ruling on the Restroom's insurance reductions.


10/03/24
10:15AM

CITY OF SEADRIFT – OCTOBER 8, 2024, CITY COUNCIL MEETING

- 11. TDA CDV21-0030 Certificate of Construction Completion (COCC):** Discuss, Consider, Take any action to approve the Certificate of Construction Completion (COCC) for the TDA CDV21-0030 Grant Project.
- 12. Municipal Harbor Survey:** Discuss, Consider, Take any action to approve surveying the Municipal Harbor and going out for bids.
- 13. Dashcam and GPS Purchase:** Discuss, Consider, Take any action to approve the purchase of dashcams and GPS in City vehicles.
- 14. Resolution on Closure of City Accounts:** Discuss, Consider, Take any action to approve a resolution to close several City bank accounts and move funds to existing accounts.
- 15. Water and Sewer Improvement Reimbursement Request:** Discuss, Consider, Take any action on a request for reimbursement for water and sewer improvements at Block 111.
- 16. Official City Logo:** Discuss, Consider, Take any action to approve an official City logo.
- 17. Executive Session.** At any time, during the Regular Meeting, the City Council may adjourn into an Executive Session, as needed, on any item listed, including the items listed here and which the Texas Government Code section 551 authorizes Executive Sessions to be held: Sections 551.071 (Attorney Consultation), 551.072 (Real Property), 551.073 (Gifts & Donations), 551.074 (Personnel), 551.076 (Security) and 551.087 (Economic Development).
- 18. Action on Executive Session Items.** The City Council will reconvene into an open session and take action on any items discussed in the Executive Session.
- 19. Adjournment**

CERTIFICATION

I, Gabriela Torres, City Secretary, do hereby certify that the above Agenda was posted on the City Hall bulletin board, a convenient and readily accessible place to the public at all times, at 501 S. Main St., Seadrift, Texas 77983, and on the City's website, www.seadrifttx.org in compliance with Chapter 551, Texas Government Code.

Signature: 
Gabriela Torres, City Secretary

Date Posted: 10/03/24 10:15 AM
Date and Time

The Seadrift City Hall Council Chambers are wheelchair-accessible and accessible parking spaces are available. Requests for accommodation or interpretative services must be made 48 hours, during regular business hours, before this meeting. Please contact the City Secretary's Office at (361) 785-2251 or g.torres@seadrifttx.org for further information.

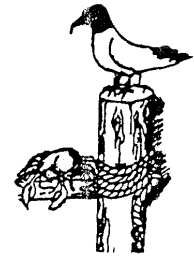




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Public Officials

Mayor

n/a

Mayor Pro-Tem & Alderperson

Tracey Johnson, Parks and Recreation

Alderman

Kenneth Reese
Public Utilities

Alderman

Paul Gonzales
Public Safety

Alderman

Johnny Mikolas
Municipal Harbor

Alderman

Alysa Jarvis
Streets & Drainage, and
Solid Waste

City Attorney

Robert McKnight

City Secretary

Gabriela Torres

PUBLIC HEARING

The Public Hearing opened at 5:45 P.M.

The Seadrift City Council held a Public Hearing on October 8, 2024, at the City Hall Council Chambers located at 501 S. Main St., Seadrift, TX 77983.

The City Council invited all citizens to provide comments regarding its 2021 Texas CDBG Program Community Development Contract CDV21-0030.

Copy of Public Hearing Attendance attached.

The Public Hearing closed at 5:51 P.M.

REGULAR MEETING

The Seadrift City Council met in a Regular Meeting on October 8, 2024, at the City Hall Council Chambers located at 501 S. Main St., Seadrift, TX 77983.

Meeting called at 6:00 P.M.

1. Call to Order & Quorum Call

Mayor Pro-Tem Tracey Johnson called the meeting to order at 6:00 PM. The following Alderpersons were present: Tracey Johnson, Kenneth Reese, Paul Gonzales, Alysa Jarvis, and Johnny Mikolas.

2. Invocation & Pledge of Allegiance

Beverly Smith gave the invocation and Mayor Pro-Tem Johnson led the Pledge of Allegiance.

3. Previous Month Meeting Minutes – September 2024

Alderperson Jarvis noted a correction for the September 10, 2024 Regular Meeting minutes in Item 5. Section b. Public Safety. Alderperson Jarvis commented that it should read "Officer James Easley is back on duty...".

Motion: Alderperson Jarvis made the motion to accept the previous month's minutes with corrections. Alderperson Gonzales seconded the motion.

Vote: Motion carried unanimously 5-0.

City of Seadrift – October 8, 2024, Public Hearing & Regular Meeting Minutes

4. Bills for October 2024

Motion: Alderperson Jarvis made the motion to approve bills to be paid for October 2024, except for Alpha Water Resources. Alderperson Gonzales seconded the motion.

Vote: Motion carried unanimously 5-0.

5. Department Head Monthly Reports

a. Public Utilities

Alderperson Reese read a report created by the Public Works Director Robert Bryant for the month of September with 7 work orders completed for the month.

Public Works Director Robert Bryant's report also read the following: "I still have not heard from counsel on fixing my generator at the water plant. We are under violation. The quote was sent to City Hall probably two months ago and has not been acted on with the storms in the golf. I am not gonna have any water if the power goes out. We will not auto transfer and I'm throwing belts. I have to manually switch to generator if I know the powers out and if you want to see pictures it's a death trap. Hopefully it's not raining and I get an ace is 480 V on each side of me. I don't know if the generators gonna work for two hours or six hours we need to get a generator mechanic down here, ASAP. Also, I have not heard on the repairs in the quote I had from Mercer. We are in violation for not having our large pump operating. I have to file all this with TCEQ. Once I get inspected of how long it's taken I need funding for this as soon as possible. Also, I have not heard on the RO system repairs for the leaks, reject valves, actuator valves. I am in violation with TCEQ on leaks on the system and not having a proper reject valve quote was submitted I need action taken as soon as possible."

Alderperson Reese read the remainder of the September monthly report with wells pumped 7,480,000 and a daily average of 249,000.

Mayor Pro-Tem Johnson asked City Secretary Gabriela Torres to get the quote for the generator and contact a generator repair mechanic so that it could be taken care of. Mayor Pro-Tem Johnson also asked that they follow up with Mercer Controls. Alderperson Jarvis stated that they will be getting a site evaluation to see the "big picture" of what is going on in the RO system. She spoke with Mercer Controls, and they will have a budget proposal for the evaluation in mid-October. The proposal may have a timeline of how long it will take to do the evaluation. A Special Meeting can be called if the Council needs to act on it quickly. Regarding the RO repairs, Alderperson Jarvis stated that she did not know if Robert Bryant's report was talking about the Alpha Water Resource repairs that were already approved by the Council. Mayor Pro-Tem Johnson stated that they would need to get clarification from Robert so that they can move on.

Mayor Pro-Tem Johnson stated that they also need to get whatever else needs to be done at his office. Alderperson Jarvis stated that his office was added to the pest control schedule. Alderperson Gonzales stated that they had two different individual contractors come out to see the office for repairs needed. There was a lot of maintenance that needed to be done. They had a quote that came in at \$3,000, but Mr. Bryant had stated that his office would be converted to a breakroom for the other workers. Mr. Bryant had stated that he would be moving to the new building by the Wastewater Treatment Plant. Alderperson Jarvis clarified that there was a portable building that was previously used by the Sewer Operator Terrell Jones. Robert would be moving into that portable building, not the new building. Alderperson Gonzales stated that he would reach back out to the contractors regarding the quotes.

b. Public Safety

Alderperson Gonzales stated that the Chief of Police's job description and job posting have been posted for candidates to apply. It will be up until the end of the month. Alderperson Gonzales stated that he and Interim Chief Beaver have been working on some ordinances for junk. The City currently does not have anything robust enough to address certain issues. He is looking at other Type A cities and seeing what they have. Hopefully, they can get an ordinance adopted to clean up

City of Seadrift – October 8, 2024, Public Hearing & Regular Meeting Minutes

the city of dilapidated vehicles, boats, lawnmowers, etc. Alderperson Gonzales stated that he hoped to have something to present at the next meeting.

Interim Chief Beaver read the monthly report for September 2024 with 89 calls for services for the SPD and of those calls 57 were for extra patrols, 4 reports written, and 2 arrests. There were 50 calls for service for the CCSO in Seadrift, 7 of which were for extra patrols. There were 4 EMS calls of which the SPD responded to 4. There was 1 fire call to which the SPD responded to 1. News from the Chief: This month we successfully created the Seadrift Police Department Support Team which is a team comprised of civilians, officers and officer family members. The purpose and goal of this team is to represent our department at functions that Officers may or may not be able to attend. We like to be present at various events that take place within our county but with so few Officers it's hard for me to justify having an Officer taken off the street to attend these events. This group allows for our Department to still be present at such events without taking Officers off the street for an extended amount of time. We are still conducting our internal audit. We've reviewed more of the older open cases and started to review other Police Department paperwork as well. The Police Department vehicle grant has been completed and we should be receiving a new Police unit soon. We have also received new in-car and handheld radios thanks to a grant. Again, there are several departmental changes taking place, but I guarantee they are all to better retrofit our department to fit our community needs. We appreciate and consider all input to make our Department better.

c. **Municipal Harbor**

Alderperson Mikolas stated that they had spoken to the contractor with the EDA Project, and they are done dredging. They have already met the tonnage they were authorized on their permit. There is cleanup that still needs to be done at Misho's lease and for sludge to be hauled off. Harbor Master Chris Ingram did mow and weed eat at the Harbor. Alderperson Mikolas commented that there was a fishing tournament that was held recently, and it was brought to his attention that there was not enough parking. He stated that the City may consider charging for parking, but there is not enough space to accommodate everyone. Alderperson Jarvis commented that they could park on the bayfront.

d. **Streets & Drainage, and Solid Waste**

Alderperson Jarvis read the Streets & Drainage monthly report for September 2024, created by Public Works Director Robert Bryant, with 15 workorders completed, Main Street to Hwy 185 was patched and would continue to be patched until the dump trucks from the Harbor Project is completed, continued monitoring of the drainage project, 1,900 feet of ditches dug, and the crew dug 5,800 feet of ditches.

Alderperson Jarvis gave an update on the County's drainage project. She stated that the contractors were waiting for a firm date when the concrete box culverts would be delivered. The bayou has been cleaned from 3rd to 9th Street. They have also staked the Bayfront where the underground drainage will be going through. There is also a discussion of the two pavilions being in the way of the underground drainage. Alderperson Mikolas stated that they needed to investigate the bayou between 6th and 8th Street since it has been reported to smell like raw sewage. Alderperson Reese stated that there was a broken line at 8th Street across the bayou.

Alderperson Jarvis gave an update on the work completed by the Solid Waste Department for September 2024 by stating that the trucks were taken to San Antonio to be worked on. They had cleaned out totes, washed the trucks, and picked up trash.

e. **Parks & Recreation, and Civic Functions**

Mayor Pro-Tem Johnson read the Parks and Recreation monthly report for September 2024, created by Public Works Director Robert Bryant, with 5 work orders completed for the month, continued field repairs, and Bayfront is close to completion. A punch list has been sent to the Engineers. The company doing the Bayfront has not fulfilled the agreement of sending hot mix and sand to do repairs.

City of Seadrift – October 8, 2024, Public Hearing & Regular Meeting Minutes

Mayor Pro-Tem Johnson stated that the pickleball project is moving forward and they are waiting for the correct paint to be ordered. Mayor Pro-Tem Johnson thanked the Chamber of Commerce for helping with the purchase of the equipment.

Mayor Pro-Tem Johnson stated that she had teamed up with some residents to write a grant for the Bayfront playground and sidewalk. She thanked them for their help. Mayor Pro-Tem Johnson stated that this grant had no match.

f. City Hall Administration

Mayor Pro-Tem read the monthly report for September 2024 with 11 new cases, 5 closed cases, 76 current cases, and \$903.43 total fines collected for the month. Alderperson Mikolas asked what the total 76 cases entailed. Mayor Pro-Tem Johnson stated that they would need to ask the Municipal Court Clerk for a detailed report.

Mayor Pro-Tem Johnson read the monthly Permit Report for September 2024, created by Building Official Boyd Staloch, with 6 building and construction permits issued with a tax valuation increase of \$345,600, 1 Repair/Remodel Permit issued with a tax valuation of \$14,000, 1 placement/RV/carport/portable permits issued with a tax valuation increase of \$4,600, and a total gross property valuation increase of \$364,200.

6. Citizen Comments

- Shannon Parker with TDEM: Shannon Parker stated that a couple of months ago, she had talked to the Council about the HMGP grant project for the April Storms. This HMGP grant project is identical to that one but for Hurricane Beryl. This grant has a 25% match, but you do not have to have damage from the storm to apply for these projects. Counties that were declared in these disaster declarations were prioritized, and Calhoun County was declared for both disasters. One possible project could be for a generator at the police department. The funds from these projects may not arrive fast enough to repair the current generator at the water plant but could be a potential project for a new generator. These grants are to prevent future damage. These do not close until March 2025, so there is plenty of time. TDEM Region 6 Judy Lucio, who is over recovery, can answer any specific questions the City may have. Going forward, FEMA will be decreasing the local match from 25% to 15%, but you must meet specific building codes. They started this back on September 26th, so this does not include the April Storms and Hurricane Beryl declarations. The next disaster will be at that match as long as you meet the requirements. The County threshold also went up this year. For Calhoun County to get included in federal declarations, there must be \$94,932 worth of uninsured public damage across the county. This is based on population and the consumer price index. The State of Texas' threshold also went up to \$55,850,004.45. Shannon stated that the Infrastructure Disaster Management Training Series was brought to Calhoun County. The first held was for Public Works. The training for Water and Wastewater was postponed due to Hurricane Beryl. That has been rescheduled for February 5th and 6th. It is a two-day class and is free. Shannon stated that training will be held in December for Health Care Organizations, February will be for Water and Wastewater, and April will be for Electrical Power Systems.
- Lisa Campbell with the Seadrift Service Club: Lisa Campbell introduced herself as the new president of the Seadrift Service Club. She stated that they will be hosting a Trunk and Treat on Halloween day. She invited everyone to attend and stated they would be having a parade and a costume contest along with the trunk and treat. Lisa Campbell stated that they are still looking for volunteers to assist with Meals on Wheels. They need a few more volunteers. Anyone interested or looking to donate should contact the Service Club. Lisa stated that they would also be helping with Blue Santa this year and would have more information about that event next month. They need volunteers to wrap presents and provide other assistance.
- Lori Thomas stated that the Council has questions, and the individuals are not here to answer. The operators that have submitted the reports are the ones who know, and the Council was handed a piece of paper. Lori commented that when they were discussing the TCEQ violations, Robert Bryant was not here to discuss what exactly was wrong at the Water Plant. Mayor Pro-Tem

City of Seadrift – October 8, 2024, Public Hearing & Regular Meeting Minutes

Johnson agreed with her suggestion and stated that they should meet with Department Heads before. Lori Thomas commented that a lot of questions could be answered at the meeting instead of going out to find them.

Mayor Pro-Tem Johnson moved to Agenda Item #10.

10. GLO CDBG DR (20-065-103-C278) – Amendment regarding Bayfront Park Restroom:

The City of Seadrift received a letter from TDEM on February 27, 2024, regarding a comprehensive reconciliation of funds that were disbursed to the City for the FEMA PA project related to Hurricane Harvey. FEMA revised the insurance reduction for this project from \$14,947 to \$253,412.67 which resulted in an overpayment of \$208,580.10 for the Bayfront Restroom Project. Helen Miller, with Wilson & Associates Consulting LLC and a consultant for GrantWorks, was called during this meeting. Helen explained that FEMA unexpectedly, after the Restroom Project had been completed and all invoices had been paid, revised the insurance reduction. A FEMA insurance reviewer in 2022 decided that the insurance reduction of \$14,947 should have been \$253,412.67. This resulted in a letter being issued in February 2024 that the City owed back \$280,580.10. Helen stated that she disagreed with this and pushed back. The City also contacted Congressman Cloud's office for assistance. FEMA is standing firm with its decision. Helen stated that last week she reviewed the calculations FEMA did on the reductions and found that it should not have been \$253,412.67 but \$242,949.77, which would have resulted in an amount due back to \$199,163.49. She has asked TDEM to revise the receivable letter. Helen stated that she had a conference with a grant manager with TDEM and they will continue to push FEMA to revise that reduction, but there is no guarantee. It currently stands with FEMA and TDEM, that the City owes back \$199,163.49 and possibly another \$16,000 for Senate Bill 7. Helen Miller explained that the Seawall and Restroom projects were two separate projects under FEMA PA. The City currently has \$603,079.39 that is obligated for the Seawall Project, but due to the balance owed for the Restroom Project, no money will be disbursed. TDEM has agreed to disburse the amount minus the difference in the amount owed. The City will be reaching out to Congressman Cloud's office to help provide further pushback to FEMA and TDEM. Alderperson Jarvis explained that FEMA made a rule change after the project had been completed and closed. Helen Miller stated that was correct. Helen explained that she cannot speak to FEMA directly and must go through TDEM. She stated that she had been doing this type of work for over 19 years, and FEMA makes the rules and can break the rules. Alderperson Jarvis stated that FEMA is now withholding funds for other grant projects until the \$208,580.10 is repaid. The money the City is due for the Seawall Project will be on hold until the money due for the restroom is paid. The longer they hold onto those funds, the more interest will be accruing on the loan that was taken out to pay the contractors for the Seawall Project. Helen Miller stated that there is potential to go to FEMA for reimbursement on interest accrued on loans. In her research she learned that the City may be able to submit a reimbursement request for interest drawn on permanent work under the FEMA PA program. Helen commented that she will be presenting this to TDEM to pursue this. City Secretary Gabriela Torres thanked Helen Miller for calling in. Alderperson Jarvis stated that the City received the receivable letter from TDEM on February 27, 2024, and read the following: "In accordance with the executed Grant Terms & Conditions, Seadrift is required to repay TDEM within 30 days after receipt of this notice. Any future payments for other projects under the purview of your organization may be offset until the total overpaid balance is reduced to zero if the amount due is not repaid within 30 days. Offset may occur across disaster and grant programs, beginning with any active reimbursement or payable. If Seadrift fails to make repayment or enter into an agreement to repay the funding within 120 days from the date the original recoupment notice, TDEM will take all authorized actions found in TDEM's Procedure on the Recoupment of Federal Funds. Authorized actions include withholding funding for other grants." Mayor Pro-Tem Johnson asked how FEMA could get away with this. City Secretary Gabriela Torres stated that there are currently three outstanding Pay Applications for the Seawall Contractors SR Trident. She explained that the GLO CDBG-DR Project funds were used towards the local match with the FEMA PA Projects. The FEMA PA Projects had a 10% match, and the CDBG-DR funds were used to cover the full 10%. Senate Bill 7 (SB7) then came into effect and covered 7.5% of the local match, so the DR funds only needed to cover 2.5% of the match. There is currently \$566,606.86 remaining in the GLO CDBG-DR Grant Project. The City was in the process of requesting the remaining funds to replace one of the water storage tanks. City Secretary Torres requested that the City Council instead allocate these funds to pay the funds owed from the restroom project. Alderperson Jarvis commented that FEMA is holding the City hostage until the funds for the restroom are repaid. Alderperson Gonzales asked Alderperson Reese how the reallocation from a new water storage tank would

City of Seadrift – October 8, 2024, Public Hearing & Regular Meeting Minutes

affect the City. Alderperson Reese commented that the tank did have holes from Winter Storm URI. City Secretary Torres explained that the City had already received two new water storage tanks under this project.

Motion: Alderperson Jarvis made the motion to use the sufficient funds left in the C278 GLO grant for the Bayfront Park Restroom due to FEMA changing the ruling on the Restroom's insurance reductions.

Alderperson Gonzales seconded the motion.

Vote: Motion carried 4-1-0.

Aye: Tracey Johnson, Kenneth Reese, Alysa Jarvis, Paul Gonzales

Nay: Johnny Mikolas

Abstain/Absent: None

Alderperson Mikolas asked the City Attorney Robert McKnight if there was any legal ramification regarding FEMA's rule change. Attorney McKnight stated that it is something to consider and would follow up with Helen Miller. Alderperson Mikolas stated that they had a contract and a legal binding agreement. Mayor Pro-Tem Johnson commented that she would love it to be looked into. Alderperson Jarvis commented that the contractor SR Trident needs to be paid for the work they did, and it was not their fault that the City is currently in a disagreement with FEMA.

Mayor Pro-Tem Johnson moved back to Agenda Item #11.

7. Seawall Restoration Project (PW 4450)

a. Pay Application #14

Scott Mason, engineer with G&W Engineers, apologized for not being present at the last meeting to discuss the punch list for the Seawall Project. Scott explained that G&W signs off on the recommendation of payment. In their professional opinion the work is completed. They believe that it is valid to be paid. There may be possible issues with the roadway materials and low sand in the bluff area. Scott stated that the City's streets are currently not adequate to handle heavy equipment and is a similar issue with the EDA project with the dump trucks. Scott stated that the contractor and the engineer did not take a sample of the roads or bid for the repairs of the roads. Alderperson Mikolas asked Scott Mason why he did not take into consideration the contractor hauling tons of rock on the City roads and tearing them up. Alderperson Mikolas stated that an engineer should have foreseen this situation. Scott Mason commented that SR Trident had done a great job and went above and beyond with their work. Scott stated that they have addressed everything on the punch list as far as they are concerned and do not see any reason to withhold payment.

Motion: Alderperson Jarvis made the motion to authorize payment of Pay Application #14 (Final-Retainage) to SR Trident for \$345,296.76 when funds are available. Alderperson Reese seconded the motion.

Vote: Motion carried unanimously 5-0.

b. G&W Engineers Invoice 9697.088-0724

Motion: Alderperson Jarvis made the motion to authorize payment of G&W Engineers Invoice 9697.088-0724 for \$55,500 for professional services provided for the Seawall Restoration Project when funds are available. Alderperson Reese seconded the motion.

Vote: Motion carried unanimously 5-0.

c. G&W Engineers Invoice 9697.088-0924

Motion: Alderperson Jarvis made the motion to authorize payment of G&W Engineers Invoice 9697.088-0924 for \$55,500 for professional services provided for the Seawall Restoration Project when funds are available. Alderperson Reese seconded the motion.

Vote: Motion carried unanimously 5-0.

City of Seadrift – October 8, 2024, Public Hearing & Regular Meeting Minutes

8. GLO MIT MOD (24-065-084-E760)

Alderson Jarvis stated that the City of Seadrift was awarded the GLO MIT MOD project for \$1,736,200 for an elevated water storage tank. Seadrift is only the second city to have been awarded so far.

a. Resolution # 2024-03

Alderson Jarvis read Section 504 Policy Against Discrimination based on Handicap and Grievance Procedures, Item 6. Grievances and Complaints, Subletter H: the complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the determination/resolution as described in f. above. The request for reconsideration should be made to the City of Seadrift within ten working days after the receipt of written determination/resolution. Attorney McKnight stated that this was regarding reconsideration from the one who made the original decision. An appeal would be to a different person or group. Alderson Jarvis commented that this section asks that the person who made the decision reconsider and that does not sound great. Attorney McKnight stated that the complainant may have something persuasive to offer for reconsideration for the Mayor or Mayor Pro-Tem that they may not have considered. That is not the same as an appeal. Attorney McKnight commented that this policy had existed before, and the City has complied with it before. Attorney McKnight stated that he saw no reason to reject the policy/resolution and disqualify the city from receiving the grant funds.

Motion: Alderson Reese made the motion to adopt Resolution # 2024-03 regarding the Civil Rights Policies for the GLO Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) Program, Contract #24-065-084-E760. Alderson Jarvis seconded the motion.

Vote: Motion carried unanimously 5-0.

b. Resolution # 2024-04

Motion: Alderson Mikolas made the motion to adopt Resolution # 2024-04 designating Authorized Signatories Tracey Johnson, Alysa Jarvis, and Gabriela Torres for Contractual and Financial Documents pertaining to the GLO Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) Program, Contract #24-065-084-E760. Alderson Gonzales seconded the motion.

Vote: Motion carried 4-1.

Aye: Tracey Johnson, Kenneth Reese, Johnny Mikolas, and Paul Gonzales

Nay: None

Abstain: Alysa Jarvis

Absent: None

c. Proclamation # 2024-01 Fair Housing Month

Motion: Alderson Jarvis made the motion to adopt Proclamation # 2024-01 declaring January as the City of Seadrift- Fair Housing Month. Alderson Mikolas seconded the motion.

Vote: Motion carried unanimously 5-0.

d. Grant Administration – Amendment #2

Motion: Alderson Jarvis made the motion to approve Amendment #2 for the Grant Administration and Environmental Services contract for the Community Development Block Grant – Mitigation (CDBG-MIT) Method of Distribution (MOD) Program Contract Number #24-065-084-E760. Alderson Reese seconded the motion.

Vote: Motion carried unanimously 5-0.

9. GLO CDBG DR (20-065-103-C278)

a. Resolution # 2024-05 Labor Standards and Oversight

Motion: Alderson Jarvis made the motion to approve Resolution 2024-05 regarding Labor Standards and Oversight. Alderson Gonzales seconded the motion.

Vote: Motion carried unanimously 5-0.

City of Seadrift – October 8, 2024, Public Hearing & Regular Meeting Minutes

b. Updated Financial Policy

Motion: Alderperson Jarvis made the motion to approve the updated Financial Policy for Federal Grants. Alderperson Reese seconded the motion.

Vote: Motion carried unanimously 5-0.

c. Updated Procurement Policy & Procedures for Federal Grants

Motion: Alderperson Jarvis made the motion to approve the updated Procurement Policy & Procedures for Federal Grants. Alderperson Gonzales seconded the motion.

Vote: Motion carried unanimously 5-0.

11. TDA CDV21-0030 Certificate of Construction Completion (COCC)

Motion: Alderperson Jarvis made the motion to approve the Certificate of Construction Completion (COCC) for the TDA CDV21-0030 Grant Project and approve the final payment of \$27,749.50 when funds are available. Alderperson Gonzales seconded the motion.

Vote: Motion carried unanimously 5-0.

12. Municipal Harbor Survey

Alderperson Jarvis stated that in previous workshops they had discussed the future of the Municipal Harbor and came to a consensus that the first step would be to get a survey of the harbor. Alderperson Mikolas asked why the City was getting a survey done at the harbor. Mayor Pro-Tem Johnson stated there has been confusion on the layout and the linear footage of the harbor. Alderperson Mikolas asked who would be doing the survey, to which Alderperson Jarvis answered that the City would put together a proposal to bid out to surveyors. Alderperson Jarvis commented that the City currently does not have clean maps of the harbor. Mayor Pro-Tem Johnson commented that it does not cost the City anything to get bids on the cost of the survey.

Motion: Alderperson Jarvis made the motion to approve surveying the Municipal Harbor and going out for bids. Alderperson Mikolas seconded the motion.

Vote: Motion carried 4-1-0.

Ayes: Tracey Johnson, Alysa Jarvis, Paul Gonzales, Johnny Mikolas

Nays: Kenneth Reese

Abstain/Absent: None

13. Dashcam and GPS Purchase

Agenda Item #13 tabled. No action was taken.

14. Closure of City Accounts

Motion: Alderperson Jarvis made the motion to approve the closure of the Municipal Court Bank Account and to move the funds into the General Fund; closure of the Solid Waste Bank Account and move funds into Waterworks. Alderperson Mikolas seconded the motion.

Vote: Motion carried unanimously 5-0.

15. Water and Sewer Improvement Reimbursement Request

Alderperson Jarvis stated that the developer prepaid for the water and sewer improvements on the lots that they owned. If the lots were sold or developed, the developer would get reimbursed for what they put in. In 2015, the lots requested to be reimbursed did not have water, but now in 2024 they do. Mayor Pro-Tem Johnson stated that this item would be tabled until the City Attorney could review the contract.

Agenda Item #15 tabled. No action was taken.

City of Seadrift – October 8, 2024, Public Hearing & Regular Meeting Minutes

16. Official City Logo

Motion: Alderperson Jarvis made the motion to have an open submission for artists to submit a possible logo for the City of Seadrift, with a deadline on October 16, 2024, at noon, and from these submissions have Council vote on their choice and majority vote be adopted as the new City logo. Alderperson Jarvis made the motion to amend her previous motion to include that the submitted logo would be free of charge and copyright be released to the City. Alderperson Gonzales seconded.

Vote: Motion carried unanimously 5-0.

Open Meeting closed at 8:10 PM. The City Council convened into an Executive Session at 8:14 PM.

17. Executive Session

At 8:14 PM, the City Council closed the open meeting into an Executive Session under Section 551.071 Consultation with Attorney.

Executive Session closed at 8:34 PM. Open Meeting opened back up at 8:36 PM

18. Action on Executive Session Items

No action was taken.

19. Adjournment

Meeting adjourned at 8:38 PM.

Public Hearing Sign-In Sheet
Seadrift CDV21-0030
Seadrift City Hall – 501 S. Main St
Tuesday, October 8, 2024 – 5:45 PM

| Name | Organization | Email | Phone Number |
|-------------------|------------------|--------------------------|--------------|
| Thyssa Taryis | City of Seadrift | | 713.703.8662 |
| Barbara Reese | | | 361-649-6526 |
| Frank Gorking | | | |
| Carol Gorking | | | |
| Laureth Reese | City of Seadrift | | 361-649-6525 |
| Tracey Johnson | City of Seadrift | | 361-746-8488 |
| Jehangir Mikolov | | | 361-260-0211 |
| Deedee McGhee | | | |
| Charlene Tennell | | | |
| Robert Tennell | | | |
| Christopher Child | | | |
| Wanda | | | |
| C. J. Vennard | Port Linn Way | | 830-765-8764 |
| Harriet Neal | Citizen | | |
| John H. H. | | | |
| Stacy Kirkham | Citizen | | |
| Rosa Campbell | Citizen | | |
| ABRIELA TORRES | CITY OF SEADRIFT | aj.torres@seadrifttx.org | 361-785-2251 |




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Public Officials

Mayor
Vacant

Mayor Pro-Tem & Alderperson
Tracey Johnson, Parks and Recreation

Alderman
Kenneth Reese
Public Utilities

Alderman
Paul Gonzales
Public Safety

Alderman
JOHNNY MIKOLAS
Municipal Harbor

Alderman
Alysa Jarvis
*Streets & Drainage, and
Solid Waste*

City Attorney
Robert McKnight

City Secretary
Gabriela Torres

EXECUTIVE SESSION

THE CITY COUNCIL MET ON THIS THE DAY 8TH, OF OCTOBER, 2024.

OPENED EXECUTIVE SESSION

BEGINNING AT 8 : 14 AM / PM THE CITY COUNCIL CONVENED IN A CLOSED OR EXECUTIVE SESSION IN ACCORDANCE WITH THE TEXAS OPEN MEETINGS ACT.

CLOSED EXECUTIVE SESSION

THE CITY COUNCIL ENDED ITS CLOSED, OR EXECUTIVE SESSION, AT 8 : 34 AM / PM.
ON THIS THE DAY 8TH, OF OCTOBER, 2024.

REASON FOR EXECUTIVE SESSION:

- ☒ SECTION 551.071 – CONSULTATION WITH ATTORNEY
- ☐ SECTION 551.072 – DELIBERATIONS ABOUT REAL PROPERTY
- ☐ SECTION 551.703 – DELIBERATIONS ABOUT GIFTS AND DONATIONS
- ☐ SECTION 551.074 – INDIVIDUAL PERSONNEL MATTERS
- ☐ SECTION 551.076 – DELIBERATIONS ABOUT SECURITY DEVICES, AND,
- ☐ SECTION 551.087 – ECONOMIC DEVELOPMENT



MAYOR / MAYOR PRO-TEM

10/8/2024

DATE




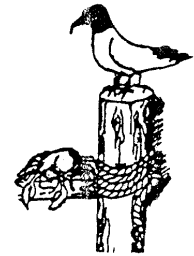
CITY SECRETARY

10/8/2024

DATE




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**RESOLUTION No. 2024-03 Regarding Civil Rights
The City of Seadrift, Texas**

Whereas, the City of Seadrift, Texas, (hereinafter referred to as “City of Seadrift”) has been awarded CDBG-Mitigation (MIT) funding through a CDBG-MIT Method of Distribution (MOD) grant from the Texas General Land Office (hereinafter referred to as “GLO”);

Whereas, the City of Seadrift, in accordance with Section 109 of the Title I of the Housing and Community Development Act. (24 CFR 6); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and for construction contracts greater than \$10,000, must take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CDBG activity, on the basis of race, color, religion, sex, national origin, age, or disability;

Whereas, the City of Seadrift, in consideration for the receipt and acceptance of federal funding, agrees to comply with all federal rules and regulations including those rules and regulations governing citizen participation and civil rights protections;

Whereas, the City of Seadrift, in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, and 24 CFR Part 135, is required, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the CDBG project area;

Whereas, the City of Seadrift, in accordance with Section 104(1) of the Housing and Community Development Act, as amended, and State’s certification requirements at 24 CFR 91.325(b)(6), must adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations;

Whereas, the City of Seadrift, in accordance with Section 504 of the Rehabilitation Act of 1973, does not discriminate on the basis of disability and agrees to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds; and

Whereas, the City of Seadrift, in accordance with Section 808(e)(5) of the Fair Housing Act (42 USC 3608(e)(5)) that requires HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act, agrees to conduct at least one activity during the contract period of the CDBG contract, to affirmatively further fair housing;

Whereas, the City of Seadrift, agrees to maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF SEADRIFT, TEXAS, that the CITY OF SEADRIFT ADOPTS/REAFFIRMS THE FOLLOWING:


1. Citizen Participation Plan and Grievance Procedures;
2. Section 3 Policy;
3. Excessive Force Policy;
4. Section 504 Policy and Grievance Procedures;
5. Fair Housing Policy.

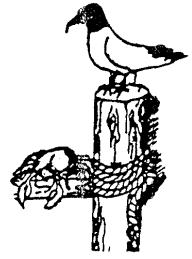
Passed and approved this _____ day of _____, 2024.

Signature of Elected Official
City of Seadrift

Tracey Johnson, Mayor Pro-Tem




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RESOLUTION 2024-05
RESOLUTION REGARDING LABOR STANDARDS AND OVERSIGHT

A RESOLUTION BY THE CITY COUNCIL OF SEADRIFT ADOPTING LABOR STANDARDS PROCEDURES AND OVERSIGHT RESPONSIBILITY FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) PROJECT WITH THE GENERAL LAND OFFICE (GLO), STATE CONTRACT NO. 20-065-103-C278 (“Contract”)

WHEREAS, the Contract through the General Land Office referenced above requires designation and oversight of a professional Labor Standards Officer (LSO);

WHEREAS, it is necessary to develop and/or adopt appropriate policies and procedures to ensure compliance with the requirements of the Contract; and

WHEREAS, the City is committed to ensuring the legal protection and fair treatment of all laborers involved in the construction project contemplated under the Contract.

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

1. The City hereby adopts the following Labor Standards and Procedures, in accordance with the GLO’s implementation requirements.
2. The City will verify that the appointed LSO has appropriate internal policies in place and is adequately reviewing certified payroll reports (CPR) to ensure the following:
 - A. Original signed certified payroll reports (CPR) will be received by the City prior to review, will maintain on file, and document receipt;
 - B. Workers are properly listed on the payroll for the applicable days, work classifications, and pay rates;
 - C. Employee interview results are compared to CPR;
 - D. Employee payrolls are complete and signed;
 - E. Employees are paid no less than the wage rate for the work classification shown; and
 - F. Employee payroll deduction authorizations for other deductions are submitted and authorized before the first occurrence of said payroll deduction.
 - G. All payroll deductions on employee payrolls are permissible under Davis Bacon.

3. The City commits to verifying that these actions have been taken by reviewing the labor process from their appointed LSO ahead of wage rate issuance to ensure it includes processes for verifying all of the above, and will furthermore review the labor record for compliance with these items ahead of finalizing the Final Wage Compliance Report.

PASSED AND APPROVED ON THE _____ DAY OF _____, 2024.

APPROVED AND ATTESTED BY:

Tracey Johnson
Mayor Pro Tem, Acting Mayor

Gabriela Torres
City Secretary



Incorporated December 27, 1912
www.seadrifftx.org

CITY OF SEADRIFT

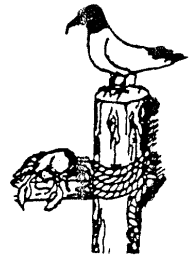
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CITY OF SEADRIFT FINANCIAL PROCEDURES

INTRODUCTION

The purpose of financial management policies is to provide sound guidelines in planning the City's financial future. The City of Seadrift considers the expenditure of funds to be an important responsibility and requires all persons involved with the purchase of goods or services to exercise good judgement in spending taxpayers' money.

SCOPE OF AUTHORITY

The City Council is responsible for the expenditure of all City funds.

Financials

A. Bank Depository

The City maintains funds in a Bank, designated as its depository for banking services. The City Council reviews the selection every two years unless circumstances deem otherwise.

B. Accounts Payable

All city bank accounts require two (2) authorized signatures. Authorized signatures can be two (2) Public Officials, or one (1) Public Official and one (1) City Employee. One (1) signature must be a Public Official's signature. Authorized signatories are designed by the City Council by Resolution.

C. Accounting

The Mayor is responsible for establishing the structure for the City Chart of Accounts and for assuring that procedures are in place to properly record financial transactions and report on the City's financial position to City Council. The City Secretary shall provide financial reports to the Mayor monthly.

D. Audit of Accounts

An independent audit of the City accounts is performed annually. The Auditor is retained by and is accountable directly to the City Council. The City Council reviews the selection every year unless circumstances deem otherwise.

E. Internal Controls

Whenever possible, written procedures will be established, maintained, and assessed per 2 CFR 200.303 by the Mayor for all functions involving cash handling and/or accounting throughout the City. These procedures will embrace the general concepts of fiscal responsibility set forth in this policy statement.

Whenever possible, the City ensures duties and responsibilities are segregated so that no one individual has complete authority over a financial transaction.

PROCEDURES

1. Input Invoice into Record Keeping System – Invoices are tracked using the City's financial accounting software. The accounts payable clerk enters all invoices into the account software.
2. Review of Invoice – Invoices are reviewed by the City Secretary and presented to the City Council or Mayor for review.
3. Allowability of Costs – The City Secretary will review each invoice for allowability of costs as stated in 2 CFR 200 Subpart E – Cost Principles.
4. Unnecessary or duplicative purchases – The City Secretary will review each invoice for unnecessary or duplicative purchases per 2 CFR 200.318 (d).
5. Timeline for Payment – After approval of payment by the City Council or Mayor, and if funds are available, the City Secretary will advise the accounts payable clerk to issue a payment within thirty (30) days.
6. Issue Payment – City Council and Mayor reviews and approves invoices for payment. The City Secretary will advise the accounts payable clerk to issue a check after receiving approval.
7. Payment Reconciliation – City bank accounts are reconciled monthly by the City Secretary and reviewed by the City Mayor.
8. Record Keeping – All expenditures are documented by the accounts payable clerk. The City Secretary keeps records of all expenditures of the City per Local Government Code Retention schedule. Grant documents are classified as permanent files for the City of Seadrift.

PROCEDURES FOR GRANT PAYMENTS

1. Invoices are received and, if necessary, a request for payment is prepared by grant consultant and proper signatures obtained from authorized signatories as authorized in original grant approval. Auditor's office reviews the invoice and compares it to the grant budget.
2. Invoices must be approved by the Mayor or the City Council. Approval is acknowledged by initiating the original invoice or through Council action.
3. Once grant funds are received and the invoice is approved by acknowledgment by signature of the Mayor on the original invoice, a demand check is entered into the system by the accounts payable clerk and printed. Authorized Signatories signatures appear on the approved checks. Checks are then disbursed to the appropriate vendors. The City Secretary is responsible for ensuring that checks are signed and disbursed within the grant mandated timeline in the state contract.
4. Copies of the request for payment, invoice, canceled check copy and bank statement showing receipt of grant money are retained in the grant file in the City Secretary's office.

The Mayor and City Council authorize payments and issues of checks. Two signatures are required on each check, and are designated by City Council as Authorized Signatories. The City Secretary is responsible for reconciling the monthly bank statements.

CASH MANAGEMENT AND DISBURSEMENT - TIMELY EXPENDITURES

The City shall make timely payments to vendors and minimize the time between transferring funds from the State Treasury and disbursement of funds to vendors in compliance with the terms and conditions of the federal contract, grant, regulation, or statute.

To ensure vendor compliance, invoices/pay applications/pay estimates will be reviewed for accuracy for such items but not limited to change order approvals, outstanding lien/payments to subcontractors, labor standards, and verification of work completed as invoiced prior to disbursement or request for funds from State Agency. The City shall notify a vendor of an error in an invoice submitted for payment by the vendor.

ADVANCE PAYMENT PROCEDURES

All advanced payments using federal grant funds will be disbursed within the grant mandated timeline in the state contract and in accordance with 2 CFR 200.305(b), and in accordance with the provisions in the contract with the vendor.

Advance payments of federal grant funds will be deposited and maintained in a separate insured account. The City will maintain advance payments of federal awards in interest-bearing accounts, unless the following apply: City receives less than \$120,000 in Federal awards per year; the City is not expected to earn interest in excess of \$500 per year on Federal cash balances; or the depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources. (2 CFR 200.302(b)(6) and 200.305)

INTEREST EARNED PROCEDURES


The City will verify interest earned remains under \$500 per fiscal year by tracking interest earned on each grant deposit in the grant ledger; if interest does exceed \$500 per fiscal year the City will remit interest earned to the Department of Health and Human Services per 2 CFR 200.305.

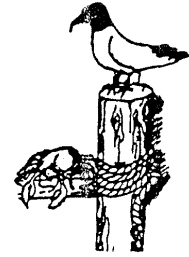
These Policies and Procedures are implemented through the City of Seadrift's administrative team consisting of the City Mayor/Mayor Pro-Tem, Accounts Payable Clerk, and the City Secretary.

Tracey Johnson, Mayor Pro-Tem

Date




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CITY OF SEADRIFT Procurement Policies and Procedures for Federal Grants

Policies

1. When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with [§§ 200.321, 200.322, and 200.323](#) and ensure that every purchase order or other contract includes any clauses required by [§ 200.327](#). All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in [§§ 200.318 through 200.327](#), [and Appendix II to Part 200].
2. The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. *See* 2 CFR §200.318(c)(1).
3. All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and [§ 200.320](#). In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
 - a. Placing unreasonable requirements on firms in order for them to qualify to do business;
 - b. Requiring unnecessary experience and excessive bonding;
 - c. Noncompetitive pricing practices between firms or between affiliated companies;
 - d. Noncompetitive contracts to consultants that are on retainer contracts;
 - e. Organizational conflicts of interest;
 - f. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
 - g. Any arbitrary action in the procurement process.
4. The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its

application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. *See* 2 CFR §200.319(c).

5. The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations: Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and; Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. *See* 2 CFR §200.319(d)(1)(2).
6. The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period. *See* 2 CFR §200.319(e).
7. Noncompetitive procurements can only be awarded in accordance with [§ 200.320\(c\)](#). *See* 2 CFR §200.319(f).
8. The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and [§§ 200.317](#), [200.318](#), and [200.319](#) for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.
9. The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include, *See* 2 CFR §200.321:
 - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
 - f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

General Procurement Standards

1. Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. *See* 2 CFR §200.318(b).
2. The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. *See* 2 CFR §200.318(h). *See also* 2 CFR §200.214.
3. The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement,

selection of contract type, contractor selection or rejection, and the basis for the contract price. *See* 2 CFR §200.318(i).

4. The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction. *See* 2 CFR §200.318(k).

Procedures

Procurement Cycle Steps

The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. *See* 2 CFR §200.318(d).

Based on type and estimated cost of good/service as well as purchasing authority, purchaser determines the procurement method that will result in a best value acquisition for the City.

Contract Cost and Price - The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals. *See* 2 CFR §200.324(a).

The simplified acquisition threshold for federal procurement actions is currently set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908 as \$50,000, but this threshold is periodically adjusted for inflation. 2 C.F.R. §200.88.

The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$250,000, but this threshold is periodically adjusted for inflation. (Also see definition of § 200.67 Micro-purchase.)

Cost analysis- The review and evaluation of the separate cost elements and profit in an offeror's or contractor's proposal (including cost or pricing data or information other than cost or pricing data), and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.

Price analysis- The process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit.

Solicitation- Any request to submit offers or quotations to the subrecipients. Solicitations under sealed bid procedures are called "invitations for bids". Solicitations under negotiated procedures are called "requests for proposals." Solicitations under small purchase procedures may require submission of either a quotation or an offer.

Receipt of Bids and Responses to Solicitation—Vendors submit their response to the solicitation.

Evaluation and Awards- The City reviews the responses from vendors, determines compliance with the solicitation and makes an award recommendation based on the pre-defined best value criteria.

The City will use one of the following five methods of procurement described at 2 CFR Section 200.320: procurement by micro-purchases, (2) procurement by small purchase procedures, (3) procurement by sealed bids, (4) procurement by competitive proposals, or (5) procurement by noncompetitive proposals.

1. Procurement by Micro-Purchases - Simplified Acquisition Procedures for Purchases Below Micro-Purchase Threshold

For purposes of this section, the micro-purchase threshold is **\$10,000**.

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the City must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

2. Procurement by Small Purchase Procedures

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that cost less than the lesser of the Federal Simplified Acquisition Threshold or the \$50,000 threshold defined in state law (Local Government Code §262.003 for counties and §252.021 for municipalities. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

For service contracts that are under the small purchase threshold and do not fall under professional services as defined in Section 2254.002(2) of Local Government Code, the City may receive quotes and award the contract to any reasonable and responsible bidder. The local governing body has the final authority to award contracts.

3. Procurement by Sealed Bid for Construction Contracts and Materials Contracts

In order for sealed bidding to be feasible, the following conditions should be present:

- a. A complete, adequate, and realistic specification or purchase description is available;
- b. Two or more responsible bidders are willing and able to compete effectively for the business; and
- c. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- a. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- b. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- c. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- d. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- e. Any or all bids may be rejected if there is a sound documented reason.

4. Procurement by Competitive Proposals - Professional Services Contracts

This method is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- b. Proposals must be solicited from an adequate number of qualified sources;
- c. The City must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- d. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- e. The City may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- f. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used. *See* 2 CFR §200.324(d).
- g. Federal Guidelines require negotiations of profit as a separate element of the price for each contract and modification in which there is no price competition and, in all cases, where cost analysis must be performed. *See* 2 CFR §200.324(b).

5. Procurement by Noncompetitive Proposals

This method may be used only when one or more of the following circumstances apply:

- a. The item is available only from a single source;
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request; or
- d. After solicitation of a number of sources, competition is determined inadequate.
- e. If the City determines that they would like to award the noncompetitive proposal, they will only do so after seeking approval from the funding agency and will not award until approval is obtained.

Domestic Preferences for Procurement

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section, *see* 2 CFR §200.322:

- a. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; and
- b. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Procurement of recovered materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the

Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. *See* 2 CFR §200.323.

Federal Awarding Agency or Pass-through Entity Review

The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase. *See* 2 CFR §200.325.

Bonding Requirements

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows, *see* 2 CFR §200.326:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor in the execution of the work provided for in the contract.

Part 200 Appendix II – Contract Provisions for Non-Federal Entity Contracts Under Federal Award- *See* attached. These provisions will be checked against most current updates to ensure completeness ahead of contract issuance.

These Policies and Procedures are implemented through of the City’s administrative team of City Mayor, Mayor Pro-Tem, and the City Secretary.

Tracey Johnson, Mayor Pro-Tem

Date

REQUIRED CONTRACT PROVISIONS

2 CFR 200.327 Contract provisions. The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards. The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

All Contracts

| THRESHOLD | PROVISION | CITATION |
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| >\$250,000 (Simplified Acquisition Threshold) | Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908 , must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. | 2 CFR 200 APPENDIX II (A) |
| >\$10,000 | All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. | 2 CFR 200 APPENDIX II (B) |
| None | <p>Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”</p> <p>41 CFR 60-1.4 Equal opportunity clause.</p> <p>(b) Federally assisted construction contracts. (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:</p> <p>The [recipient] hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:</p> <p>During the performance of this contract, the contractor agrees as follows:</p> <p>(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:</p> | 2 CFR 200 APPENDIX II I and 41 CFR §60-1.4(b) |

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other

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| | <p>sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.</p> <p>(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:</p> <p>Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.</p> <p>The [recipient] further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the [recipient] so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.</p> <p>The [recipient] agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.</p> <p>The [recipient] further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the [recipient] agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the [recipient] under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such [recipient]; and refer the case to the Department of Justice for appropriate legal proceedings.</p> | |
| >\$2,000 | Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 , and 3146-3148) as supplemented by | 2 CFR 200 APPENDIX II (D) |

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| | <p>Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.</p> | |
| >\$100,000 | <p>Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.</p> | 2 CFR 200 APPENDIX II (E) |
| None | <p>Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.</p> | 2 CFR 200 APPENDIX II (F) |
| >\$150,000 | <p>Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended – Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).</p> | 2 CFR 200 APPENDIX II (G) |
| >\$25,000 | <p>Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the</p> | 2 CFR 200 APPENDIX II (H) |

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| | governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. | |
| >\$100,000 | Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352 . Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. | 2 CFR 200 APPENDIX II (I) and 24 CFR §570.303 |
| | See 2 CFR §200.323. | 2 CFR 200 APPENDIX II (J) |
| | See 2 CFR §200.216. | 2 CFR 200 APPENDIX II (K) |
| | See 2 CFR §200.322. | 2 CFR 200 APPENDIX II (L) |
| >\$10,000 | A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. | 2 CFR 200.323 |
| >\$100,000 | <p><i>§135.38 Section 3 clause</i> <i>All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):</i></p> <p>A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.</p> <p>B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.</p> <p>C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers'</p> | |

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| | <p>representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.</p> <p>D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.</p> <p>E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.</p> <p>F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.</p> <p>G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).</p> | |
| None | <p>Section 889(b)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY2019 NDAA) and 2 C.F.R. § 200.216, as implemented by FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), prohibit the obligation or expending of federal award funds on certain telecommunication products or from certain entities for national security reasons. Effective August 13, 2020, FEMA recipients and subrecipients, as well as their contractors and subcontractors, may not obligate or expend any FEMA award funds to:</p> <p>Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:</p> <ol style="list-style-type: none"> (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered | 2 CFR 200.216 |

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| | <p>telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).</p> <p>(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).</p> <p>(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.</p> <p>(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.</p> <p>(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.</p> <p>(c) See Public Law 115-232, section 889 for additional information.</p> <p>(d) See also § 200.471.</p> | |
| None | <p>As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:</p> <p>(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.</p> <p>(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.</p> | <p>2 CFR 200.322(a)(b)(1) (2)</p> |
| None | The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy. | 2 CFR 200.112 |
| None | The Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in | 2 CFR 200.336 |

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| | <p>open and machine-readable formats rather than in closed formats or on paper in accordance with applicable legislative requirements. A machine-readable format is a format in a standard computer language (not English text) that can be read automatically by a web browser or computer system. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.</p> | |
| None | <p>Contracting with HUB, small and minority businesses, women's business enterprises, and labor surplus area firms.</p> <p>(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.</p> <p>(b) Affirmative steps must include:</p> <p>(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;</p> <p>(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;</p> <p>(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;</p> <p>(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;</p> <p>(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and</p> <p>(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.</p> | 2 CFR 200.321 |
| None | <p>Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:</p> <p>(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.</p> <p>(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.</p> <p>(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.</p> <p>(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.</p> | 2 CFR 200.334 |

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| | <p>(e) Records for program income transactions after the period of performance. In some cases, recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.</p> <p>(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).</p> <p>(1) <i>If submitted for negotiation.</i> If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.</p> <p>(2) <i>If not submitted for negotiation.</i> If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.</p> | |
| None | <p>CONTRACTS WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION PROHIBITED. A governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Section 806.051, 807.051, or 2252.153. The term "foreign terrorist organization" in this paragraph has the meaning assigned to such a term in Section 2252.151(2) of the Texas Government Code.</p> | Texas Government Code 2252.152 |
| >\$100,000 | <p>PROVISION REQUIRED IN CONTRACT. (a) This section applies only to a contract that:</p> <p>(1) is between a governmental entity and a company with 10 or more full-time employees; and</p> <p>(2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.</p> <p>(b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:</p> <p>(1) does not boycott Israel; and</p> <p>(2) will not boycott Israel during the term of the contract.</p> | Texas Government Code 2271 |
| Option Contract Language for contracts awarded prior to Grant Award | The contract award is contingent upon the receipt of federal funds. If no such funds are awarded, the contract shall terminate. | Optional |
| | Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. | 42 U.S.C. 6201 |
| | The Firm agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance. | Section 504 of the Rehabilitation Act of 1973, as amended. |

