

# AGENDA ITEM

7B

2010

FORT BEND COUNTY FY-2009

## COMMISSIONERS COURT AGENDA REQUEST FORM

Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

Date Submitted: November 05, 2009

Submitted By: Michael Gutierrez

Department: Comm. Pct. #1

Court Agenda Date: November 17, 2009

Phone Number: 281-633-7687

**SUMMARY OF ITEM:** Take all appropriate action on the AGREEMENT FOR THE FORT BEND COMMUNITY REVITALIZATION PROJECTS (Ft. Bend CORPS) Funding For The Fresno/Arcola Area for certain home repair services to the elderly, disabled and low income homeowners in the Fresno/Arcola area for 2009-2010 for an amount not to exceed \$100,000, utilizing revenue received from BFI tipping fees. (Fund: Fresno/Arcola Projects)

**RENEWAL AGREEMENT/APPOINTMENT** YES ☐ NO ☒  
**REVIEWED BY COUNTY ATTORNEY'S OFFICE:** YES ☒ NO ☐

List Supporting Documents Attached: Agreement (Recommendation Approved by Court 11/03/09)

### FINANCIAL SUMMARY:

**BUDGETED ITEM:** YES ☐ NO ☒

**FUNDNG SOURCE:** Accounting Unit: \_\_\_\_\_ Account Number: \_\_\_\_\_  
 Activity (If Applicable): \_\_\_\_\_

**DESCRIPTION OF LAWSOM ACCOUNT:** \_\_\_\_\_

### Instructions to submit Agenda Request Form:

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

### DISTRIBUTION:

Original Form Submitted with back up to County Judge's Office ☒ (✓ when completed)

If by E-Mail to [ospindon@co.fort-bend.tx.us](mailto:ospindon@co.fort-bend.tx.us)

If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

<input type="checkbox"/> Auditor (281-341-3774)	<input type="checkbox"/> Comm. Pct. 1 (281-342-0587)
<input type="checkbox"/> Budget Officer (281-344-3954)	<input checked="" type="checkbox"/> Comm. Pct. 2 (281-403-8009)
<input type="checkbox"/> Facilities/Planning (281-633-7022)	<input checked="" type="checkbox"/> Comm. Pct. 3 (281-242-9060)
<input type="checkbox"/> Purchasing Agent (281-341-8642)	<input checked="" type="checkbox"/> Comm. Pct. 4 (281-980-9077)
<input type="checkbox"/> Information Technology (281-341-4526)	<input checked="" type="checkbox"/> County Clerk (281-341-8697)
<input type="checkbox"/> Other:	<input checked="" type="checkbox"/> County Atty (281-341-4557)

### RECOMMENDATION / ACTION REQUESTED:

Special Handling Requested (specify):

THE STATE OF TEXAS     §  
                                     §  
COUNTY OF FORT BEND   §

KNOW ALL MEN BY THESE PRESENTS:

**AGREEMENT FOR FORT BEND COMMUNITY  
REVITALIZATION PROJECTS FUNDING  
FOR THE FRESNO/ACROLA AREA**

THIS AGREEMENT, is made and entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, hereinafter called “**County**,” and the Fort Bend Community Revitalization Projects, aka Fort Bend Corps, a non-profit, Texas corporation, hereinafter referred to as “**Corps**” to perform certain home repair services to the elderly, disabled and low income homeowners in the Fresno/Arcola area.

**WITNESSETH:**

WHEREAS, County has a responsibility to provide for the support of its citizens who are unable to support themselves;

WHEREAS, County has the authority to provide home repair services to the elderly, disabled and low income homeowners and funding for such services, as well as support for its citizens;

WHEREAS, County and Corps agree that Corps shall provide and has the ability to provide an organized and supervised program to provide home repair services to the elderly, disabled and low income homeowners who live in Fort Bend County;

WHEREAS, the Commissioners’ Court of Fort Bend County finds that it is in the public interest and serves the general welfare of the community, for Corps to provide home repair services to the elderly, disabled and low income homeowners and for County to providing funding for such programs;

WHEREAS, the Commissioners’ Court of Fort Bend County finds that by entering into this Agreement with Corps, it will be promoting public safety and furthering its serving its citizens;


NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to the parties herein named, it is hereby agreed as follows:

**ARTICLE I.  
INCORPORATION OF PREAMBLE**

The parties affirm that all of the matters set forth in the preamble are true and correct and hereby incorporate said preamble as a material part of this Agreement.

**ARTICLE II.  
SERVICES**

- 2.01** Corps shall perform the following services as described in Article V.
- 2.02** Any event or activity permitted under the terms of this Agreement shall be supervised by Corps personnel and volunteers, all of whom shall be properly trained, adequate in number and who shall remain on-site during the entire course of the event or activity.

   
County      Corps

**ARTICLE III.  
CONSIDERATION**

- 3.01** As consideration for this Agreement, County will pay to Corps an amount not to exceed ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), payable in two (2) payments of \$50,000.00 each.
- 3.02** Corps shall submit an invoice describing in detail the services provided prior the County's processing of any payment.
- 3.03** County will make payment to Corps within thirty (30) calendar days after receipt of an approved invoice.

**ARTICLE IV.  
TERM**



- 4.01** This Agreement shall be effective upon formal approval by County and shall terminate on September 30, 2010. This Agreement may be terminated without cause prior to the expiration of the term herein at the option of either County or Corps upon the giving of thirty (30) days written notice to the other party in the manner and form provided for herein.
- 4.02** The termination of the Agreement will be effective upon the last day of the month in which the expiration of the thirty (30) day period occurs.

**ARTICLE V.  
CORPS RESPONSIBILITIES AND OBLIGATIONS**

- 5.01** During the term of this Agreement, Corps obligations and/or responsibilities hereunder, in addition to others specified herein, shall include the provision of the following services: home repair services to the elderly, disabled and low income homeowners ("Services").
- 5.02** Corps shall pay all the wages and salaries of all employees retained by Corps, for the provision of the Services, if any.
- 5.03** Corps shall also be solely responsible for all program supplies necessary to provide the Services.
- 5.04** Corps will not allow any illegal activity to take place at the site and will immediately report any and all illegal activity to law enforcement.
- 5.05** Breach of any provision of this Article shall be grounds for immediate termination of this Agreement.

**ARTICLE VI.  
ASSIGNMENT**

- 6.01** CORPS WILL NOT, IN WHOLE OR IN PART, TRANSFER, ASSIGN, ALL OR ANY PORTION, ABANDON, OR OTHERWISE DISPOSE OF ITS RIGHTS UNDER THIS AGREEMENT, WITHOUT THE PRIOR EXPRESS WRITTEN CONSENT OF COMMISSIONERS' COURT.
- 6.02** ANY SUCH TRANSFER, ASSIGNMENT, ABANDONMENT OR OTHER DISPOSITION, WITHOUT THE PRIOR WRITTEN CONSENT OF COMMISSIONERS' COURT, OR ANY ASSIGNMENT OF CORPS RIGHTS HEREUNDER BY OPERATION OF LAW, IS VOID AND OF NO FORCE AND EFFECT AS AGAINST COUNTY.
- 6.03** SUBJECT TO THE ABOVE REQUIREMENT THAT COMMISSIONERS' COURT WRITTEN CONSENT FIRST BE OBTAINED UPON THE

   
County Corps

**ASSIGNMENT OR TRANSFER OF RIGHTS UNDER THIS AGREEMENT BY CORPS, THE PARTY TO WHICH SUCH RIGHTS ARE ASSIGNED OR TRANSFERRED SHALL BE BOUND BY THE TERMS AND PROVISIONS OF THIS AGREEMENT TO THE SAME EXTENT AS CORPS, AND THE INSTRUMENT OF ASSIGNMENT OR OTHER WRITTEN EVIDENCE OF THE TRANSFER OF RIGHTS UNDER THIS AGREEMENT SHALL INCLUDE A PROVISION TO SUCH EFFECT.**

**ARTICLE VII.  
NOTICE**

- 7.01** Any notice required or permitted hereunder to be given, shall be given by registered or certified United States Mail, return receipt requested, postage prepaid, addressed to:

To County:

Fort Bend County  
301 Jackson, 7<sup>th</sup> Floor  
Richmond, Texas 77469  
Attn: County Judge  
Phone (281) 341-8608  
Fax: (281) 341-8609

To Corps:

Ronald M. Castillo, Executive Director  
Fort Bend Community Revitalization Projects  
One Fluor Daniel, Mail Code 12  
Sugar Land, Texas 77479  
Phone 281-313-2677  
Fax 281-242-7584

With Copies To:

Fort Bend County Attorney:  
301 Jackson Street, Suite 621  
Richmond, Texas 77469  
Phone: (281) 341-4555  
Fax: (281) 341-4557

- 7.02** Notice will be considered given and completed upon deposit of notice in the U.S. Mail.  
**7.03** Notwithstanding anything to the contrary herein contained, County is not precluded from giving actual notice to the Corps in any manner.  
**7.04** Any change to Corps addresses will be in writing, signed by the Corps, and will be delivered to the Commissioners' Court of the County.

**ARTICLE VIII.  
INDEMINIFICATION**

- 8.01** **CORPS EXPRESSLY AGREES TO INDEMNIFY AND HOLD COUNTY, ITS AGENTS, EMPLOYEES AND OFFICERS (THE FOREGOING ARE COLLECTIVELY REFERRED TO HEREIN AS "COUNTY"), HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS AND RELATED EXPENSES IN ANY MANNER WHATSOEVER, ARISING OUT OF THE SERVICES AND ALL EVENTS AND/OR ACTIVITIES OF CORPS, ITS OFFICERS, EMPLOYEES, CORPS, REPRESENTATIVES, MEMBERS, AGENTS, GUESTS, INVITEES AND VOLUNTEERS INCIDENT TO THIS AGREEMENT.**

**8.02 CORPS WILL INDEMNIFY AND PROTECT THE COUNTY FROM THE ALLEGED JOINT, CONCURRENT OR SOLE NEGLIGENCE, OR OTHER FAULT OF CORPS.**

**ARTICLE IX.  
CORPS IS AN INDEPENDENT CONTRACTOR**

- 9.01** In the performance of work or services under this Agreement, Corps shall be deemed an independent contractor, and any of its agents, employees, officers or volunteers performing work required hereunder shall be deemed solely as employees of Corps, or where permitted, its subcontractors.
- 9.02** Corps and its agents, employees, officers or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

**ARTICLE X.  
MISCELLANEOUS**

- 10.01** Except as otherwise provided for herein, all consents, rules, and regulations as provided for herein by the County shall only be those approved or adopted by the Commissioners' Court of Fort Bend County, Texas.
- 10.02** Wherever the phrase "Commissioners' Court" is used herein, it refers to the Commissioners' Court of Fort Bend County.
- 10.03** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- 10.04** Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.
- 10.05** No member, official, or employee of County shall be personally liable to Corps or any successor in interest, in the event of any default or breach by County or for any amount which may become due to Corps, its successors, or on any obligations under the terms of this Agreement.
- 10.05** This Agreement shall be governed by the laws of the State of Texas. Venue for all purposes is the County of Fort Bend, Texas.

**ARTICLE XI.  
CORPS REPRESENTATIONS AND ACKNOWLEDGEMENTS**

Corps warrants and represents unto County that:

- A. Corps is a duly organized and existing legal entity, in good standing in the state of Texas;
- B. Corps has full right and authority to execute, deliver and perform this Agreement;
- C. The person executing this Agreement on behalf of Corps was authorized to do so;
- D. That prior to County's execution of this Agreement, Corps will deliver to County satisfactory evidence of the person executing this Agreements authority to execute this Agreement on behalf of Corps.

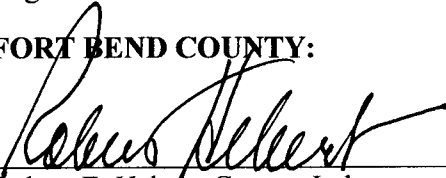
**ARTICLE XII  
ENTIRE AGREEMENT**

- 12.01** This Agreement constitutes the entire Agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by the County, acting through its Commissioners Court, and Corps.
- 12.02** Corps hereby agrees that no representations or grants or rights or privileges shall be binding upon County unless expressed in writing in this Agreement.
- 12.03** Any oral representations or modifications concerning this instrument will be of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

**ARTICLE XIII.  
EXECUTION**


IN TESTIMONY AND WITNESS OF WHICH this Agreement has been executed in duplicate originals as follows:

**FORT BEND COUNTY:**


  
Robert E. Hebert, County Judge

Date: 11-17-09

**ATTEST:**

  
Dianne Wilson, County Clerk

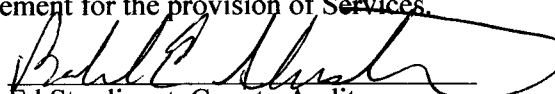
**FORT BEND COMMUNITY REVITALIZATION PROJECTS**

  
Ronald M. Castillo, Executive Director

Date: 10/26/09

**Auditor Certificate**

I hereby certify that funds in the amount of \$100,000.00 are available to pay the County's obligation within the foregoing Agreement for the provision of Services.

  
Ed Sturdivant, County Auditor