

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
 COUNTY OF FORT BEND §

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
SOQ 10-074

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, acting by and through the Fort Bend County Commissioners Court, hereinafter referred to as "County," and Kelly R. Kaluza & Associates, Inc. hereinafter referred to as "Contractor," authorized to conduct business in the State of Texas.

WITNESSETH:

WHEREAS, County desires that Contractor provide professional engineering services for an emergency generator lift station for the City of Richmond, pursuant to SOQ 10-074 located in Fort Bend County, Texas, hereinafter referred to as the "Project;" and

WHEREAS, Contractor represents that it is qualified and desires to perform such services.

NOW, THEREFORE, County and Contractor, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

SECTION I
 CHARACTER AND EXTENT OF SERVICES

- 1.01 Contractor shall provide the services described in Exhibit A, attached hereto and incorporated by reference as if set forth herein verbatim for all purposes.
- 1.02 Contractor agrees to complete the services called for in Section 1.01 within 365 calendar days from the date of this Agreement.

SECTION II
 CONTRACTOR'S COMPENSATION

- 2.01 For and in consideration of the services rendered by the Contractor, and subject to the limit of appropriation under Section VI, County shall pay to the Contractor an amount not to exceed \$37,000.00.
- 2.02 Contractor shall submit invoices to County and County shall pay each invoice within thirty (30) days after the County Project Manager's written approval provided however, that the approval or payment of any invoice shall not be considered to be conclusive evidence of performance by the Contractor to the point indicated by such invoice or of receipt or acceptance by the County of the services covered by such invoice. Reimbursable expenses shall be reimbursed to Contractor at-cost upon submission of properly submitted expense records to District. Service charges are not applicable and not subject to reimbursement.
- 2.03 Contractor's fees shall be calculated at rates not to exceed the amounts included on Exhibit B, incorporated by reference herein as if set-forth verbatim.

SECTION III TERMINATION

- 3.01 County may terminate this Agreement at any time by providing thirty (30) days written notice to the Contractor.
- 3.02 Upon receipt of such notice, the Contractor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- 3.03 Within thirty (30) days after receipt of notice of termination, the Contractor shall submit a statement, showing in detail the services performed under this Agreement to the date of termination.
- 3.04 County shall then pay the Contractor that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of charges as have been previously made.
- 3.05 Copies of all completed or partially completed designs, drawings, electronic data files and specifications prepared under this Agreement shall be delivered to the County when and if this Agreement is terminated in the manner and for the purposes provided in this Agreement.

SECTION IV LIABILITY INSURANCE

- 4.01 During the period of this Agreement, Contractor shall maintain, at its expense, insurance with limits no less than those prescribed below with a carrier having a rating with A.M. Best & Co of A-VII or better:
 - A. General Liability (including Contractual Liability):
 - Bodily Injury and Property Damage \$1,000,000.00
 - Aggregate \$2,000,000.00
 - B. Automobile Liability:
 - Bodily Injury and Property Damage \$1,000,000.00
 - Limit per Occurrence
 - C. Worker's Compensations Statutory + Limit Employer's Liability \$1,000,000.00
 - D. Professional Liability insurance with limits not less than \$1,000,000 each claim/annual aggregate.
- 4.02 With respect to the required insurances listed in Section 4.01, Contractor shall, if allowed by law and the insurance carrier:
 - A. Name Fort Bend County as additional insured as their interests may appear, with the exception of worker's compensation insurance and professional liability insurance;
 - B. Provide County a waiver of subrogation regarding Contractor's worker's compensation insurance;
 - C. Provide County with a thirty (30) day advance written notice of cancellation or material change to said insurance; and,

- D. Provide County with Certificates of Insurance evidencing required coverages upon acceptance of this Agreement by Commissioners Court.
- 4.03 The policies specified in Section 4.01(A-C) shall name Fort Bend County as an additional insured. Furthermore, the Workers' Compensation and Liability Insurance carriers shall grant a waiver of subrogation in Fort Bend County's favor.
- 4.04 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Agreement and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time the work under this Agreement is completed.
- 4.04 Contractor shall not commence any portion of the work under this Agreement until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- 4.05 Approval of the insurance by County shall not relieve or decrease the liability of the Contractor.

SECTION V NOTICE

- 5.01 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or the Contractor at the addresses set forth below.
- 5.02 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
- 5.03 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

A. If to the Contractor:

Kelly R. Kaluza & Associates, Inc.
3014 Avenue I
Rosenberg, Texas 77471
Telephone No. 281-341-0808
Fax No. 281-341-6333

B. If to County notice must be sent to both the Fort Bend County Purchasing Agent and County Project Manager:

Fort Bend County Purchasing Department
Gilbert D. Jalomo, Jr., CPPB
4520 Reading Road, Suite A
Rosenberg, Texas 77471

Community Development
Marilynn Kindell, Director
520 Reading Road, Suite A
Rosenberg, Texas 77471

- 5.04 Either party may designate a different address by giving the other party ten (10) days written notice.

SECTION VI LIMIT OF APPROPRIATION

- 6.01 Prior to the execution of this Agreement, Contractor has been advised by County, and Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence to this contract, that County shall have available the total maximum sum of \$37,000.00, specifically allocated to fully discharge any and all liabilities which may be incurred by County.
- 6.02 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this contract, that the total maximum compensation that Contractor may become entitled to hereunder and the total maximum sum that County shall become liable to pay to Contractor hereunder shall not under any conditions, circumstances or interpretations thereof exceed the sum of \$37,000.00.

SECTION VII SUCCESSORS AND ASSIGNS

- 7.01 County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.
- 7.02 Neither County nor Contractor shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- 7.03 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public and/or governmental body that may be a party hereto.

SECTION VIII PUBLIC CONTACT

- 8.01 Contact with the any media outlet, citizens of Fort Bend County or governmental agencies shall be the sole responsibility of County.
- 8.02 Under no circumstances, whatsoever, shall Contractor release any material or information developed or received in the performance of its services hereunder without the express written permission of County, except where required to do so by law.

SECTION IX COMPLIANCE AND STANDARDS

Contractor shall render the services hereunder in accordance with generally accepted standards of Contractors practicing in Fort Bend County, Texas applicable thereto and shall use that

customary degree of care and skill commensurate with the profession similar to the Project to comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services to be rendered hereunder, and Contractor's performance.

SECTION X OWNERSHIP OF DOCUMENTS

- 10.01 County shall be the absolute and unqualified owner of all drawings, preliminary layouts, record drawings, sketches and other documents prepared pursuant to this Agreement by the Contractor and his Contractors (deliverables).
- 10.02 No reuse fees or royalty payments will be paid to the Contractor in connection with future reuse or adaptation of designs derived under this contract.
- 10.03 Copies of all complete or partially completed mylar reproducible, preliminary layouts, record drawings, digital files, sketches and other documents prepared pursuant to this Agreement shall be delivered to County when and if this Agreement is terminated or upon completion of this Agreement, whichever occurs first, as provided in this Agreement.
- 10.04 Contractor is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, or from duplicating the appearance of the Project depicted in the deliverables for any without the prior express written permission of County.
- 10.05 The documents referenced in this Section are not intended or presented by the Contractor to be suitable for reuse by County or others on extensions of this Project or on other unrelated projects.
- 10.06 Any adaptation or use by County of such documents on extension of this Project or other unrelated projects shall be at County's sole risk.

SECTION XI INDEMNIFICATION

- 11.01 CONTRACTOR SHALL SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF THE CONTRACTOR, ITS AGENTS, CONTRACTORS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENCE, ACT, ERROR, OR OMISSION OF THE CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.
- 11.02 CONTRACTOR SHALL ALSO SAVE HARMLESS COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON COUNTY AS THE RESULT OF SUCH ACTIVITIES BY THE CONTRACTOR, ITS AGENTS, CONTRACTORS OR EMPLOYEES.

SECTION XII MODIFICATIONS

This instrument contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

SECTION XIII MISCELLANEOUS

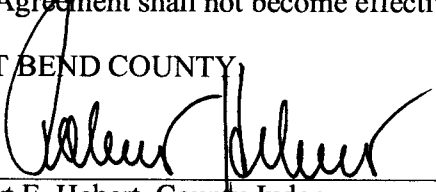
- 13.01 By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Agreement.
- 13.02 Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.
- 13.03 Contractor agrees and understands that: by law, the Fort Bend County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients; the Fort Bend County Attorney's Office may not advise or approve a contract or other legal document on behalf of any other party not its client; the Fort Bend County Attorney's Office has reviewed this document solely from the legal perspective of its client; the approval of this document by the Fort Bend County Attorneys Office was offered solely to benefit its client; Contractor and other parties should not rely on this approval and should seek review and approval by their own respective legal counsel.
- 13.04 If there is a conflict between this Agreement and any Exhibit, the provisions of this Agreement shall prevail.

EXECUTION PAGE TO FOLLOW

SECTION XIV
EXECUTION


This Agreement shall not become effective until executed by County.

FORT BEND COUNTY


Robert E. Hebert, County Judge

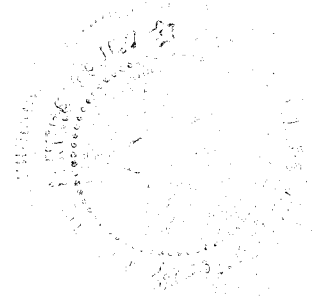
7-27-10
Date

Attest:



Dianne Wilson, County Clerk

Approved:


Marilynn Kindell, Director
Fort Bend County Community Development Department



CONTRACTOR: Kelly R. Kaluza & Associates, Inc.



Kelly R. Kaluza, P.E., President

7/21/10
Date

MER: Kelly Kaluza.Richmond Lift Station.3938

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$37,000.00 to accomplish and pay the obligation of the Fort Bend County under this Agreement.


Ed Sturdivant, Fort Bend County Auditor

- Exhibit A: Contractor's Scope of Work
- Exhibit B: Contractor's Rate Sheet dated November 2009
- Exhibit C: Contractor's Certifications
- Exhibit D: Community Development Block Grant Program Requirements
- Exhibit E: Conflict of Interest Disclosure Form

Exhibit A

ATTACHMENT "A"

SCOPE OF WORK FOR PROFESSIONAL ENGINEERING SERVICES FOR THE DESIGN OF NORTH SECOND STREET LIFT STATION GENERATOR, CITY OF RICHMOND, FORT BEND COUNTY, TEXAS 2008 SUPPLEMENTAL DISASTER RECOVERY FUND - HURRICANE IKE

The following scope of work consists of the Professional Engineering Services to be provided to Fort Bend County, hereinafter called "COUNTY", by Kelly R. Kaluza & Associates, Inc., hereinafter called "ENGINEER". The project for which these professional services are to be provided is North Second Street Lift Station Generator, City of Richmond, located in Fort Bend County, Texas.

SCOPE OF WORK - BASIC SERVICES

Engineering and surveying services for the project are summarized as follows:

A. Preliminary and Engineering Design Phase

Prepare preliminary and final design plans and specifications. The expected work tasks are as follows:

- (1) Prepare preliminary engineering design memorandum.
 - Define the service area to be included in sizing of generator.
 - Identify right-of-way requirements.
 - Review project alternatives.
 - Establish preliminary design requirements for the proposed generator work.
 - Prepare estimate of construction costs for the project.
- (2) Prepare final construction plans and technical specifications for the project.
 - Prepare construction plans including the following sheets:
 - (1) Title/Cover Sheet
 - (2) Overall Layouts
 - (3) Generator, Electrical Rehabilitation
 - (4) Construction Details
 - Prepare technical specifications for proposed facilities including:
 - (1) Excavation, Trenching, and Backfill
 - (2) Generator
 - (3) Electrical Work
- (3) ENGINEER shall assist COUNTY in obtaining necessary plan approvals from the Texas Commission on Environmental Quality.
- (4) Prepare a final estimate of the most probable cost for the project.

(5) Prepare the construction bid package including:

- Notice to Bidders
- Instruction and Information to Bidders
- Bid Proposal
- Standard Form of Agreement
- Bond Forms
- General Conditions
- Special Conditions
- Technical Specifications
- Construction Plans

B. Construction Phase

(1) Assist COUNTY in the bidding process.

- Advertisement of bids.
- Pre-bid conference.
- Opening and tabulating bids.
- Evaluation of construction bids received.

(2) Assist in preparation of formal Contract Documents between COUNTY and the successful construction bidder.

(3) Make periodic visits to the Project to observe progress and quality of the work being performed.

(4) Consult with COUNTY during construction including:

- Issue all instruction to the Contractor.
- Prepare and issue routine Change Orders to the Contractor.
- Review project submittals.
- Review monthly and final estimate for payment by COUNTY.
- Conduct a final inspection of Project with COUNTY and submit recommendations regarding the Project status.
- Supervise all field testing.
- Upon completion, ENGINEER shall certify in writing that the project was constructed as designed.

C. Surveying and Reimbursement of Reproduction Costs

(1) Survey the proposed project site and alignments.

- Establish horizontal and vertical control in the field.
- Locate, in the field, all existing features and properties related to proposed project site and alignments.
- Topographic survey work on lift station site.

(2) Provide ten (10) copies of plans and contract documents to the COUNTY during the bidding process and contract preparation.

D. Record Drawings

- (1) Upon completion of construction work, prepare record drawing construction plans.

Additional Services

If authorized by COUNTY, ENGINEER will furnish the following Additional Services that are not considered a normal or customary part of the Scope of Work. Additional Services shall be paid for on an hourly basis at the rate shown in the Schedule of Hourly Rates by Personnel Classifications (Attachment "B"). Separate budgets will be established for any Additional Services authorized by the COUNTY.

NO ADDITIONAL SERVICES ARE ANTICIPATED FOR THIS PROJECT AT THIS TIME.

1. Services resulting from significant changes in the general scope of the project.
2. Revisions to previously approved plans, reports, studies, or other project documents.
3. New and/or additional acquisition activities resulting from unknown needs prior to project initiation, site changes, and/or condemnation proceedings.
4. Assistance to COUNTY as an expert witness in any litigation with third parties, arising from the development or construction of the project, including preparation of engineering data and reports.
5. Services after issuance of Certificate of Completion, and any other special or miscellaneous assignments specifically authorized by the COUNTY.

Schedule

Preparation of the plans and specifications for the project is anticipated to take one hundred twenty (120) days barring unforeseen delays resulting from grant administration procedures, etc.

Bid and contract phase activities are estimated to take two (2) months, once approval to proceed with bid advertisement is received.

Compensation

Engineering and surveying services to be provided under this contract shall be compensated as outlined below:

(A)	Preliminary and Engineering Design Phase =	\$ 27,625.00
(B)	Construction Phase =	\$ 4,875.00
(C)	Surveying and Reimbursement of Reproduction Costs =	\$ 3,500.00
(D)	Record Drawings =	<u>\$ 1,000.00</u>

GRAND TOTAL = **\$ 37,000.00**

ENGINEER will invoice COUNTY on a monthly basis for services rendered during the preceding month. Invoices will be based on the ENGINEER's estimate of percentage completion to date of invoice.

COUNTY agrees to remit ENGINEER's invoices in full within thirty (30) days of receipt.

Exhibit B

Attachment "B"

SCHEDULE OF HOURLY CHARGES BY PERSONNEL CLASSIFICATION
Effective November, 2009

KELLY R. KALUZA & ASSOCIATES, INC.
CONSULTING ENGINEERS, SURVEYORS, AND PLANNERS

The charges for professional Engineering, Surveying, and Drafting services are based on the following daily or hourly rates:

ENGINEERING, SURVEYING, AND DRAFTING

Principal.....	\$150.00/Hour
Project Engineer.....	\$135.00/Hour
Project Surveyor.....	\$125.00/Hour
Engineering or Surveying Technician.....	\$ 80.00/Hour
Draftsperson/CADD Technician.....	\$ 70.00/Hour
Secretarial	\$ 60.00/Hour
Field Party (2 Men).....	\$115.00/Hour
Field Party (3 Men).....	\$130.00/Hour
Field Party (4 Men).....	\$150.00/Hour
Construction Observation.....	\$750.00/Day

ADDITIONAL EXPENSES

1. Reproduction Work - At prevailing commercial rate.
2. Field Note Descriptions - \$70.00/Set.
3. ATV Rental - \$115.00/Day.
4. Other Consultants - At cost plus 10% for handling.
5. All Other Expenses - At cost plus 10% for handling.
6. Global Positioning System (GPS) Surveying an additional charge of \$25.00 per hour will be charged for equipment.

Charges are due and payable within thirty (30) days after receipt of invoice.
Interest will be charged at the rate of 1.5% per month for late payments.

KELLY R. KALUZA & ASSOCIATES, INC.
3014 AVENUE I
ROSENBERG, TEXAS 77471
Phone: (281) 341-0808
Fax: (281) 341-6333
Email: kkaluza@kellykaluza.com

Rates Subject to Change

11/09

Exhibit C

Attachment "C"

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making for entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this 7th date of JULY, 20 10.

By: Kelly R. Kaluza
(Signature)

Kelly R. Kaluza
(Typed or Printed Name)

President
(Title, if any)

Covered Action: North Second Street Lift Station Generator, City of Richmond, Fort Bend County, Texas, 2008
Supplemental Disaster Recovery Fund - Hurricane Ike

Exhibit D

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM REQUIREMENTS

I.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and Title 24 Code of Federal Regulations Part 1. In accordance with the Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Contractor receives Federal financial assistance. The Contractor will immediately take any measures necessary to comply with Title VI. If any real property or structure is thereon provided or improved with the aid of Federal financial assistance, this clause shall obligate the owner, or in the case of any transfer of such property, any transferee, to comply with the requirements and restrictions contained in this clause for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. The Contractor will further comply with federal regulations, 24 CFR Part 1, which implement the act.

II.

FAIR HOUSING REQUIREMENTS

The Contractor shall comply with the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100, Part 109, and Part 110. No person in the United States shall, on the basis of race, color, religion, sex, national origin, handicap or familial status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds.

III.

EXECUTIVE ORDER 11063

The Contractor shall comply with Executive Order 11063 as amended by Executive Order 12259 and as contained in 24 CFR Part 107. Contractor will take all action necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities area, among other things, provided in whole or in part with the aid of loans, advances, grants, or contributions agreed to be made by the Federal Government.

IV.

SECTION 109 OF THE COMMUNITY DEVELOPMENT ACT OF 1974

The Contractor shall comply with Section 109 of the Community Development Act of 1974, in that no person in the United States shall on the ground of race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds.

V.

EXECUTIVE ORDER 11246

The Contractor shall comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (451 CFR Chapter 60) which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally-assisted construction contracts.

Contractor agrees that contractors and subcontractors on Federal or federally-assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship.

VI.

RELOCATION, ACQUISITION & DISPLACEMENT

The Contractor agrees to comply with 24 CFR 570.606 relating to the acquisition and disposition of all real property utilizing grant funds, and to the displacement of persons, businesses, nonprofit organizations and farms occurring as a direct result of any acquisition of real property utilizing grant funds. The Contractor agrees to comply with applicable Grantee Ordinances, Resolutions, and Policies concerning displacement of individuals from their residences.

VII.

SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

The Contractor shall comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

- A. The Contractor shall, to the greatest extent feasible, give opportunities for training and employment to lower-income residents of the County and shall award contracts for work in connection with the Project to business concerns which are located in or owned in substantial part by persons residing in the County.
- B. The Contractor shall include the phrase in paragraph A in all contracts for work in connection with this project.

VIII.

LEAD-BASED PAINT

The Contractor agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, and in particular Sub-Part B thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants or properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning.

IX.

USE OF DEBARRED, SUSPENDED OR INELIGIBLE CONTRACTORS

The Contractor shall not use assistance to directly or indirectly employ, award contracts to, or otherwise engage the services of, or fund any contractor or subcontractor during any period of debarment, suspension or placement in ineligibility status under provisions of 24 CFR Part 24.

X.

UNIFORM ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPALS

The Contractor and its agencies or instrumentalities, and subrecipients shall comply with the policies, guidelines, and requirements of 24 CFR Part 85 and OMB Circulars A-87, A-110 (implemented at 24 CFR Part 84), A-122, A-133 (implemented at 24 CFR Part 45), and A-128 (implemented at 24 CFR Part 44) as applicable, as they relate to the acceptance and use of Federal funds under this part. The applicable sections of 24 CFR Parts 84 and 85 are set forth at 570.502.

XI.

CONFLICT OF INTEREST

- A. No member of or delegate to the Congress of the United States, and no resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit direct or indirect which arises from the Agreement.
- B. In accordance with 24 CFR Part 570.611, no persons described in paragraph C who exercise or have exercised any functions with respect to CDBG activities or who are in a position to participate in a decision making process or gain inside information with regard to CDBG activities, may obtain a personal or financial interest or benefit from, or have any interest in any contract, subcontract, or agreement or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
- C. The requirements of paragraph B apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the County, Contractor, and of any designated public agency, or subrecipient under 24 CFR Section 570.20 which receives funds under the CDBG grant agreement with HUD.

XII.

ELIGIBILITY RESTRICTIONS FOR CERTAIN RESIDENT ALIENS

The Contractor agrees to abide by the provisions of 24 CFR 570.613 with respect to the eligibility restrictions for certain resident aliens. Certain newly legalized aliens, as described in 24 CFR Part 49, are not eligible to apply for benefits under covered activities funded by the programs listed in this part of the regulation. The Grantee shall provide the Contractor with any guidelines necessary for compliance with that portion of the regulation.

XIII.

ARCHITECTURAL BARRIERS ACT AND AMERICANS WITH DISABILITIES ACT

The Contractor agrees to comply with any federal regulations issued pursuant to compliance with the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) which requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with the standards that insure accessibility to, and use by, physically handicapped people. The Contractor also agrees to comply with any federal regulations issued pursuant to compliance with the Americans with Disabilities Act (42 U.S.C. 12131 U.S.C. 155, 201, 218 and 225) which provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. The Grantee shall provide the Contractor with any guidelines necessary for compliance with that portion of the regulation in force during the term of this Agreement.

XIV.

MINORITY AND WOMEN'S BUSINESS ENTERPRISES

The Contractor shall comply with Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, the Contractor must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

XV.

DISCRIMINATION ON THE BASIS OF AGE OR HANDICAP

The Contractor shall not discriminate on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 61-1-07) and implementing regulations at 24 CFR part 146. The Contractor shall not discriminate against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.

XVI.

RECORDS FOR AUDIT PURPOSES

Without limitation to any other provision of this Agreement, the Contractor shall maintain all records concerning the Project that will facilitate an effective audit to determine compliance with program requirements. Records shall be kept for three (3) years from the expiration date of the Agreement. The Contractor will give the County, HUD, and the Comptroller General of the United States, the General Accounting Office or any of their authorized representatives access to and the right to examine, copy or reproduce all records pertaining to the acquisition and construction of the Project and the operation of the Project. The right to access shall continue as long as the records are required to be maintained.

XVII.

DRUG FREE WORKPLACE ACT OF 1988

The Contractor shall comply with the Drug Free Workplace Act of 1988 and certify that it will maintain a drug-free workplace in accordance with the requirements of 24 CFR part 24, subpart F.

EXHIBIT E

Conflict of Interest Disclosure Form

The CDBG regulations at 24 CFR 570.611 provide that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient or subrecipient receiving CDBG funds; and

- (1) who exercises or has exercised any functions or responsibilities with respect to activities assisted with CDBG funds; or
- (2) who is in a position to participate in a decision-making process; or gain inside information with regard to these activities;

may obtain a financial interest or benefit from a CDBG-assisted activity, or have any interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter.

A disclosure of the nature of the conflict must be made at the time a proposal for CDBG Program funds is submitted to the Fort Bend County Community Development Department.

✓

I certify that no conflict of interest exists between Fort Bend County and

Kelly R. Kaluza & Associates, Inc.
(Name of Organization)

I certify that a conflict of interest exists between Fort Bend County and

(Name of Organization)

The nature of the conflict of interest is described below: (Please identify the individual, employment, and the conflict of interest [their affiliation with your organization].)

Kelly Kaluza 7/21/10
Signature of Authorized Agency Official DATE
Kelly R. Kaluza, P.E., President
Typed Name and Title