



## AGENDA MEMORANDUM

Resolution/Action Item for the City Council Meeting of December 15, 2015

**DATE:** December 11, 2015  
**TO:** Ronald L. Olson, City Manager  
**FROM:** Miles Risley, City Attorney  
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Resolution authorizing a "Four Party Agreement" and related authorizations necessary to enable the Texas Department of Transportation to obtain federal funding for the Harbor Bridge Replacement Project.

### **CAPTION:**

Resolution authorizing the City Manager or designee to execute a Four Party Agreement with the Texas Department of Transportation (TxDOT), the Port of Corpus Christi Authority (Port), and the Corpus Christi Housing Authority, to provide duties effectively required by the Federal Highway Administration related to TxDOT's construction of the Harbor Bridge; issuing consent for the Port's acquisition of property pursuant to Texas Water Code § 62.106(d); and making further authorizations and declarations related to said Four Party Agreement.

### **PURPOSE:**

To obtain authority to execute the Four Party Agreement upon which federal funding for the US Highway 181 (US 181) Harbor Bridge Project is conditioned.

### **BACKGROUND AND FINDINGS:**

*Complaint filed by Texas Rio Grande Legal Aid.* On March 13, 2015, the Federal Highway Administration ("FHWA") Coordination and Compliance Division received a complaint filed by the Texas Rio Grande Legal Aid, Inc. on behalf of some residents of the Hillcrest Neighborhood ("Neighborhood") in Corpus Christi, Texas (the "Complaint") alleging, in part, that the Texas Department of Transportation ("TxDOT") violated Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d and 49 C.F.R. Part 21, when it selected the Red Alternative for the Harbor Bridge Replacement Project ("Project").

*The Four Party Agreement.* In response to the Complaint, to allow federal funding for the construction of the Harbor Bridge, the FHWA is requiring TxDOT to make commitments that TxDOT is meeting with the attached **Four Party Agreement** ("Four Party Agreement") between the City of Corpus Christi ("City"), the Port of Corpus Christi Authority ("Port"), and the Corpus Christi Housing Authority ("Housing Authority"), which commitments and Four Party Agreement will provide for specific mitigation actions to resolve the Complaint. This Resolution provides authority to execute that Four Party Agreement.

*City's Consent under Texas Water Code § 62.106 to Port's Use of Eminent Domain in a Manner That Benefits Residents.* During the acquisition process provided for in the Four Party Agreement, the Port may encounter properties with partial interests that are held by absent property owners. To be able to sell property to the Port under the Neighborhood Acquisition Plan, a seller must be able to provide good and complete title. For sellers of property who have non-resident partial interest owners, the Port may need to use eminent domain. The Port's use of eminent domain would be done in a manner beneficial to residents of the Neighborhood, such as when requested by the owner of a property interest in property being sold to the Port. Under Texas Water Code § 62.106, the Port Authority may only acquire property through eminent domain if the City consents to such use. This Resolution assists residents in participating in the Neighborhood Acquisition Plan by providing the required consent. In addition, if a property is purchased by an entity with eminent domain authority, Texas law assists the seller by providing increased eligibility for relocation assistance. Providing said consent further assists participants in their desire to receive relocation benefits.

**ALTERNATIVE:**

*Decision Not to Proceed with Harbor Bridge Replacement Project (Not Recommended).* Staff recommends Council adopt the Resolution as presented and provide the authorities requested. The alternative would be for Council not to adopt the Resolution, and not to authorize the Four Party Agreement. In this case, FHWA will not issue a Record of Decision (ROD), which will cause the Harbor Bridge Replacement Project not to proceed.

*Existing Structure of Harbor Bridge Requires Either Replacement or Major Rehabilitation.* The Harbor Bridge must either be replaced or rehabilitated. Under FHWA guidelines, the existing bridge is a "Fracture Critical Structure" due to the lack of redundancy. Should one of the 280 fracture-critical elements in the existing bridge fail, adjacent elements would receive the burden of weight and could result in a partial or complete bridge collapse. The concrete deck, replaced in 1987 with normal-weight concrete, is experiencing increased loads and traffic, contributing to fatigue on the structural integrity and joints, therefore decreasing the life of the bridge and increasing maintenance and repair. Despite repairs in 2009, and between 2010 and 2012, a structural assessment in September 2012 revealed continuing and reoccurring corrosion issues, stemming from a steel structure bridge in a marine environment.

*Major Rehabilitation Projects Require Complete Shutdown of Harbor Bridge for 1-24 month periods.* Preliminary estimates indicate that major rehabilitation projects will require the Harbor Bridge be taken out of service for one to twenty-four month periods.

**OTHER CONSIDERATIONS:**

**CONFORMITY TO CITY POLICY:** N/A

**EMERGENCY/NON EMERGENCY:** N/A

**DEPARTMENTAL CLEARANCES:** City Attorney, City Manager

**FINANCIAL IMPACT:**

- Operating       Revenue       Capital       Not applicable

<b>Fiscal Year: 2015-2016</b>	<b>Project to Date Expenditures (CIP only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Line Item Budget				
Encumbered / Expended Amount				
This item				
BALANCE				

Fund(s): N/A

**Comments:**

The Four Party Agreement contains a conditional obligation of up to \$320,000 that the City would owe if the City were to fail to perform its obligations. We believe the City will be able to comply with its contractual duties and would not have to pay this penalty.

**RECOMMENDATION:**

Staff recommends approval of the Resolution as presented.

**LIST OF SUPPORTING DOCUMENTS:**

1. Resolution
2. Four Party Agreement
3. Two Party Agreement