



RESOLUTION NO. 2021-080

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, AUTHORIZING NEGOTIATION AND EXECUTION OF A NEIGHBORHOOD PARTNERSHIP PROGRAM PROJECT GRANT AGREEMENT FOR CREEK BANK REPAIR PROJECT AT 13562 BRAEMAR DRIVE; REPEALING RESOLUTION NO 2021-045; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Farmers Branch has established a Neighborhood Partnership Program pursuant to Chapter 380 of the Texas Local Government Code for the purpose of building collaborative and sustainable partnerships between the City and the community through neighborhood enhancement projects and the protection of neighborhoods through drainage and erosion protection improvements (“the Program”); and

WHEREAS, the Program guidelines authorize City cost participation in the design and construction of eligible projects subject to Program applicants providing matching direct and/or in-kind contributions to the costs of the project; and

WHEREAS, the owner of property at 13562 Braemar Drive (the “Applicant”) previously made application for the Program to seek assistance with the repair of creek bank in Farmers Branch Creek (“the Project”) in order to reduce the further erosion of the banks of Farmers Branch Creek located on the Applicant’s property, which application was approved pursuant to Resolution No. 2021-045; and

WHEREAS, after further review of the extent of the erosion to the creek bank and the scope of repairs required to reduce further erosion, the Applicant has submitted a revised application to increase the scope of the work and the amount of the requested grant; and

WHEREAS, City Administration, having reviewed the revised application, has determined the Project qualifies for the Program and recommends approval of the revised request; and

WHEREAS, the City Council of the City of Farmers Branch finds it to be in the public interest to authorize the negotiation and execution of an agreement setting forth the terms and conditions by which the Applicant will receive the benefits of the Program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:

SECTION 1. The City Manager is hereby authorized to negotiate and sign a *Neighborhood Partnership Program Project Agreement* with Applicant, said agreement to be consistent with the policy approved for the administration of the Program and for a total grant not to exceed \$42,000.00 (the “Grant”), said agreement to further contain at least the following terms:

- A. The Applicant shall seek bids from contractors for the Project, which bids shall be submitted to City Manager or designee for review and approval;
- B. Prior to signing a contract with the selected contractor for the Project, the Applicant shall deposit with City not less than \$28,000.00;
- C. If bids or proposals for the Project exceed the estimated amount of the Project, not later than fifteen (15) days after the City notifies the Applicant of such cost difference, Applicant shall either (1) pay to the City the difference in the amount of the Project cost estimate and the bids received or (2) request termination of the grant agreement, in which case the City will return to the Applicant the funds previously paid
- D. City agrees to pay toward the cost of the Project not more than the lesser of (i) 60% of the Project cost and (ii) \$42,000.00;
- E. All pay applications from the contractor engaged for the Project shall be submitted to City's Director of Public Works for confirmation of the work completed and payment of Project costs, with funds from the Applicant being applied first, then funds from the Grant; and
- F. Prior to awarding bids for the Project, the Applicant shall sign, in recordable form, a restrictive covenant or other appropriate agreement acknowledging ownership of the segment of the Project constructed on the Property, agreeing to be perpetually responsible for the maintenance and repair of the Project, and acknowledging that the City has no future financial obligation with respect to the Project.

SECTION 2. The City Manager has full authority to administer the above approved agreement on behalf of the City including, but not limited to, providing notices of default and termination as he may from time to time deem reasonable and necessary.

SECTION 3. Resolution No. 2021-045 is hereby repealed.

SECTION 4. This resolution shall be effective immediately upon final passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FARMERS
BRANCH, TEXAS, THIS 1st DAY OF JUNE 2021.**

ATTEST:

APPROVED:

Amy Piukana, City Secretary

Robert C. Dye, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(kbl:5/24/21:122675)