BEAUMONT
TEXAS

REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS JUNE 7, 2016 1:30 P.M.

CONSENT AGENDA

* Approval of minutes – May 24, 2016

* Confirmation of committee appointments

Mark Luke Simon Jr. will fill the unexpired term of Gene Bush on the Police Department Community Advisory Committee. The term would commence June 7, 2016 and expire September 30, 2017. (Councilmember Claude Guidroz)

A) Approve a resolution authorizing the City Manager to execute Change Order No. 1 to the contract with Placo, LTD, of Lumberton, Texas for the Sewer Plant – Clarifiers Rehabilitation Project

B) Approve a resolution authorizing the City Manager to apply for and receive funding from the State of Texas for Inter Library Loan activities for FY 2016

C) Approve a resolution accepting maintenance of the street, storm sewer, water and sanitary sewer improvements in Westchase Village, Section Ten Phase III Subdivision

D) Approve a resolution authorizing the City Manager to enter into a contract with Triangle Aids Network for the Continuum of Care (CoC) Grant from the Department of Housing and Urban Development

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT Mark Luke Simon, Jr. is appointed to the Police Department Community Advisory Committee to fill the unexpired term of Gene Bush. The term will commence June 7, 2016 and expire September 30, 2017.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 7th day of June, 2016.

_____

- Mayor Becky Ames -

A

BEAUMONT
TEXAS

TO:	City Council
FROM:	Kyle Hayes, City Manager
PREPARED BY:	Dr. Joseph P. Majdalani, P.E., Public Works Director JM
MEETING DATE:	June 7, 2016
REQUESTED ACTION:	Council consider a resolution authorizing the City Manager to execute Change Order No. 1 with Placo, LTD, of Lumberton, Texas for the Sewer Plant – Clarifiers Rehabilitation Project in the amount of $48,612.20

BACKGROUND
On October 6, 2015, by Resolution 15-217, City Council awarded Placo, LTD, of Lumberton, Texas, the contract for the Sewer Plant – Clarifiers Rehabilitation Project in the amount of $3,298,432.21.

Change Order No. 1, in the amount of $48,612.20 is required to furnish and install new scum baffles for two (2) primary clarifier units, delete the coating of the existing scum baffles for two (2) primary clarifier units, and extend the contract time by sixty (60) calendar days. The adjustment in quantities results in an overall increase of 1.47% making the new contract amount $3,347,044.41 with a new substantial completion date of December 27, 2016.

FUNDING SOURCE
Capital Program.

RECOMMENDATION
Approval of the resolution.

RESOLUTION NO. 15-217

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the City Council hereby approves the award of a contract to Placo, LTD, of Lumberton, Texas, in the amount of $3,298,432.21 for the Sewer Plant-Clarifiers Rehabilitation Project. The proposed project shall provide for the removal and replacement of two (2) primary and two (2) secondary clarifier mechanisms.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 6th day of October, 2015.

Mayor Becky Ames -

APPROVAL OF CONTRACT CHANGE

CHANGE ORDER No. One (1)
DATE: May 17, 2016

PROJECT: City of Beaumont, Texas
Wastewater Treatment Plant - Clarifier Rehabilitation Project

OWNER: City of Beaumont, Texas
801 Main Street
Beaumont, Texas 77704

CONTRACTOR: Placo, LTD
11939 Leatherwood Dr
Lumberton, Texas 77657

TO THE OWNER: Approval of the following contract change is requested.

Reason for Change: Provide New Scum Baffles for Primary Clarifier Units; Adjust Contract time due to revised Material Shipping

ORIGINAL CONTRACT AMOUNT:	$	3,298,432.31
THIS CHANGE ORDER		
Description:		Net Change
Furnish and Install New Hot Dipped Galvanized Scum Baffles for two (2) Primary Clarifier Units, including new stainless steel fasteners,	$	62,132.20
Reduce Bid Item No. 2 to delete coating of existing Scum Baffles for two (2) Primary Clarifier Units	$	(13,520.00)
TOTAL AMOUNT OF THIS CHANGE ORDER:	$	48,612.20
TOTAL REVISED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER:	$	3,347,044.51

CONTRACT TIME

Original Contract Time:	360
This Change Request: Extension due to Material Shipping Delays	60
Revised Contract Time per this Change Order	420

CONDITION OF CHANGE:
"Contractor acknowledges and agrees that the adjustments in contract price and contract time stipulated in this Change Order represents full compensation for all increases and decreases in the cost of, and the time required to perform the entire work under the Contract arising directly or indirectly from this Change Order and all previous Change Orders. Acceptance of this waiver constitutes an agreement between Owner and Contractor that the Change Order represents an all inclusive, mutually agreed upon adjustment to the Contract, and that Contractor will waive all rights to file a claim on this Change Order after it is properly executed."

Recommended by:	Approved by:	Accepted by:
Schaumburg & Polk, Inc.	City of Beaumont	Placo, LTD
Engineer	Owner	Contractor
Date: 5/17/16	Date:	Date: 5-19-16

RESOLUTION NO.

WHEREAS, on October 6, 2015, the City Council of the City of Beaumont, Texas, adopted Resolution No. 15-217 approving the award of a contract to Placo, LTD, of Lumberton, Texas, in the amount of $3,298,432.21 for the Sewer Plant-Clarifiers Rehabilitation Project; and,

WHEREAS, the original contract amount bid was $3,298,432.31; and,

WHEREAS, Change Order No. 1, in the amount of $48,612.20, is necessary to furnish and install new scum baffles for two (2) primary clarifier units and delete the coating of the existing scum baffles for two (2) primary clarifier units, thereby increasing the total contract amount to $3,347,044.51; and,

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute Change Order No.1 for the additional work described above, thereby increasing the contract amount by $48,612.20 for a total reconciled contract amount of $3,347,044.51 for the Sewer Plant-Clarifiers Rehabilitation Project.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 7th day of June, 2016.

_____

- Mayor Becky Ames -

B

BEAUMONT
TEXAS

TO:	City Council
FROM:	Kyle Hayes, City Manager
PREPARED BY:	Bart Bartkowiak, Chief Technology Officer
MEETING DATE:	June 7, 2016
REQUESTED ACTION:	Council consider a resolution authorizing the City Manager to apply for and receive funding from the State of Texas for Inter Library Loan activities for FY 2016.

BACKGROUND
The Beaumont Public Library System, in coordination with the Texas State Library and Archives Commission, provides Inter Library Loan Materials to other libraries in the state of Texas through a computerized lending system called Navigator. Each year the library system lends hundreds of items through the system and is a net lender, lending more items than are requested. The Library System is eligible for a funding reimbursement of $5.79 per lend for FY 2016.

All requests for funds will be calculated and due to the state by September 31, 2016 with the disbursement of funds coming 4-6 weeks after that date.

FUNDING SOURCE
Not applicable

RECOMMENDATION
Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to apply for and receive funding for the City of Beaumont through the Texas State Library and Archives Commission, FY 2016 Interlibrary Loan Lending Reimbursement Program for reimbursement of net lends of interlibrary loan materials through Navigator (the computerized lending system).

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 7th day of June, 2016.

_____

- Mayor Becky Ames -

C

BEAUMONT
TEXAS

TO:	City Council
FROM:	Kyle Hayes, City Manager
PREPARED BY:	Dr. Joseph Majdalani, P.E., Public Works Director JM
MEETING DATE:	June 7, 2016
REQUESTED ACTION:	Council consider a resolution accepting maintenance of the street, storm sewer, water and sanitary sewer improvements in Westchase Village, Section Ten Phase III Subdivision.

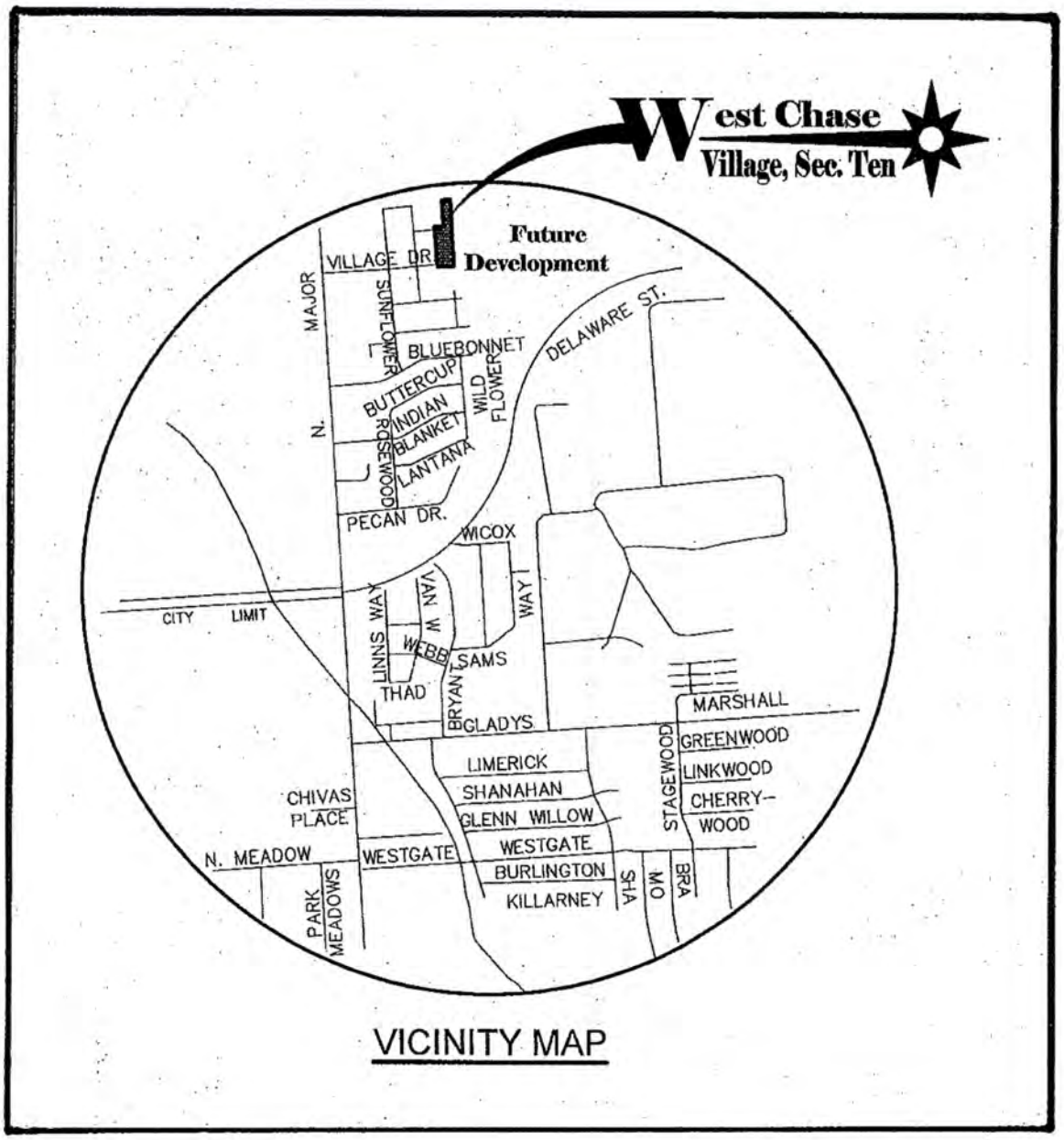
BACKGROUND
On May 24, 2016, a final inspection from all entities was completed and administration recommends approval of the following:

- Village Court approximately 159 feet north of Village Drive to 3-OM 4P end of pavement markers.

Recommended for acceptance; maintenance of the street, storm sewer, water and sanitary sewer improvements for West chase Village, Section Ten Phase III Subdivision right-of- way only.

FUNDING SOURCE
Not applicable

RECOMMENDATION
Approval of resolution.



VICINITY MAP

WESTCHASE VILLAGE, SECTION TEN
PHASE III
SUBDIVISION

RESOLUTION NO.

WHEREAS, construction of the street, storm sewer, water and sanitary sewer improvements constructed in Westchase Village, Section Ten Phase III Subdivision have been completed as follows:

Street

- Village Court approximately 159 feet north of Village Drive to 3-OM 4P end of pavement markers.

Street Maintenance, Storm Sewer, Water and Sanitary Sewer Improvements

- Westchase Village, Section Ten Phase III Subdivision, right-of-way only.

; and,

WHEREAS, the developers of said improvements desire to have these improvements accepted and maintained by the City; and,

WHEREAS, the director of the Public Works and Engineering Department has determined that said improvements meet city standards and qualify for acceptance for permanent maintenance, and the City Council is of the opinion that said improvements should be accepted and maintained by the City of Beaumont;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the above-referenced street, storm sewer, water and sanitary sewer improvements in Westchase Village, Section Ten Phase III Subdivision, with the exception of streetlights, are hereby accepted by the City of Beaumont and shall be continuously maintained by the City contingent upon filing of the final plat, complete with

filings of dedication of all rights-of-way and easements required on the preliminary and final plats and installation of the streetlights.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 7th day of June, 2016.

_____

- Mayor Becky Ames -

D

BEAUMONT
TEXAS

TO:	City Council
FROM:	Kyle Hayes, City Manager
PREPARED BY:	CSB Chris Boone, Planning & Community Development Director
MEETING DATE:	June 7, 2016
REQUESTED ACTION:	Council consider a resolution authorizing the City Manager to enter into a contract with Triangle Aids Network for the Continuum of Care (CoC) Grant from the Department of Housing and Urban Development.

BACKGROUND

The City of Beaumont, as the lead agency, receives a renewal grant allocation of Continuum of Care Grant funds from the U.S. Department of Housing and Urban Development (HUD). Formerly known as the Shelter Plus Care (S+C) Program, the Program has been consolidated with other HUD competitive homelessness assistance grant programs, including the Supportive Housing Program (SHP) and the Section 8 Moderate Rehabilitation/Single Room Occupancy (SRO) Program, to create the new Continuum of Care (CoC) Program.

The funds assist homeless individuals with disabilities, as well as their families. These individuals primarily include those with serious mental illness, chronic problems with alcohol and/or drugs, and HIV/AIDS or related diseases. The City of Beaumont, in conjunction with Triangle Aids Network, will provide Tenant-Based Rental Assistance (TRA) to area homeless individuals that have been diagnosed with HIV/AIDS.

The grant amount for rental and utility assistance is $135,000 and $11,744 for the administrative costs associated with administering the program. The City of Beaumont will monitor the program and reimburse Triangle Aids Network (TAN) for all eligible costs associated with the program.

FUNDING SOURCE

2016 Continuum of Care Grant.

RECOMMENDATION

Approval of resolution.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

Rec'd 5/9/16 @ 3:00pm.

April 05, 2016

Mr. Johnny Beatty
Community Development Director
City of Beaumont
801 Main Street
Beaumont, TX 77701

Dear Mr. Beatty:

Congratulations! I am delighted to inform you that the Fiscal Year (FY) 2015 Continuum of Care (CoC) Program project application(s) your organization submitted was selected for funding in the total amount of $146,744.

The CoC Program is an important part of HUD's mission. CoCs all over the country continue to improve the lives of homeless men, women, and children through their local planning efforts and through the direct housing and service programs funded under the FY 2015 CoC Program Competition. The programs and CoCs funded through the CoC Program continue to demonstrate their value by improving accountability and performance every year. HUD commends your organization for its work and encourages it to continue to strive for excellence in the fight against homelessness.

The conditionally obligated funds for your award(s) are detailed in the enclosure, which lists: the name(s) of the individual project(s); the project number(s); and the specific amount(s) of the obligation(s) for each conditionally selected application. Your local field office will be sending a letter to provide your organization with more information about finalizing your award(s), including execution of your grant agreement(s). Your organization will not have access to these funds until all conditions are satisfied and the grant agreement is fully executed.

Sincerely,

Clifford Taffet
General Deputy Assistant Secretary
for Community Planning and Development

Enclosure

Enclosure

TX0219L6E071508

Shelter Plus Care (S+C)

$146,744

Total Amount: **$146,744**

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute a contract, substantially in the form attached hereto as Exhibit "A," with Triangle Aids Network to receive up to $146,744 for the Continuum of Care (CoC) Grant through the U. S. Department of Housing and Urban Development, Shelter Plus Care Program.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 7th day of June, 2016.

_____

- Mayor Becky Ames -

RICH WITH OPPORTUNITY
BEAUMONT
T • E • X • A • S

EQUAL HOUSING OPPORTUNITY

AGREEMENT
BETWEEN THE CITY OF BEAUMONT
AND
TRIANGLE AIDS NETWORK

This Agreement is made and entered into between the City of Beaumont, Texas, hereinafter referred to as CITY, and Triangle Area Network, hereinafter referred to as SUBRECIPIENT pursuant to the authority of Resolution 16-_____, passed by the Beaumont City Council on June ___, 2016. This assistance will be funded in whole by the U.S. Department of Housing and Urban Development, Continuum of Care Program.

WHEREAS, City has designated the Department of Community Development Block Grants Administration responsible for the administration of this Agreement and all matters pertaining thereto; and;

WHEREAS, the Continuum of Care Program (CoC) is authorized by Title IV, subtitle F, of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act) (42 U.S.C. 11403-11407b). CoC is designed to provide rental assistance, in connection with supportive services for hard-to-serve homeless persons with disabilities (primarily those who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have acquired immunodeficiency syndrome (AIDS) and related diseases) and their families;

WHEREAS, the U.S. Department of Housing and Urban Development has awarded CITY a grant in the amount of **$146,744.00** under the **FY2015** Continuum of Care TRA Program, grant #TX0219L6E071508-TRA, to administer and provide tenant-based rental assistance (TRA) of (17) scattered site units for a period of one year, and;

WHEREAS, in the **FY15** grant CITY has engaged SUBRECIPIENT as the agency that would administer the rental assistance subsidies provided under the program;

NOW, THEREFORE, the parties hereto agree, and by the execution hereof are bound to the mutual obligations and the performance and accomplishment of the conditions hereinafter described.

1. TERM

Subject to the provisions of this Grant Agreement, the CITY will make funding assistance available to SUBRECIPIENT upon execution of the Grant Agreement by both parties. The grant period will extend from the 1st day of February, **2016** through the 31st day of January, **2017** unless sooner terminated in accordance with Section 25, Termination.

2. RESPONSIBILITIES

SUBRECIPIENT hereby accepts the responsibility for the performance of all services and activities described as set forth in **Exhibit A**, and incorporated herein by reference, in a satisfactory and efficient manner as determined by CITY, in accordance with the terms herein. CITY will consider SUBRECIPIENT's Executive Officer to be SUBRECIPIENT's representative responsible for the management of all contractual matter pertaining hereto, unless written notification to the contrary is received from SUBRECIPIENT, and approved by CITY.

Pursuant to receiving the equivalent amount of fund from the U.S. Department of Housing and Urban Development, The City has allocated the sum of **$146,744.00** to be expended under this contract. Unless an amendment to this contract otherwise provides, that amount shall in no event be exceeded and the City shall under no circumstance be required to pay in excess of that amount.

The CITY'S CDBG Manager will be CITY'S representative responsible for the administration of this Agreement.

3. CITY'S OBILIGATION

A. **Limit of Liability**. **CITY** will reimburse **SUBRECIPIENT** for expenses incurred pursuant and in accordance with the **project budget** attached hereto as **Exhibit C** and the **Statement of Work** herein attached as **Exhibit A** and incorporated herein by reference. Notwithstanding any other provision of the Agreement, the total of all payments and other obligations made or incurred by **CITY** hereunder shall not exceed the sum of **$146,744.00**.

B. **Measure of Liability**. In consideration of full and satisfactory services and activities hereunder by **SUBRECIPIENT** and receipt of a request for payment with appropriate documentation of expenditures, **CITY** shall make payments to **SUBRECIPIENT** based on the Project Budget attached hereto and incorporated herein for all purposes as **Exhibit C,** subject to the limitations and provisions set forth in this Section and Section 7 of this Agreement. Payments may be contingent upon certification of the **SUBRECIPIENT'S** financial management system in accordance with the standards specified in **OMB Circular A-110**, attached hereto as **Exhibit D** and incorporated herein by reference.

1. The parties expressly understand and agree that the **CITY'S** obligations under this Section are contingent upon the actual receipt of adequate Shelter Plus Care (S+C) funds to meet **CITY'S** liabilities under this Agreement. If adequate funds are not available to make payments under this Agreement, **CITY** shall notify **SUBRECIPIENT** in writing within a reasonable time after such fact has been

determined. **CITY** may, at its option, either reduce the amount of its liability, as specified in Subsection A of this Section or terminate the Agreement. If S+C funds eligible for use for purposes of this Agreement are reduced, CITY shall not be liable for further payments due to **SUBRECIPIENT** under this Agreement

2. It is expressly understood that this Agreement in no way obligates the General Fund or any other monies or credits of the City of Beaumont.

3. **CITY** shall not be liable for any cost or portion thereof which:

   (a) has been paid, reimbursed or is subject to payment or reimbursement, from any other source;

   (b) was incurred prior to the beginning date, or, without prior approval from **CITY**, after the ending date specified in Section 1;

   (c) is not in strict accordance with the terms of this Agreement, including all exhibits attached hereto;

   (d) reimbursement from **CITY** has not been requested within 90 calendar days following billing to **SUBRECIPIENT**, or termination of the Agreement, whichever date is earlier; or

   (e) is not an allowable cost as defined by Section 10 of this Agreement or the project budget.

4. **CITY** shall not be liable for any cost or portion thereof which is incurred with respect to any activity of **SUBRECIPIENT** requiring prior written authorization from **CITY**, or after **CITY** has requested that **SUBRECIPIENT** furnish data concerning such action prior to proceeding further, unless and until **CITY** advises **SUBRECIPIENT to proceed.**

5. **CITY** shall not be obligated or liable under this Agreement to any party other than **SUBRECIPIENT** for payment of any monies or provision of any goods or services.

4. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

A. **SUBRECIPIENT** understands that funds provided pursuant to this Agreement are funds

which have been made available to **CITY** by the Federal Government (U.S. Department of Housing and Urban Development) under the Title IV, Subtitle F, of the Stewart B. McKinney Homeless Assistance Act, as amended, in accordance with an approved Grant Application and specific assurances. The foregoing is in no way meant to constitute a complete compilation of all duties imposed upon **SUBRECIPIENT** by law or administrative ruling, or to narrow the standards which **SUBRECIPIENT** must follow.

SUBRECIPIENT further assures and certifies that if the regulations and issuances promulgated pursuant to the Act are amended or revised, it shall comply with them, or notify **CITY**, as provided in Section 23 of this Agreement.

SUBRECIPIENT agrees to abide by the conditions of and comply with the requirements of the Office of Management and Budget Circulars Nos. A-110, A-122, A-87 and A-133 as applicable.

B. **SUBRECIPIENT** shall comply with all applicable federal laws, laws of the State of Texas, ordinances of the City of Beaumont and local program requirements.

C. **SUBRECIPIENT** is required to comply with the applicable uniform administrative requirements as described in 24 CFR 582 and 24 CFR 582.400 subpart E **Exhibit B,** with the exceptions noted below:

1. **SUBRECIPIENT** does not assume **CITY'S** environmental responsibilities described at CFR 582.230; and

2. **SUBRECIPIENT** does not assume the **CITY'S** responsibility for initiating the review process under the provisions of 24 CFR Part 582.

5. REPRESENTATIONS

A. **SUBRECIPIENT** assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

B. The person or persons signing and executing this Agreement on behalf of **SUBRECIPIENT**, does hereby warrant and guarantee that he, she, or they have been fully authorized by **SUBRECIPIENT** to execute this Agreement on behalf of **SUBRECIPIENT** and to validly and legally bind **SUBRECIPIENT** to all terms, performances and provisions herein set forth.

C. **CITY** shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either **SUBRECIPIENT** or the person signing the Agreement to enter into this Agreement. **SUBRECIPIENT** is liable to **CITY** for any money it has received from **CITY** for performance of the provisions of this agreement if **CITY** has suspended or terminated this Agreement for the reasons enumerated in this Section.

D. **SUBRECIPIENT** agrees that the funds and resources provided **SUBRECIPIENT** under the terms of this Agreement will in no way be substituted for funds and resources from other sources, nor in any way serve to reduce the resources, services, or other benefits which would have been available to, or provided through, **SUBRECIPIENT** had this Agreement not been executed.

6. PERFORMANCE BY SUBRECIPIENT

SUBRECIPIENT will provide, oversee, administer, and carry out all of the activities and services set out in the **Statement of Work**, attached hereto and incorporated herein for all purposes as **Exhibit A**, utilizing the funds described in the **Project Budget**, **Exhibit C**, attached hereto and incorporated herein for all purposes and deemed by both parties to be necessary and sufficient payment for full and satisfactory performance of the program, as determined solely by **CITY** and in accordance with all other terms, provisions and requirements of this Agreement.

No modifications or alterations may be made in the Statement of Work without the prior written approval of the City's Community Development Grants Administrator.

7. PAYMENTS TO SUBRECIPIENT

A. **Payments to SUBRECIPIENT**. The **CITY** shall pay to the **SUBRECIPIENT** a maximum amount of money totaling **$146,744.00** for services rendered under this Agreement. **CITY** will pay these funds on a reimbursement basis to the **SUBRECIPIENT** within thirty days after **CITY** has received approved supporting documentation of eligible expenditures. **SUBRECIPIENT'S** failure to request reimbursement on a timely basis may jeopardize present or future funding.

Funds are to be used for the sole purpose of providing services described in the **Statement of Work herein attached as Exhibit A** and based on the **Project Budget herein attached as Exhibit C.**

B. **Excess Payment. SUBRECIPIENT** shall refund to **CITY** within ten working days of **CITY'S** request, any sum of money which has been paid by **CITY** and which **CITY** at any time thereafter determines:

1. has resulted in overpayment to **SUBRECIPIENT**; or

2. has not been spent strictly in accordance with the terms of this Agreement; or

3. is not supported by adequate documentation to fully justify the expenditure.

C. **Disallowed Costs:** Upon termination of this Agreement, should any expense or change for

which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by **CITY**, the U. S. Department of Housing and Urban Development, or any other Federal agency, **SUBRECIPIENT** will refund such amount to **CITY** within ten working days of a written notice to **SUBRECIPIENT**, which specifies the amount disallowed. Refunds of disallowed costs may not be made from these or any funds received from or through **CITY**.

D. **Reversion of Assets.** Upon expiration of this Agreement, **SUBRECIPIENT** shall transfer to the **CITY** any **S+C** funds on hand at the time of expiration and any accounts receivable attributable to the use of **S+C** funds. If **CITY** finds that **SUBRECIPIENT** is unwilling and/or unable to comply with any of the terms of this Contract, **CITY** may require a refund of any and all money expended pursuant to this Contract by **SUBRECIPIENT**, as well as any remaining unexpended funds which shall be refunded to **CITY** within ten working days of written notice to **SUBRECIPIENT** to revert these financial assets. The revision of these financial assets shall be in addition to any other remedy available to **CITY** either at law or in equity for breach of this Contract.

8. WARRANTIES

SUBRECIPIENT represents and warrants that:

A. All information, reports and data heretofore or hereafter requested by **CITY** and furnished to **CITY**, are complete and accurate as of the date shown on the information, data, or report, and, since that date, have not undergone any significant change without written notice to **CITY**.

B. Any supporting financial statements heretofore requested by **CITY** and furnished to **CITY**, are complete, accurate and fairly reflect the financial condition of **SUBRECIPIENT** on the date shown on said report, and the results of the operation for the period covered by the report, and that since said date, there has been no material change, adverse or otherwise, in the financial condition of **SUBRECIPIENT**.

C. No litigation or legal proceedings are presently pending or threatened against **SUBRECIPIENT**.

D. None of the provisions herein contravene or are in conflict with the authority under which **SUBRECIPIENT** is doing business or with the provisions of any existing indenture or agreement of **SUBRECIPIENT**.

E. **SUBRECIPIENT** has the power to enter into this Agreement and accept payments hereunder, and has taken all necessary action to authorize such acceptance under the terms and conditions of this Agreement.

F. None of the assets of **SUBRECIPIENT** are subject to any lien or encumbrance of any

character, except for current taxes not delinquent, except as shown in the financial statements furnished by **SUBRECIPIENT** to **CITY**.

G. Each of these representations and warranties shall be continuing and shall be deemed to have been repeated by the submission of each request for payment.

9. COVENANTS

A. During the period of time that payment may be made hereunder and so long as any payments remain unliquidated, **SUBRECIPIENT** shall not, without the prior written consent of the Community Development Administrator or his authorized representative:

1. Mortgage, pledge, or otherwise encumber or suffer to be encumbered, any of the assets of **SUBRECIPIENT** now owned or hereafter acquired by it, or permit any pre-existing mortgages, liens, or other encumbrances to remain on, or attached to any assets of **SUBRECIPIENT** which are allocated to the performance of this Agreement and with respect to which **CITY** has ownership hereunder.

2. Sell, assign, pledge, transfer or otherwise dispose of accounts receivables, notes or claims for money due or to become due.

3. Sell, convey, or lease all or substantial part of its assets.

4. Make any advance or loan to, or incur any liability for any other firm, person, entity or corporation as guarantor, surety, or accommodation endorser.

5. Sell, donate, loan or transfer any equipment or item of personal property purchased with funds paid to **SUBRECIPIENT** by **CITY**, unless CITY authorizes such transfer.

B. **SUBRECIPIENT** agrees, upon written request by **CITY,** to require its employees to attend training sessions sponsored by the Community Development Division.

10. ALLOWABLE COSTS

A. Costs shall be considered allowable only if incurred directly and specifically in the performance of and in compliance with this Agreement and in conformance with the standards and provisions of **Exhibits A and C**.

B. Approval of **SUBRECIPIENT'S project budget, Exhibit C**, does not constitute prior written approval, even though certain items may appear herein. **CITY'S** prior written authorization is required in order for the following to be considered allowable costs:

1. **CITY** shall not be obligated to any third parties, including any subrecipients of **SUBRECIPIENT**, and **CITY** funds shall not be used to pay for any contract service extending beyond the expiration of this Agreement.

2. Out of town travel.

3. Any alterations or relocation of the facilities on and in which the activities specified in **Exhibit A** are conducted.

4. Any alterations, deletions or additions to the Personnel Schedule incorporated in **Exhibit C**.

5. Costs or fees for temporary employees or services.

6. Any fees or payments for consultant services.

7. Fees for attending out of town meetings, seminars or conferences.

Written requests for prior approval are **SUBRECIPIENT'S** responsibility and shall be made within sufficient time to permit a thorough review by **CITY**. **SUBRECIPIENT** must obtain written approval by **CITY** prior to the commencement of procedures to solicit or purchase services, equipment, or real or personal property. Any procurement or purchase which may be approved under the terms of this Agreement must be conducted in its entirety in accordance with the provisions of this Agreement.

C. Equipment purchased by **SUBRECIPIENT** will be affixed with an asset tag by a Community Development representative and will remain in inventory for a period of five (5) years. During inventory period the equipment, belonging to the Department of Housing and Urban Development is to be used to carry out the proposed activities described in the Statement of Work, Attachment A, and as such may not be sold, donated, or destroyed. After the inventory period, ownership of the equipment will revert to the **SUBRECIPIENT** with all rights thereof.

11. PROGRAM INCOME

A. For purposes of this Agreement, program income means earnings of **SUBRECIPIENT** realized from activities resulting from this Agreement or from **SUBRECIPIENT'S** management of funding provided or received hereunder. Such earnings include, but are not limited to, income from interest, usage of rental or lease fees, income produced from contract-supported services of individuals or employees or from the use or sale of equipment or facilities of **SUBRECIPIENT** provided as a result of this Agreement, and

payments from clients or third parties for services rendered by **SUBRECIPIENT** under this Agreement.

B. **SUBRECIPIENT** shall maintain records of the receipt and disposition of program income in the same manner as required for other contract funds, and reported to **CITY** in the format prescribed by **CITY**. **CITY** and **SUBRECIPIENT** agree, that any fees collected for services performed by **SUBRECIPIENT** shall be used for payment of costs associated with service provision. Revenue remaining after payment of all program expenses for service provision shall be considered Program Income and shall be subject to all the requirements of this Agreement and the regulations found at CFR 24, Section 570.504.

C. **SUBRECIPIENT** shall include this Section in its entirety in all of its sub-contracts which involve other income producing services or activities.

D. It is **SUBRECIPIENT'S** responsibility to obtain from **CITY** a prior determination as to whether or not income arising directly or indirectly from this Agreement, or the performance thereof, constitutes program income. **SUBRECIPIENT** is responsible to **CITY** for the repayment of any and all amounts determined by **CITY** to be program income, unless otherwise approved in writing by **CITY**.

12. MAINTENANCE OF RECORDS

A. **SUBRECIPIENT** agrees to maintain records that will provide accurate, current, separate, and complete disclosure of the status of funds received under this Agreement, in compliance with the provisions of **Exhibit B**, attached hereto, and with any other applicable Federal and State regulations establishing standards for financial management including OMB circulars A-87, A-110, A-122 and A-133 as applicable; Title 24 CFR Section 582 as it pertains to costs incurred, audits, program income, administration and other activities and functions. **SUBRECIPIENT'S** record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure. Nothing in this Section shall be construed to relieve **SUBRECIPIENT** of fiscal accountability and liability under any other provision of this Agreement or any applicable law. **SUBRECIPIENT** shall include the substance of this provision in all subcontracts.

B. **SUBRECIPIENT** agrees to retain all books, records, documents, reports and written accounting procedures pertaining to the operation of programs and expenditures of funds under this Agreement for five years after all funds have been expended.

C. Nothing in the above subsections shall be construed to relieve **SUBRECIPIENT** of responsibility for retaining accurate and current records which clearly reflect the level and benefit of services provided under this Agreement.

D. At any reasonable time and as often as **CITY** may deem necessary the **SUBRECIPIENT** shall make available to **CITY**, the U. S. Department of Housing and Urban Development, or any of their authorized representatives, all of its records and shall permit **CITY**, the U. S. Department of Housing and Urban Development, or any of their authorized representatives to audit, examine, make excerpts and copies of such records, and to conduct audits of all contracts, invoices, materials, payrolls, records of personnel, conditions or employment and all other data requested by said representatives.

13. REPORTS AND INFORMATION

At such times and in such form as **CITY** may require **SUBRECIPIENT** shall furnish such statements, records, data and information as **CITY** may request and deem pertinent to matters covered by this Agreement.

SUBRECIPIENT shall submit beneficiary and financial reports to the **CITY**, as requested, at least once and not to exceed quarterly during the program year. The beneficiary report shall detail client information, including race, income, female head of household and other statistics required by the **CITY**. The financial report shall include information and data relative to all programmatic and financial reporting as of the beginning date specified in Section 1 of this Agreement. Beneficiary and financial reports shall be due to **CITY** within 15 working days after request by **CITY.**

Unless the **CITY** has granted a written exemption, **SUBRECIPIENT** shall submit a copy of any audit conducted by independent examiners in accordance with Generally Accepted Accounting Principles. If the **SUBRECIPIENT** receives more than $500,000 in federal funding, the audit must be conducted in accordance with OMB Circular A-133 as applicable.

14. MONITORING AND EVALUATION

A. **CITY** shall perform on-site monitoring of **SUBRECIPIENT'S** performance under this Agreement.

B. **SUBRECIPIENT** agrees that the **CITY** may carry out monitoring and evaluation activities to ensure adherence by **SUBRECIPIENT** to the **Statement of Work attached hereto as Exhibit A, as well as other provisions of this Agreement**.

C. **SUBRECIPIENT** agrees to cooperate fully with the **CITY** in the development, implementation and maintenance of record-keeping systems and to provide data determined by the **CITY** to be necessary for the **CITY** to effectively fulfill its monitoring and evaluation responsibilities.

D. **SUBRECIPIENT** agrees to cooperate in such a way so as not to obstruct or delay the

CITY in such monitoring and to designate one of its staff to coordinate the monitoring process as requested by **CITY** staff.

E. After each official monitoring visit, the **CITY** shall provide the **SUBRECIPIENT** with a written report of monitoring findings documenting findings and concerns that will require a written response to the **CITY**. An acceptable response must be received by the **CITY** within sixty (60) days from the **SUBRECIPIENT'S** receipt of the monitoring report or audit review letter. Future contract payments can be withheld for the **SUBRECIPIENT'S** failure to submit a response within sixty (60) days.

F. The **SUBRECIPIENT** shall submit copies of any fiscal, management, or audit reports by any of the **SUBRECIPIENT'S** funding or regulatory bodies to the **CITY** within five working days of receipt by the **SUBRECIPIENT**.

15. DIRECTOR'S MEETINGS

During the terms of this Agreement, at the request of the **CITY, SUBRECIPIENT** shall cause to be delivered to the **CITY** copies of all notices of meetings of its Board of Directors, setting forth the time and place thereof. Such notices, if so requested, shall be delivered to the **CITY** in a timely manner to give adequate notice, and shall include an agenda and a brief description of the matters to be discussed. **SUBRECIPIENT** understands and agrees that **CITY** representatives shall be afforded access to all of the Board of Directors meetings.

Minutes of all meetings of the **SUBRECIPIENT'S** governing body shall be available, and upon request, be provided to the **CITY** within ten days after Board approval.

16. INSURANCE

A. **SUBRECIPIENT** shall observe sound business practices with respect to providing such bonding and insurance as would provide adequate coverage for services offered under this Agreement.

B. The **premises on and in which the activities described in Exhibit A** are conducted, and the employees conducting these activities, shall be covered by liability insurance, commonly referred to as Owner/Tenant coverage with the **CITY named as additional insured**. Upon request of the **SUBRECIPIENT,** the **CITY** may, at its sole discretion, approve alternate insurance coverage arrangements.

C. **SUBRECIPIENT** will comply with applicable workers compensation statues and will obtain employers liability coverage where available and other appropriate liability coverage for program participants, if applicable.

D. **SUBRECIPIENT** will maintain adequate and continuous liability insurance on all vehicles owned, leased or operated by **SUBRECIPIENT**. All employees of **SUBRECIPIENT** who are required to drive a vehicle in the normal scope and course of their employment must possess a valid Texas driver's license and automobile liability insurance. Evidence of the employee's valid Texas driver's license and automobile liability insurance. Evidence of the employee's current possession of a valid license and insurance must be maintained on a current basis in **SUBRECIPIENT'S** files.

E. Actual losses not covered by insurance as required by this Section are not allowable under this Agreement, and remain the sole responsibility of the **SUBRECIPIENT**.

F. The policy or policies of insurance shall contain a clause which requires that the **CITY** and the **SUBRECIPIENT** be notified in writing of any cancellation or change in policy at least thirty (30) days prior to such change or cancellation.

17. CIVIL RIGHTS/EQUAL OPPORTUNITY

A. **SUBRECIPIENT** shall comply with all applicable equal opportunity and affirmative action laws or regulations. The **SUBRECIPIENT** shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, gender, age or disability. The **SUBRECIPIENT** will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

B. The **SUBRECIPIENT** agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063 and Executive Order 11246 as amended by Executive Orders 11375 and 12086.

C. **SUBRECIPIENT** will furnish all information and reports requested by the **CITY**, and will permit access to its books, records, and accounts for purposes of investigation to ascertain compliance with local, state and Federal rules and regulations.

D. In the event of **SUBRECIPIENT'S** non-compliance with the non-discrimination requirements, the **CITY** may cancel or terminate this Agreement in whole or in part, and **SUBRECIPIENT** may be barred from further contracts with the **CITY**.

18. PERSONNEL POLICIES

Personnel policies shall be established by the **SUBRECIPIENT** and shall be available for examination. Such personnel policies shall:

A. Be in writing and shall be approved by the governing body of the **SUBRECIPIENT** and the **CITY**.

19. CONFLICT OF INTEREST

A. **SUBRECIPIENT** covenants that neither it nor any member of its governing body presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. **SUBRECIPIENT** further covenants that in the performance of this Agreement, no person having such interest shall be employed or appointed as a member of its governing body.

B. **SUBRECIPIENT** further covenants that no member of its governing body or its staff, sub-recipients or employees shall possess any interest in or use his position for a purpose that is or gives the appearance of being motivated by desire for private gain for himself or others particularly those with which he has family, business, or other ties.

C. No officer, member, or employee of the **CITY** and no member of its governing body who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this Agreement shall participate in any decision relating to the Agreement which affects his or her personal interest or the interest in any corporations, partnership, or association in which he or she has a direct or indirect interest.

20. NEPOTISM

SUBRECIPIENT shall not employ in any paid capacity any person who is a member of the immediate family of any person who is currently employed by **SUBRECIPIENT**, or is a member of **SUBRECIPIENT'S** governing board. The term member of immediate family includes wife, husband, son, daughter, mother, father, brother, sister, in-laws, aunt, uncle, nephew, niece, step parent, step-child, half-brother and half-sister.

21. POLITICAL OR SECTARIAN ACTIVITY

A. Neither the funds advanced pursuant to this Agreement, nor any personnel which may be employed by the **SUBRECIPIENT** with funds advanced pursuant to this Agreement shall be in any way or to any extent engaged in any conduct or political activity in contravention of Chapter 15 of Title 5 of the United States Code.

B. The **SUBRECIPIENT** agrees that none of the funds or services provided directly or

indirectly under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat pending legislation. Employees of the **SUBRECIPIENT** connected with any activity that is funded in whole or in part by funds provided to **SUBRECIPIENT** under this Agreement may not under the term of this Agreement:

1. Use their official position or influence to affect the outcome of an election or nomination.

2. Solicit contributions for political purposes; or

3. Take an active part in political management or in political campaigns.

SUBRECIPIENT hereby agrees to sign a **Certification Regarding Lobbying included herein as Exhibit E** and if necessary, the Disclosure of Lobbying Activities provided by the **CITY**.

22. PUBLICITY

A. Where such action is appropriate, **SUBRECIPIENT** shall publicize the activities conducted by **SUBRECIPIENT** under this Agreement. In any news release, sign, brochure, or other advertising medium, disseminating information prepared or distributed by or for **SUBRECIPIENT**, the advertising medium shall state that the U. S. Department of Housing and Urban Development's Community Development Block Grant Program funding through the City of Beaumont has made the project possible.

B. All published material and written reports submitted under this project must be originally developed material unless otherwise specifically provided in this Agreement. When material not originally developed is included in a report, the report shall identify the source in the body of the report or by footnote. This provision is applicable when the material is in a verbatim or extensive paraphrase format.

All published material submitted under this project shall include the following reference on the front cover or title page:

> This document is prepared in accordance with the City of Beaumont's Community Development Block Grant Program, with funding received from the United States Department of Housing and Urban Development.

C. All reports, documents, studies, charts, schedules or other appended documentation to

any proposal, content of basic proposal, or contracts and any responses, inquires, correspondence and related material submitted by **SUBRECIPIENT**.

23. CHANGES AND AMENDMENTS

A. Any alterations, additions or deletions to the terms of this Agreement shall be by written amendment executed by both parties, except when the terms of this Agreement expressly provide that another method shall be used.

B. **SUBRECIPIENT** may not make transfers between or among approved line items within **project budget categories** set forth in **Exhibit C** without prior written approval of **CITY**. **SUBRECIPIENT** shall request, in writing, the budget revision in a form prescribed by **CITY**, and such request for revision shall not increase the total monetary obligation of **CITY** under this Agreement. In addition, budget revisions cannot significantly change the nature, intent or scope of the program funded under this Agreement.

C. **SUBRECIPIENT** will submit revised budget and program information, whenever the level of funding for **SUBRECIPIENT** or the program(s) described herein is altered according to the total levels contained in any portion of **Exhibit C**.

D. It is understood and agreed by the parties hereto that changes in the State, Federal or local laws or regulations pursuant hereto may occur during the term of this Agreement. Any such modifications are to be automatically incorporated into this Agreement without written amendment hereto, and shall become a part of the Agreement on the effective date specified by the law or regulation.

E. **CITY** may, from time to time during the term of the Agreement, request changes in **Exhibit A,** which may include an increase or decrease in the amount of **SUBRECIPIENT'S** compensation. Such changes shall be incorporated in a written amendment hereto, as provided in Subsection A of this Section.

F. Any alterations, deletion, or additions to the **Contact Budget Detail** incorporated in **Exhibit C** shall require the prior written approval of **CITY**.

G. **SUBRECIPIENT** agrees to notify **CITY** of any proposed change in physical location for work performed under this Agreement at least thirty (30) calendar days in advance of the change.

H. **SUBRECIPIENT** shall notify **CITY** of any changes in personnel or governing board composition.

24. SUSPENSION OF FUNDING

Upon determination by **CITY** of **SUBRECIPIENT'S** failure to timely and properly perform each of the requirements, time conditions and duties provided herein, the **CITY**, without limiting any rights it may otherwise have, may, at its discretion, and upon ten working days written notice to **SUBRECIPIENT**, withhold further payments to **SUBRECIPIENT**. Such notice may be given by mail to the Executive Officer and the Board of Directors of **SUBRECIPIENT**. The notice shall set forth the default or failure alleged, and the action required for cure.

The period of such suspension shall be of such duration as is appropriate to accomplish corrective action, but in no event shall it exceed thirty (30) calendar days. At the end of the suspension period, if **CITY** determines the default or deficiency has been satisfied, **SUBRECIPIENT** may be restored to full compliance status and paid all eligible funds withheld or impounded during the suspension period. If however, **CITY** determines that **SUBRECIPIENT** has not come into compliance, the provisions of Section 25 may be effectuated.

25. TERMINATION

A. **CITY** may terminate this Agreement for cause under any of the following reasons or for other reasons not specifically enumerated in this paragraph.

1. **SUBRECIPIENT'S** failure to attain compliance during any prescribed period of suspension as provided in Section 24.

2. **SUBRECIPIENT'S** failure to materially comply with any of the terms of this Agreement.
3. **SUBRECIPIENT'S** violation of covenants, agreements or guarantees of this Agreement.

4. Termination or reduction of funding by the United States Department of Housing and Urban Development.

5. Finding by the **CITY** that **SUBRECIPIENT**

   a. Is in such unsatisfactory financial condition as to endanger performance under this Agreement.

   b. has allocated inventory to this Agreement substantially exceeding

reasonable requirements;

c. is delinquent in payment of taxes, or of costs of performance of this Agreement in the ordinary course of business.

6. Appointment of a trustee, receiver or liquidator for all or substantial part of **SUBRECIPIENT'S** property, or institution of bankruptcy, reorganization, rearrangement of or liquidation proceedings by or against **SUBRECIPIENT**.

7. **SUBRECIPIENT'S** inability to conform to changes required by Federal, State and local laws or regulations as provided in Section 4, and Section 23 (D), of this Agreement.

8. The commission of an act of bankruptcy.

9. **SUBRECIPIENT'S** violation of any law or regulation to which **SUBRECIPIENT** is bound or shall be bound under the terms of the Agreement.

A. **CITY** shall promptly notify **SUBRECIPIENT** in writing of the decision to terminate and the effective date of termination. Simultaneous notice of pending termination may be made to other funding sources specified in **Exhibit C**.

B. **CITY** may terminate this Agreement for convenience at any time. If **CITY** terminates the Agreement for convenience, **SUBRECIPIENT** will be paid an amount not to exceed the total of accrued expenditures as of the effective date of termination. In no event will this compensation exceed an amount which bears the same ratio to the total compensation as the services actually performed bears to the total services of SUBRECIPEINT covered by the Agreement, less payments previously made.

C. **SUBRECIPIENT** may terminate this Agreement in whole or in part by written notice to **CITY**, if a termination of outside funding occurs upon which **SUBRECIPIENT** depends for performance hereunder. **SUBRECIPIENT** may opt, within the limitations of this Agreement, to seek an alternative funding source, with the approval of **CITY**, provided the termination by the outside funding source was not occasioned by a breach of contract as defined herein or as defined in a contract between **SUBRECIPIENT** and the funding source in question.

SUBRECIPIENT may terminate this Agreement upon the dissolution of **SUBRECIPIENT'S** organization not occasioned by a breach of this Agreement.

D. Upon receipt of notice to terminate, **SUBRECIPIENT** shall cancel, withdraw or otherwise terminate any outstanding orders or subcontracts, which relate to the performance of this Agreement. **CITY** shall not be liable to **SUBRECIPIENT** or

SUBRECIPIENT'S creditors for any expenses, encumbrances or obligations whatsoever incurred after the termination date listed on the notice to terminate referred to in this paragraph.

E. Notwithstanding any exercise by **CITY** of its right of suspension or termination, **SUBRECIPIENT** shall not be relieved of liability to **CITY** for damages sustained by **CITY** by virtue of any breach of the Agreement by **SUBRECIPIENT**, and **CITY** may withhold any reimbursement to **SUBRECIPIENT** until such time as the exact amount of damages due to **CITY** from **SUBRECIPIENT** is agreed upon or otherwise determined.

26. NOTIFICATION OF ACTION BROUGHT

In the event that any claim, demand, suit or other action is made or brought by any person(s), firm, corporation or other entity against **SUBRECIPIENT**, **SUBRECIPIENT** shall give written notice thereof to **CITY** within two working days after being notified of such claim, demand, suit or other action. Such notice shall state the date and hour of notification of any such claim, demand, suit or other action, the names and addresses of the person(s), firm, corporation or other entity making such claim, or that instituted or threatened to institute any type of action or proceeding, the basis of such claim, action or proceeding, and the name of any person(s) against whom such claim is being made or threatened. Such written notice shall be delivered either personally or by mail.

27. INDEMNIFICATION

A. It is expressly understood and agreed by both parties hereto that the **CITY** is contracting with the **SUBRECIPIENT** as an independent **SUBRECIPIENT** and that as such, **SUBRECIPIENT** shall save and hold **CITY**, its officers, agents and employees harmless from all liability of any nature or kind, including costs and expenses for, or on account of, any claims, audit exceptions, demands, suits or damages of any character whatsoever resulting in whole or in part from the performance or omission of any employee, agent or representative of **SUBRECIPIENT**.

B. **SUBRECIPIENT** agrees to provide the defense for, and to indemnify and hold harmless **CITY**, its agents, employees, or **SUBRECIPIENTs** from any and all claims, suits, causes of action, demands, damages, losses, attorney fees, expenses, and liability arising out of the use of these contracted funds and program administration and implementation except to the extent caused by the willful act or omission of **CITY**, its agents, employees, or **SUBRECIPIENTS**.

28. NON-RELIGIOUS ACTIVITIES

The **SUBRECIPIENT** will provide all services under this Agreement in a manner that is exclusively non-religious in nature and scope. There shall be no religious services, proselytizing, instruction or any other religious preference, influence or discrimination in connection with providing the services hereunder.

29. MISCELLANEOUS

A. **SUBRECIPIENT** shall not transfer, pledge or otherwise assign this Agreement or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company or other financial institution without the prior written approval of **CITY**.

B. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect and continue to conform to the original intent of both parties hereto.

C. In no event shall any payment to **SUBRECIPIENT** hereunder, or any other act or failure of **CITY** to insist in any one or more instances upon the terms and conditions of this Agreement constitute or be construed in any way to be a waiver by **CITY** of any breach of covenant or default which may then or subsequently be committed by **SUBRECIPIENT**. Neither shall such payment, act, or omission in any manner impair or prejudice any right, power, privilege, or remedy available to **CITY** to enforce its rights hereunder, which rights, powers, privileges, or remedies are always specifically preserved. No representative or agent of **CITY** may waive the effect of this provision.

D. This Agreement, together with referenced exhibits and attachments, constitutes the entire agreement between the parties hereto, and any prior agreement, assertion, statement, understanding or other commitment antecedent to this Agreement, whether written or oral, shall have no force or effect whatsoever; nor shall an agreement, assertion, statement, understanding, or other commitment occurring during the term of this Agreement, or subsequent thereto, have any legal force or effect whatsoever, unless properly executed in writing, and if appropriate, recorded as an amendment of this Agreement.

E. In the event any disagreement or dispute should arise between the parties hereto pertaining to the interpretation or meaning of any part of this Agreement or its governing rules, codes, laws, ordinances or regulations, **CITY** as the party ultimately responsible to the U. S. Department of Housing and Urban Development for matters of compliance, will have the final authority to render or to secure an interpretation.

F. For the purpose of this Agreement, all official communications and notices among the parties shall be deemed made if sent postage paid to the parties and addresses set forth below:

TO CITY:	**TO SUBRECIPIENT:**
Mr. Kyle Hayes	Ms. Linda Clipper
City Manager	Executive Director
City of Beaumont	Triangle Area Network
P. O. Box 3827	1495 N. 7th Street
Beaumont, TX 77704	Beaumont, TX 77702

G. This Agreement shall be interpreted in accordance with the laws of the State of Texas and venue of any litigation concerning this Agreement shall be in a court competent jurisdiction sitting in Jefferson County Texas.

IN WITNESS OF WHICH this Agreement has been executed on this the _____ day of _____, 2016.

CITY OF BEAUMONT:

BY:_____

Kyle Hayes, City Manager

ATTEST:

BY:_____

Tina Broussard, City Clerk

Triangle Area Network (TAN):

BY:_____

_____

Date

ATTEST:

BY:_____

BEAUMONT
TEXAS

REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS JUNE 7, 2016 1:30 P.M.

AGENDA

CALL TO ORDER

* Invocation Pledge Roll Call
* Presentations and Recognition
* Public Comment: Persons may speak on scheduled agenda item No. 1/Consent Agenda
* Consent Agenda

GENERAL BUSINESS

1. Consider adopting the 2014 Water Conservation and Drought Contingency Plan and renewing the City's commitment to Chapter 22, Article 22.06, of the Code of Ordinances

COMMENTS

* Councilmembers/City Manager comment on various matters
* Public Comment (Persons are limited to 3 minutes)

EXECUTIVE SESSION

* Consider matters related to contemplated or pending litigation in accordance with Section 551.071 of the Government Code:

  Jefferson County, Texas v. City of Beaumont, Texas; No. B-198481

  Architectural Alliance, Inc. as it relates to the Fire Station No. 2 and Fire Station No. 11 Projects

  Brandy Springer v. City of Beaumont and CH2M Hill Engineers, Inc.; Cause No. B-198469

  Tyquisha Chapman v. City of Beaumont and CH2M Hill Engineers, Inc.; Cause No. E-198467

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777.

1

June 7, 2016

Consider adopting the 2014 Water Conservation and Drought Contingency Plan and renewing the City's commitment to Chapter 22, Article 22.06, of the Code of Ordinances

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BEAUMONT
TEXAS

TO:	City Council
FROM:	Kyle Hayes, City Manager
PREPARED BY:	Dr. Joseph Majdalani, P.E., Public Works Director JM
MEETING DATE:	June 7, 2016
REQUESTED ACTION:	Council consider adopting the 2014 Water Conservation and Drought Contingency Plan and renewing the City's commitment to Chapter 22, Article 22.06, of the Code of Ordinances.

BACKGROUND

The Texas Commission on Environmental Quality requires a wholesale public water supplier that holds a water right in the amount of 1,000 acre-feet or more for municipal use, and provides water service to 3,300 or more connections to have an Ordinance for a Drought Contingency Plan that should be renewed every five (5) years. The plan must meet all of the minimum requirements as set forth in the TCEQ rules, Title 30 Texas Administrative Code Chapter 288. The Plan establishes water conservation goals and means to achieve them; establishes criteria for the initiation and termination of drought response stages; establishes restrictions on certain water use; establishes penalties for the violation of and provisions for enforcement of these restrictions, and establishes procedures for granting variances.

FUNDING SOURCE

Not Applicable.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the 2014 Water Conservation and Drought Contingency Plan is hereby adopted. The Plan is substantially in the form attached hereto as Exhibit "A;" and,

BE IT FURTHER RESOLVED THAT the City of Beaumont hereby renews its commitment to Chapter 22, Article 22.06 "Drought Contingency Plan" of the Code of Ordinances.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 7th day of June, 2016.

_____

- Mayor Becky Ames -

CITY OF BEAUMONT
JEFFERSON COUNTY, TEXAS

WATER CONSERVATION PLAN
AND
DROUGHT CONTINGENCY PLAN

SUBMITTED TO:

WATER CONSERVATION
AND
DROUGHT MANAGEMENT TEAM

WATER RIGHT PERMITTING
&
AVAILABILITY SECTION

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

October 1990
August 1992
October 2001
April 2005
April 2009
May 2014

EXHIBIT "A"

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
MUNICIPAL WATER CONSERVATION PLANNING DAT: UTILITY SURVEY

Name of Applicant:	**City of Beaumont - Water Utilities PWSID No. 1230001**
Address:	**1350 Langham Road** **Beaumont, TX 77707**
Telephone Number:	**(409) 785-3016**
Fax Number:	**(409) 861-4836**
Form Completed by:	**Amalia Villarreal, P.E.**
	Water Utilities Administration

Signature: Amalia Villarreal **Date:** 6-1-2016

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Attachment Index 19

I. CUSTOMER DATA

A. Population and Service Area Data

1. Please provide a description of the service area. If the applicant has Received a Certificate of Convenience and Necessity (CCN) from the TCEQ, please include a copy of the CCN and a service-area map.

   The distribution system consists of 780 miles of water lines and six elevated storage tanks with approximately 42,300 connections, encompassing a service area of 85.74 square miles. The service area is flat in nature and contains residential, commercial and industrial customers. Water lines range in size from 2" to 42" in diameter. Most of the city is operated as one pressure plane. However, a booster station in the southern portion of the city serves the prison system. The north and west parts of the city receive ground water, the remainder of the city receives surface water.

   Refer to Appendix A for the CCN information.

2. Service area size (square miles): **85.74**

3. Current population of service area: **131,849**

4. Current population served by Utility:

   a. Water **131,849** b. Wastewater **131,849**

5. Population served by water utility for each of the previous five years:

Year	Population
2009	121,579
2010	121,579
2011	131,849
2012	131,849
2013	132,023

6. Projected population For service area:

Year	Population
2014	132,023
2015	132,023
2016	132,023
2017	132,023
2018	132,023

List source(s) and/or method(s) for the calculation of current and projected population:

Chamber of Commerce
Population for prison system 13,727
2013 population for Beaumont – 118,296
2017 projected population 132,023
Projected population increase in next five years based on ongoing developments and housing projects.

B. Active Connections

1. Current number of active connections by user type:

Treated water users:	Metered	Not metered	Total
Residential Single Family	**35,324**	**None**	**35,324**
Residential Multi-family	**18,569**	**None**	**18,569**
Commercial	**4,533**	**None**	**4,533**
Industrial	**21**	**None**	**21**
Agricultural			
Institutional			

Is multi-family service with a single meter counted as Residential or Commercial?

Commercial

2. Net number of new connections per year for previous five years:

Type	2009	2010	2011	2012	2013
Residential Single Family	**(214)**	**39**	**(76)**	**(793)**	**(1600)**
Commercial	**(74)**	**(70)**	**152**	**(473)**	**(417)**
Industrial	**(3)**	**(3)**	**(0)**	**0**	**(2)**
Public	**(3)**	**(3)**	**1**	**1**	**1**
Other	**None**	**None**	**None**	**None**	**None**

Note: The numbers in this report represent the difference in the total connections for consecutive years.

C. High Volume Retail Customers

1. Two year average annual use (in 1,000 gallons) for the 5 highest volume retail and wholesale customers whose water use is included in Section IIA2 on Page 5.

	Customer water	Use (1000gal./yr.)	Treated or raw
(1)	**Federal Correctional Complex**	**152,873**	**Treated**
(2)	**TDCJ/Utilities & Energy**	**218,995**	**Treated**
(3)	**Lucite International**	**54,548**	**Treated**
(4)	**Chemtrade Refinery**	**38,530**	**Treated**
(5)	**Martin Resources**	**30,318**	**Treated**

2. Two year average annual use (in 1,000 gallons) for wholesale and other customers whose water use is not included in Section IIA2 on Page 5:

	Customer	Use	Treated or Raw water
(1)	**N/A**		

II. WATER USE DATA FOR SERVICE AREA

A. Water Accounting Data

1a. Amount of water diverted (pumped) for previous five years (in, 1000 gal.) Total amount diverted for both ground and surface (raw water) sources.

	2009	2010	2011	2012	2013
January	**693,027**	**932,277**	**808,770**	**914,677**	**773,767**
February	**636,977**	**732,818**	**814,917**	**842,529**	**669,944**
March	**706,660**	**744,741**	**782,546**	**815,460**	**790,310**
April	**682,742**	**737,912**	**792,551**	**783,764**	**732,220**
May	**760,384**	**826,394**	**862,680**	**902,585**	**827,184**
June	**867,312**	**817,435**	**1,020,790**	**849,424**	**729,771**
July	**952,285**	**774,785**	**1,029,878**	**838,069**	**882,523**
August	**995,356**	**832,696**	**1,051,124**	**924,124**	**950,978**
September	**956,635**	**855,225**	**1,021,455**	**859,396**	**942,170**
October	**933,011**	**988,336**	**1,103,009**	**851,296**	**808,546**
November	**956,309**	**864,540**	**965,630**	**836,616**	**742,320**
December	**856,280**	**851,407**	**944,153**	**779,632**	**759,962**
Totals	**9,998,987**	**9,960,576**	**11,197,503**	**10,197,571**	**9,609,695**

1b. Please indicate how the above figures were determined (e.g. from a master meter located at the point of diversion from a stream or located at a point where raw water enters the treatment plant, or from water sales).

Master meters on raw water entering the treatment plant and meters on well flow at the ground water pump station.

2. Amount of water (in 1,000 gallons) delivered (sold) as recorded by the following account types (See#1, Appendix A) for the past five years. Total Consumption includes Residential, Commercial, Industrial, Public, and other.

Year	Total Consumption	+	Used for water treatment	Total
2009	5,580,587		161,988	5,742,575
2010	5,775,210		223,151	5,998,361
2011	6,000,242		172,997	6,173,239
2012	5,367,844		303,045	5,670,889
2013	5,179,054		188,896	5,367,950

Note: Volume used for treatment decreased due to changing the type of polymer suggested by research and experimentation.

3. Unaccounted-for water

Year	Amount (gal)	%
09	3,258,037	32.58
10	3,690,564	37.05
11	4,396,020	39.88
12	3,950,000	39.92
13	3,650,000	38.84

4. Annual peak-to-average daily use ratio

Year	Average MGD	Peak MGD	Ratio
09	27.329	37.475	1.371
10	27.663	32.945	1.191
11	30.118	40.252	1.336
12	27.034	33.641	1.244
13	25.747	37.604	1.460

5. Municipal per capita water use for previous five years (in gallons per capita per day): (Industrial Sales are not available)

Year	Population	Total Diverted/Year	Industrial Sales	Municipal Per Capita Use
09	121,579	9,998,987,000	N/A	225
10	122,000	9,960,575,800	N/A	224
11	122,500	11,023,710,000	N/A	247
12	123,000	9,894,554,000	N/A	220
13	123,500	9,397,805,700	N/A	208

Note: In 2011 the City of Beaumont experienced record drought conditions.

6. Seasonal water use for the previous five years (in gallons/person/day):

Year	Population	Base per capita use	Summer per capita use	Seasonal use
09	129,130	225	257	32
10	123,799	224	221	-3
11	122,230	247	281	35
12	123,400	220	236	16
13	121,800	208	231	22

B. Projected Water Demands

Provide estimates for total water demands for the planning horizon of the utility. Indicate sources of data and how projected water demands were determined. Attach additional sheet if necessary.

The following table is part of a report that was prepared for the City of Beaumont by Freese & Nichols in 2004.
The City of Beaumont maintains an excellent set of production records from which an analysis of historic water usage can be made. The total requirements are computed by adding the total of both surface and well water to City.

This historical average day per capita demand has increased steadily from the 1950's through 2004 with slight fluctuation in demands reflecting wet and dry years. Average water consumption and per capita usage for the years 1998 was very high due to an extended drought period. The table that follows displays the figures for population, per capita water demand (GPCD), total water requirement for an average day (MGD), and maximum daily requirements (MGD) excluding raw water usage. When this report was prepared in 2004, it projected no decrease in the per capita demand (GPCD) due to previous historic trends. However, the actual per capita values are less than the 2004 projections by 5 and 12 percent for 2005 and 2007 respectively. The decreasing per capita demand values is a result of increased usage of water conservation measures. A couple of examples would be a leak detection program conducted in 2007 and 2008, and continuous public education. The Texas Water Development Board (TWDB) estimates these savings in per capita per day to be as follows:

City of Beaumont
Projected Water Requirements

Year	Projected Beaumont Population	Per Capita Demand (GPCD)	Total Requirements for Avg Day (MGD)	Maximum Daily Requirements
1950	94014	89.0	8.36	14.21
1960	119175	111.0	13.22	22.47
1970	117548	138.0	16.22	27.57
1980	118102	175.0	20.65	35.11
1990	114323	159.0	18.21	27.70
1997	119838	186.0	22.31	37.93
1998	120595	211.0	25.39	43.16
2000	122109	210.0	25.64	43.59
2005	125772	209.5	26.35	44.80
2010	129545	209.0	27.07	46.02
2015	133431	208.5	27.82	47.29
2020	137434	208.0	28.59	48.60

Population figures for 1950-1990 were taken from U.S. Census data. Population figures for 1997 and 1998 were derived using a 3.2% grown rate predicted by SETRPC for this period. Population figures from 2000-2020 were taken from the SETRPC estimated growth rate. Average day requirements for 1950 to 1998 were provided by the City of Beaumont. Per capita usage from 1998 through 2020 were based on below normal rainfall (drought) conditions and a decrease of 0.5 GPCD per 5 year increment based on increased usage of water conservation plumbing fixtures, and water conservation programs implemented by the city.

III. WATER SUPPLY SYSTEM

A. Water Supply Sources

1. List all current water supply and the amounts available with each:

	Source	Amount Available
Surface Water:	**Neches River**	**50 MGD**
Groundwater:	**Chicot Aquifer**	**16 MGD**
Contracts:	**None**	**None**
Other:	**None**	**None**

B. Treatment and Distribution System

1. Design daily capacity of system: **56 MGD**

2. Please describe the water system. Include the number of treatment plants, wells, and storage tanks. If possible, include a sketch of the system layout.

The City of Beaumont is served by one surface water treatment plant and one ground water pump station. The Neches River is the raw water source for the surface water treatment plant (40 MGD). The surface water treatment plant is a conventional-type water treatment plant with normal disinfection, up flow pulsate clarifier, and dual media filtration. The raw water flows from the Neches River to the surface water treatment plant via a canal system, pump station, and pipe. The canal system has three intakes from the Neches River: Weiss Bluff intake, Bunn's Bluff intake, and Lawson's intake. Only one intake is in use at a time. Bunn's Bluff, Gravity flow intake is the normal operating intake. Lawson's

intake is used only in emergencies. The raw water is pumped from the end of Bunn's Canal to the rapid mix where alum is added as the primary coagulant. If necessary caustic, is added to increase alkalinity. The water proceeds through the up flow clarifiers to the filters. Chlorine can be added at this point, before filtration, for disinfection zone 1; however, D1 is normally not utilized. Phosphate is added before and after filtration for sequestration of manganese. Chlorine, caustic and fluoride are added after filtration, just before the water reaches the clear well, a 5 million gallon ground storage tank. D2 is from the clear well influent to clear well effluent. After the clear well ammonia is added to form chloramines and caustic is added to increase the pH. The water is then

pumped to the distribution system. The ground water system (16 MGD) consists of three wells, two 5 million gallon ground storage tanks and four booster pumps, all located in Hardin County north of Beaumont. The wells pump from the Chicot Aquifer (a minor aquifer within the Gulf Coast aquifer). Free chlorine is added before and after the ground storage tanks. The water is pumped from the ground storage tanks to the distribution system.

The distribution system consists of 780 miles of water lines and six elevated storage tanks with approximately 42,300 connections, encompassing a service area of 85.74 sq. miles. Water lines range in size from 2" to 42" in diameter. Most of the city is operated as one pressure plane. However, a booster station in the southern portion of the city serves the prison system. The north and west parts of the city receive ground water, the remainder of the city receives surface water. Refer to Appendix B.

IV. WASTEWATER SYSTEM

A. Wastewater System Data

1. Design Capacity of wastewater treatment plant: **46 MGD**

2. Briefly describe the wastewater system(s) of the area serviced by the water utility. Describe how treated wastewater is disposed of. Where applicable, identify treatment plant(s) with the TCEQ name and number, the operator, owner, and if wastewater is discharged, the receiving stream. Please provide a sketch or map which located the plant(s) discharge points or disposal sites.

The City of Beaumont's Wastewater Treatment Plant is a high rate continuous recirculation, two stage bio-trickling filter plant followed by three polishing ponds. Following chlorination and dechlorination the wastewater treatment plant's effluent is pumped to a constructed wetland for tertiary treatment prior to being discharged into a natural wetland and then to the receiving stream. Plant site is locate at 4900 Lafin Road, approximately 3000 feet south of US Highway 69 and Highway 124 in Jefferson County. Since 2003 the wastewater treatment plant received a major upgrade to its treatment units, electrical and SCADA system.
The City of Beaumont's Wastewater Treatment Plant is owned and operated by the City and is identified by TCEQ Permit Number 100501-020 Hillebrandt Bayou Wastewater Treatment Plant.

Treatment effluent discharged is into Hillebrandt Bayou in segment number 0704 of the Neches-Trinity Coastal River Basin.

The City of Beaumont's wastewater treatment plant disposes of its aerobically digested sludge at the City of Beaumont's Type 1 Landfill (TCEQ Number 1486) owned and operated by the City of Beaumont. Refer to Appendix C.

B. Wastewater Data for Service Area

1. Percent of water service area serviced by wastewater system: **100%**

2. Monthly volume treated for previous five years (in 1,000 gallons):

	2009	2010	2011	2012	2013
January	995,810	689,010	757,450	761,680	801,680
February	1,055,370	803,150	619,550	1,209,870	611,790
March	1,254,130	637,070	686,480	982,940	454,680
April	976,720	603,540	538,210	586,250	772,190
May	849,440	530,900	514,300	470,560	746,490
June	628,160	399,530	455,020	511,660	550,690
July	631,590	799,230	832,890	953,900	583,420
August	603,520	628,040	506,500	420,700	475,200
September	575,160	615,070	381,500	444,440	496,950
October	845,660	533,400	514,680	404,090	664,560
November	614,200	637,340	593,930	349,200	560,060
December	827,900	589,430	728,820	530,640	368,000
Total	9,857,660	7,465,710	7,129,330	7,625,930	7,085,710

V. UTILITY OPERATING DATA

A. Water and Wastewater Rates and Rate Structure (Indicated if there are different rate structures for industrial users).

ARTICLE 22.02 WATER AND SEWER REGULATIONS*

Division 1. Generally

Sec. 22.02.001 Water service rates

(a) Effective October 1, 2014, the following rates per month shall be the rates charged for water service furnished to customers within and outside of the corporate limits of the city except as provided in subsection (b) of this section.

Meter Size/Inches	Inside City Rate	Outside City Rate
5/8	$12.66	$19.03
1	$14.03	$21.03
1-1/2	$15.39	$23.06
2	$19.20	$28.81
3	$39.01	$58.54
4	$47.29	$70.94
6	$85.26	$127.87
8	$117.25	$175.85
10	$161.35	$242.05
12	$201.15	$301.74
Usage rate first 1,000 gallons	Minimum	Minimum
Over 1,000 gallons $ per 1,000 gallons	$4.28	$6.44

(b) The rate for senior citizens who comply with subsection (c) below will be at a discounted rate equivalent to the rate per one thousand (1,000) gallons of water.

(c) Eligible senior citizens shall mean customers residing in a single-family residence inside the city who are over the age of sixty-five (65) years. To obtain the monthly minimum charge deduction, persons eligible must file a sworn application on a form provided therefor, with water customer services. Upon approval of the application the senior citizen's monthly minimum charge shall be applicable for the life of the applicant.

(d) (1) Upon the effective date of each of the three (3) phases, October 1, 2009; October 1, 2010; and April 1, 2011, apartment complexes and mobile home parks with four (4) or more units shall be billed a minimum monthly water service rate of:

(A) Effective October 1, 2009:

(75% of the number of units) X Minimum monthly water service rate for a 5/8-inch meter

3

(B) Effective October 1, 2010:

(75% of the number of units) X Minimum monthly water service rate for a 5/8-inch meter

2

(C) Effective April 1, 2011:

(75% of the number of units) x Minimum monthly water service rate for a 5/8-inch meter

(2) The minimum monthly water service rate includes the volume as calculated below:

(75% of the x 1000 gallons
number of units)

(3) Additional usage will be billed based on rates set by this section.

(Ordinance 88-72, sec. 1, adopted 8/9/88; Ordinance 89-79, sec. 1, adopted 10/24/89; Ordinance 90-68, sec. 1, adopted 11/13/90; Ordinance 92-81, sec. 1, adopted 12/8/92; Ordinance 00-45, sec. 1, adopted 5/30/00; Ordinance 00-56, sec. 1, adopted 6/27/00; Ordinance 04-042, sec. 1, adopted 6/22/04; 1978 Code, sec. 28-50; Ordinance 07-093, sec. 1, adopted 9/25/07; Ordinance 08-075, sec. 1, adopted 9/9/08; Ordinance 09-018, sec. 1, adopted 4/7/09; Ordinance 09-053, sec. 1, adopted 9/22/09; Ordinance 10-074, sec. 1, adopted 9/14/10; Ordinance 11-069, sec. 1, adopted 9/6/11; Ordinance 12-070, sec. 1, adopted 9/25/12; Ordinance 13-053, sec. 1, adopted 9/10/13; Ordinance 14-030, sec. 1, adopted 7/15/14)

Sec. 22.02.002 Wastewater service rates

(a) Effective October 1, 2014, the following rates per month shall be the rates charged for wastewater services furnished to customers within and outside of the corporate limits of the city where the wastewater produced by such customers is a normal strength wastewater (150 mg/1 lb) except as provided in subsection (b) of this section:

Meter Size/Inches	Inside City Rate	Outside City Rate
5/8	$8.10	$12.12
1	$8.23	$12.33
1-1/2	$8.37	$12.54
2	$9.09	$13.61
3	$10.28	$15.41
4	$15.06	$22.62
6	$24.70	$36.98
8	$30.17	$45.28

10	$41.15	$61.71
12	$52.11	$78.13
Usage rate first 1,000 gallons	Minimum	Minimum
Over 1,000 gallons $ per 1,000 gallons	$3.84	$5.83

(b) The rate for senior citizens who comply with subsection (c) below will be at a discounted rate equivalent to the rate per one thousand (1,000) gallons of water.

(c) Eligible senior citizens shall mean customers residing in a single-family residence inside the city who are over the age of sixty-five (65) years. To obtain the monthly minimum charge deduction, persons eligible must file a sworn application, on a form provided therefor, with water customer services. Upon approval of the application the senior citizen's monthly minimum charge shall be applicable for the life of the applicant.

(d) (1) Residential sewer charges shall be based on the average of the actual monthly water usage of the preceding months of November, December, January and February which preceded the months billed.

(2) The monthly individual residential sewer volume charge shall not exceed the average of the actual metered water volume usage for the previous months of November through February. Where no preceding November through February monthly average volume is available from records, water customer services shall establish an average monthly volume based on the average monthly usage of all residential users in each particular cycle route for the winter months set out above.

(e) Commercial and industrial sewer usage charges shall be based on one hundred (100) percent of the metered water usage. In circumstances where a commercial or industrial customer desires a credit for metered water being consumed but not being returned to the sanitary sewer, it shall be the responsibility of the user to furnish to the director of water utilities an engineering report, certified by a professional engineer, that justifies and supports the discharge reduction as being a continuous normal part of the process. Based on the data provided, the director of water utilities may estimate said return or require submetering of the process water. Meters used for submetering shall be furnished at the customer's expense and shall be approved by the director of water utilities.

(f) (1) Upon the effective date of each of the three (3) phases, October 1, 2009; October 1, 2010; and April 1, 2011, apartment complexes and mobile home parks with 4 or more units shall be billed a minimum monthly wastewater service rate of:

(A) Effective October 1, 2009:

(75% of the number of units) x Minimum monthly wastewater service rate for a 5/8-inch meter

3

(B) Effective October 1, 2010:

(75% of the number of units) x Minimum monthly wastewater service rate for a 5/8-inch meter

2

(C) Effective April 1, 2011:

(75% of the number of units) x Minimum monthly wastewater service rate for a 5/8-inch meter

(2) The minimum monthly wastewater service rate includes the volume as calculated below:

(75% of the number of units) x 1000 gallons

(3) Additional usage will be billed based on rates set by this section.

(Ordinance 88-72, sec. 1, adopted 8/9/88; Ordinance 89-79, sec. 2, adopted 10/24/89; Ordinance 90-68, sec. 2, adopted 11/13/90; Ordinance 92-81, sec. 1, adopted 12/8/92; Ordinance 00-45, sec. 2, adopted 5/20/00; Ordinance 00-56, sec. 2, adopted 6/27/00; Ordinance 04-042, sec. 2, adopted 6/22/04; 1978 Code, sec. 28-51; Ordinance 07-093, sec. 2, adopted 9/25/07; Ordinance 08-040, sec. 24, adopted 5/13/08; Ordinance 08-075, sec. 2, adopted 9/9/08; Ordinance 09-018, sec. 2, adopted 4/7/09; Ordinance 09-053, sec. 2, adopted 9/22/09; Ordinance 10-074, sec. 2, adopted 9/14/10; Ordinance 11-069, sec. 2, adopted 9/6/11; Ordinance 12-070, sec. 2, adopted 9/25/12; Ordinance 13-053, sec. 2, adopted 9/10/13; Ordinance 14-030, sec. 2, adopted 7/15/14)

VI. CONSERVATION GOALS

Please use the data provided in this survey to establish conservation goals (additional data may be used).

A. Water conservation goals for municipal utilities are generally established to maintain or reduce consumption, as measured in:

1. gallon per capita per day used;
2. unaccounted-for water uses;
3. peak-day to average-day ratio; and/or
4. an increase in reuse or recycling of water.

B. TCEQ conservation staff assess the reasonableness of water conservation goals based on whether the applicant addresses the following steps:

1. identification of a water or wastewater problem;

2. performance of a system audit (completion of this form).
3. selection of goals based on the technical potential to save water as identified in the audit; and
4. performance of a coast-benefit analysis of conservation strategies.

If at least the first three steps have been completed and are summarized in the water conservation plan, then TCEQ staff can conclude that there is substantiated basis for the goals, and that the water conservation plan is integrated into water management. Therefore, the established conservation goals are deemed reasonable.

C. Complete the following in gallons per capita per day (gpcd) to quantify the water conservation goals for the utility's service area.

1. Estimation of the technical potential for reducing per capita water use:

		Conservation Scenario	
		Most Likely	**Advanced**
a.	**Reduction in unaccounted-for users:**	**1.0**	**34.5 gpcd**
b.	**Reduction in indoor water uses due to water-conserving plumbing fixtures:**	**3.0**	**21.7**
c.	**Reduction in season use:**	**2.0**	**7.65**
d.	**Reduction in water use due to public education programs:**	**2.0**	**9.55**
	TOTAL TECHNICAL POTENTIAL FOR REDUCING PER CAPITA WATER USE:	**8.00**	**73.40**

2. Planning goal

The planning goal equals the dry year per capita water use minus the total technical potentials calculated in number one above.

Goal to be achieved by 2018 (in gpcd): **239 gpcd**

Goal to be achieved by 2023 (in gpcd): **198 gpcd**

3. Needed reduction in per capita use to meet planning goal :

Current per capita use:	**208**
Planning goal for 2015(from #2 above):	**239**
Planning goal for 2020(from #2 above):	**198**

Difference between current use and 2015 goal: **31 gpcd**
(Represents needed reduction in per capita use to meet goal.)

4. Methods to reduce per capita use:

a. Water line replacement program:

In 2000 the City of Beaumont adopted an aggressive water line replacement program. The program continue to replace approximately 20,000 linear feet of water lines per year. The replacement of corroded, unlined cast iron water lines improves water quality, reduces water loss, and reduces production costs. Refer to Appendix D.

b. Installation of conservative plumbing fixtures:

The City of Beaumont Code Enforcement section adopted the use of plumbing fixtures that promotes water conservation. The City of Beaumont will continue to enforce such measures.

c. Water Leak Detection and Elimination Program:

The water meter and alley lines relocation program, reduced the water leaks and relocated the lines to the street making any future leak easier to detect.
The City of Beaumont contracted with ADS the leak detection program that identified leaks and trained City staff on how to operate the equipment. The City is in the process of buying leak detection equipment to conduct daily in-house leak detection. Refer to Appendix E

d. Annual water meter testing.

In 2000 the City of Beaumont started conducting an annual test of all its meters 3 inches and larger. This program will continue to be a part of the standard operations.

e. Water System Master Plan:

The City of Beaumont Contracted out to Schaumburg and Polk, Inc. the design of a Master Plan that was completed by the end of 2009. The Master Plan will field

survey and locate all existing lines, create a water model, and identify areas of low pressures and potential water leaks.

f. Leak Detection Program:

The City of Beaumont executed a contract with ADS Environmental Services to identify leaks in the distribution system. This program started in February 2007 and was completed in April 2008. The leaks found have been repaired by City forces. The City is in the process of buying leak detection equipment to establish an ongoing leak detection program. Refer to Appendix F for Resolution and results of study.

g. Self Audit Program:

The City of Beaumont will conduct a self audit for all its facilities every two years.

h. Water Bill Inserts

In the next five years the City of Beaumont will continue to include inserts in the water bills to educate the public on water conservation. In addition the City will insert in the water bill a self audit to the customers to help them conserve water and save money. Refer to Appendix G

i. Public Education:

The City of Beaumont adopted a five year educational program (2009 through 2013) that will continue to educate the public by presenting brochures at community centers, town hall meetings, schools and entertainment festivals. In addition, the City is sponsoring water conservation school programs and projects Refer to Appendix H

ATTACHMENTS

Appendix A	Certificate of Convenience and Necessity (CCN) Site Maps
Appendix B	Water Treatment Plant Flow Schematic
Appendix C	Wastewater Treatment Plant Flow Schematic
Appendix D	Water Line Replacement Program
Appendix E	Water Meter and Alley Lines Relocation Program
Appendix F	Leak Detection Program
Appendix G	Customer Self Audit
Appendix H	Public Education Handout / School Programs
Appendix I	Resolution R-92-184
Appendix J	Ordinance No. 01-058
Appendix K	Ordinance No. 01-078
Appendix L	Ordinance No. 10-085
Appendix M	Article 22.06 Drought Contingency Plan

CHAPTER 22 UTILITIES

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.001 Declaration of policy, purpose and intent

(a) In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the city hereby adopts the following regulations and restrictions on the delivery and consumption of water.

(b) Water uses regulated or prohibited under this drought contingency plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition is deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in section 22.06.010 of this plan.

(Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(a))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.002 Public involvement

Opportunity for the public to provide input into the preparation of the plan was provided by the city by means of providing a public meeting to provide opportunity to allow public input. The meeting was publicly announced through the Beaumont Enterprise. The notice for the meeting was posted at City Hall, 801 Main St., and the meeting was held July 31, 2001. (Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(b))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.003 Public education

The city will periodically provide the public with information about the plan, including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of television announcements, press releases and utility bill flyers. (Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(c))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.004 Coordination with regional water planning groups

The service area of the city is located within the Region I regional water planning area and the city has provided a copy of this plan to Region I. (Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(d))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.005 Authorization

The city manager, or his/her designee, is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The city manager, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this plan. (Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(e))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.006 Application

The provisions of this plan shall apply to all persons, customers, and property utilizing water provided by the city. The terms "person" and "customer" as used in the plan include individuals, corporations, partnerships, associations, and all other legal entities. (Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(f))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.007 Definitions

For the purposes of this plan, the following definitions shall apply:

Aesthetic water use. Water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use. Water use which is integral to the operations of commercial and nonprofit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation. Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer. Any person, company, or organization using water supplied by the city.

Domestic water use. Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, and sanitation, or for cleaning a residence, business, industry, or institution.

Even-numbered address. Street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8, and locations without addresses.

Industrial water use. The use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use. Water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-essential water use. Water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

(1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided under this plan;

(2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;

(3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

(4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;

(5) Flushing gutters or permitting water to run or accumulate in any gutter or street;

(6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;

(7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;

(8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

(9) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd-numbered address. Street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

(Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(g))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.008 Criteria for initiation and termination of drought response stages

The city manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the plan, that is, when the specified "triggers" are reached. The triggering criteria described below are based on known system capacity limits. Future improvements to the city's water system will increase capacity and this plan will be modified to reflect the system's upgraded capacity.

(1) Stage 1 triggers–Mild water shortage conditions.

(A) Requirements for initiation. Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses defined in section 22.06.007 of this article (definitions) when total daily water demand equals or exceeds thirty-seven million (37,000,000) gallons for three (3) consecutive days or thirty-eight million (38,000,000) gallons on a single day (e.g., based on the "safe" operating capacity of water supply facilities).

(B) Requirements for termination. Stage 1 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

(2) Stage 2 triggers–Moderate water shortage conditions.

(A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in section 22.06.009 of this plan when the total daily water demand equals or exceeds thirty-eight million (38,000,000) gallons for three (3) consecutive days or thirty-nine million (39,000,000) gallons on a single day.

(B) Requirements for termination. Stage 2 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of stage 2, stage 1 becomes operative.

(3) Stage 3 triggers–Severe water shortage conditions.

(A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for stage 3 of this plan when the total daily water demand equals or exceeds thirty-nine million (39,000,000) gallons for three (3) consecutive days or forty million (40,000,000) gallons on a single day.

(B) Requirements for termination. Stage 3 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of stage 3, stage 2 becomes operative.

(4) Stage 4 triggers–Critical water shortage conditions.

(A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for stage 4 of this plan when the total daily water demand equals or exceeds forty million (40,000,000) gallons for three (3) consecutive days or forty-two million (42,000,000) gallons on a single day.

(B) Requirements for termination. Stage 4 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of two (2) consecutive days. Upon termination of stage 4, stage 3 becomes operative.

(5) Stage 5 triggers–Emergency water shortage conditions.

(A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions for stage 5 of this plan when the city manager, or his/her designee, determines that a water supply emergency exists based on:

(i) Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or

(ii) Natural or man-made contamination of the water supply source(s).

(B) Requirements for termination. Stage 5 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

(Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(h))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.009 Drought response stages

(a) Generally. The city manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in section 22.06.008 of this plan, shall determine that a mild, moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

(1) Notification of the public (all trigger stages): The city manager or his/her designee shall notify the public by means of:

(A) Publication in a newspaper of general circulation (the Beaumont Enterprise);

(B) Public service announcements (local television and radio stations).

(2) Additional notification: The city manager or his/her designee shall notify directly, or cause to be notified directly, the following individuals and entities:

(A) The mayor and members of the city council and the city fire department (all trigger stages);

(B) City and/or county emergency management coordinator (trigger stage 3 or above);

(C) TCEQ (required when mandatory restrictions are imposed) (triggers 4 and 5);

(D) Major water users (trigger stage 3 and above);

(E) Critical water users, i.e., hospitals, prisons, etc. (trigger stage 3 and above);

(F) Parks/street superintendents and public facilities managers (any trigger stage).

(b) Stage 1 response–Mild water shortage conditions.

(1) Goal. Achieve a voluntary eight (8) percent reduction in total water demand.

(2) Supply management measures.

(A) Reduced flushing of water mains;

(B) Discontinue fire hydrant flushing;

(3) Voluntary water use restrictions.

(A) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.

(B) All operations of the city shall adhere to water use restrictions prescribed for stage 2 of the plan.

(C) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

(c) Stage 2 response–Moderate water shortage conditions.

(1) Goal. Achieve a ten (10) percent reduction in total water demand.

(2) Supply management measures.

(A) Reduced or discontinued flushing of water mains;

(B) Discontinue fire hydrant testing;

(C) Reduced or discontinued irrigation of public landscaped areas;

(D) Implement measures to return all system components to full production capacity.

(3) Water use restrictions. Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

(A) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a

faucet-filled bucket or watering can of five (5) gallons or less, or a drip irrigation system.

(B) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial carwash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

(C) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight.

(D) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(E) Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the city.

(F) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the city, the facility shall not be subject to these regulations.

(G) All restaurants are prohibited from serving water to patrons except upon request of the patron.

(H) The following uses of water are defined as non-essential and are prohibited:

(i) Wash-down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

(ii) Use of water to wash down buildings or structures for purposes other than immediate fire protection;

(iii) Use of water for dust control;

(iv) Flushing gutters or permitting water to run or accumulate in any gutter or street; and

(v) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

(d) Stage 3 response–Severe water shortage conditions.

(1) Goal. Achieve a twelve and one-half (12.5) percent reduction in total water demand.

(2) Supply management measures.

(A) All measures described for stage 2;

(B) Aggressively locate and repair major water main leaks and breaks.

(3) Water use restrictions. All requirements of stage 2 shall remain in effect during stage 3 except:

(A) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.

(B) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the city.

(e) Stage 4 response–Critical water shortage conditions.

(1) Goal. Achieve a fifteen (15) percent reduction in total water demand.

(2) Supply management measures. All measures described in stages 2 and 3.

(3) Water use restrictions. All requirements of stage 2 and 3 shall remain in effect during stage 4 except:

(A) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems is prohibited at all times.

(B) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial carwash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial carwashes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.

(C) The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools is prohibited.

(D) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(E) No application for new, additional, expanded, or increased-in-size water service

connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

(F) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

(f) Stage 5 response–Emergency water shortage conditions.

(1) Goal. Achieve a thirty (30) percent reduction in total water demand.

(2) Supply management measures. All measures described in stages 2, 3, and 4.

(3) Water use restrictions. All requirements of stage 2, 3, and 4 shall remain in effect during stage 5 except:

(A) Irrigation of landscaped areas is absolutely prohibited.

(B) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

(C) All water usage except that required to protect the public health, safety, and welfare is prohibited.

(Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(i)–(n); Ordinance 08-040, sec. 30, adopted 5/13/08)

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.010 Enforcement

(a) No person shall knowingly or intentionally allow the use of water from the city for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the city manager, or his/her designee, in accordance with provisions of this plan.

(b) Any person who violates this plan is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than two hundred fifty dollars ($250.00) and not more than two thousand dollars ($2000.00). Each day that one or more of the provisions in this plan is violated shall constitute a separate offense. If a person is convicted of three (3) or more distinct violations of this plan, the city manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at seventy-five dollars ($75.00), and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city manager that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(c) Any person, including a person classified as a water customer of the city, in apparent control of the

property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children, and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this plan and that the parent could not have reasonably known of the violation.

(d) Any employee of the city, police officer, or other city employee designated by the city manager may issue a citation to a person he/she reasonably believes to be in violation of this article. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, and the offense charged, and shall direct him/her to appear in the city municipal court on the date shown on the citation, for which the date shall not be less than three (3) days nor more than ten (10) days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over fourteen (14) years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in the city municipal court to enter a plea of guilty or not guilty for the violation of this plan. If the alleged violator fails to appear in the city municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

(Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(o))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.011 Variances

(a) The city manager, or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

(1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect.

(2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

(b) Persons requesting an exemption from the provisions of this article shall file a petition for variance with the city within five (5) days after the plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the city manager, or his/her designee, and shall include the following:

(1) Name and address of the petitioner(s).

(2) Purpose of water use.

(3) Specific provision(s) of the plan from which the petitioner is requesting relief.

(4) Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with this article.

(5) Description of the relief requested.

(6) Period of time for which the variance is sought.

(7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date.

(8) Other pertinent information.

(c) Variances granted by the city manager shall be subject to the following conditions, unless waived or modified by the city manager or his/her designee:

(1) Variances granted shall include a timetable for compliance.

(2) Variances granted shall expire when the plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

(d) No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.

(Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(p))

ARTICLE 22.06 DROUGHT CONTINGENCY PLAN*

Sec. 22.06.012 Application of plan to wholesale customers of city water system

(a) Pro rata water allocation. In the event that the triggering criteria specified in section 22.06.008(3) of the plan for stage 3 severe water shortage conditions have been met, the city manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code section 11.039 and according to the following water allocation policies and procedures:

(1) A wholesale customer's monthly allocation shall be a percentage of the customer's water usage baseline. The percentage will be set by resolution of the city based on the city manager's assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries and may be adjusted periodically by resolution of the city as conditions warrant. Once pro rata allocation is in effect, water diversions or by deliveries to each wholesale customer shall be limited to the allocation established for each month.

(2) A monthly water usage allocation shall be established by the city manager or his/her designee, for each wholesale customer. The wholesale customer's water usage baseline will be computed on the average water usage by month for the 1995–2000 calendar year period. If the

wholesale water customer's billing history is less than five (5) years, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists.

(3) The city manager shall provide notice, by certified mail, to each wholesale customer informing them of their monthly water usage allocations and shall notify the news media and the executive director of the TCEQ upon initiation of pro rata water allocation.

(4) Upon request of the customer or at the initiative of the city manager the allocation may be reduced or increased if:

(A) The designated period does not accurately reflect the wholesale customer's normal water usage;

(B) The customer agrees to transfer part of its allocation to another wholesale customer; or

(C) Other objective evidence demonstrates that the designated allocation is inaccurate under present conditions.

A customer may appeal an allocation established hereunder to the city council.

(b) Enforcement. During any period when pro rata allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water diversions and/or deliveries:

(1) One hundred ten (110) percent of the normal water charge for water diversions and/or deliveries in excess of the monthly allocation up through five (5) percent above the monthly allocation.

(2) One hundred twenty (120) percent of the normal water charge for water diversions and/or deliveries in excess of the monthly allocation from five (5) percent through ten (10) percent above the monthly allocation.

(3) One hundred fifty (150) percent of the normal water charge for water diversions and/or deliveries in excess of the monthly allocation from ten (10) percent through fifteen (15) percent above the monthly allocation.

(4) Two (2) times the normal water charge for water diversions and/or more than fifteen (15) percent above the monthly allocation.

(5) The above surcharges shall be cumulative.

(c) Variances.

(1) The city manager, or his/her designee, may, in writing, grant a temporary variance to the pro rata water allocation policies provided by this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety and if one or more of the following conditions are met:

(A) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect.

(B) Alternative methods can be implemented which will achieve the same level of reduction in water use.

(2) Persons requesting an exemption from the provisions of this plan shall file a petition for variance with the city manager within five (5) days after pro rata allocation has been invoked. All petitions for variances shall be reviewed by the city council, and shall include the following:

(A) Name and address of the petitioner(s);

(B) Detailed statement with supporting data and information as to how the pro rata allocation of water under the policies and procedures established in the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this article;

(C) Description of the relief requested;

(D) Period of time for which the variance is sought;

(E) Alternative measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date;

(F) Other pertinent information.

(3) Variances granted by the city shall be subject to the following conditions, unless waived or modified by the city or its designee:

(A) Variances granted shall include a timetable for compliance.

(B) Variances granted shall expire when the plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

(Ordinance 01-058, sec. 1, adopted 7/31/01; Ordinance 01-078, sec. 1, adopted 10/9/01; 1978 Code, sec. 28-59(q); Ordinance 08-040, sec. 30, adopted 5/13/08)