

Final Notice and Public Explanation of a Proposed Activity in a Floodplain

To: All interested Agencies, Groups and Individuals

This is to give notice that the **City of New Waverly** has conducted an evaluation as required by Executive Order 11988, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management. The activity is funded under the HUD CDBG Disaster Recovery Program under **New Waverly Contract No. 22-085-045-D298-sewer - Reeval, # 22-085-05-D298 / B-18-DP-48-0002.**

Location:

All work will occur in the City of New Waverly, Walker County, Texas at the following locations:

- Point 1: ROW from south side of Hwy 1375 from Pashun Ln to Old Hudson Rd
- Point 2: ROW from east end of Point 1 south 964 LF
- Point 3: ROW from south end of Point 2 east 300 LF
- Point 4: ROW from east end of Point 3 south 95 LF
- Point 5: ROW from south end of Point 4 east 350 LF
- Point 6: ROW from east end of Point 5 south 55 LF
- Point 7: ROW from south end of Point 6 east 175 LF
- Point 8: ROW from east end of Point 7 south 543 LF
- Point 9: ROW from south end of Point 8 east to Campbell Rd.
- Point 10: On Campbell Rd. from east end of Point 9 north 460 LF
- Point 9: ROW from north side of Point 10 cross-country southeast 2265 LF

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

Project for water and fire: Remove and replace 8,430 linear feet of 6-inch force main.

Acquisition:

The project will require acquisition to ensure adequate ROW is available. Grantee shall acquire easements as needed to accommodate construction and carry out all acquisition of needed easements and/or rights-of-way in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

FLOODPLAIN

Exemptions to Part 55:

Actions listed in the revised 24 CFR 55.12 that are exempt from the floodplain management requirements of Part 55 include:

- *Exempt activities and actions that are Categorically Excluded Not Subject to 50.4 or 58.5*
- *Restoration or preservation of floodplains, acquisition of floodplains property provided the site is used for flood control or open space but only if structures are cleared and improvements are specifically limited*
- *Receivership or foreclosure and related actions*
- *Policy-level actions not involving site-based work*
- *Issuance of non-project-based housing vouchers*
- *A minor amendment to a previously approved action*

The project is subject to Part 55 because it meets the criteria for none of the exemptions.

Critical Actions:

Critical action means any activity for which even a slight chance of flooding would be too great because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain, or extend the useful life of those structures or facilities that:

- *Produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials*
- *Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., community stormwater management infrastructure, water treatment plants, data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas)*
- *Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers; housing for independent living for the elderly is not considered a critical action*

Because the project meets none of the Critical Action criteria, the project is not considered a critical action.

How FFRMS was determined:

The FFRMS is determined by utilizing a tiered approach:

- *Climate-Informed Science Approach (CISA) - Preferred Method*
- *0.2-Percent-Annual Chance Floodplain Approach (0.2PFA)*
- *Freeboard Value Approach (FVA)*

Climate-Informed Science Approach (CISA)

- *Federal CISA data must be equal to or greater than base flood elevation (BFE) to be used.*

According to the Federal Flood Standard Support Tool (FFSST), no data exists for the project area. As such, this approach could not provide a determination as to whether the project was in the FFRMS floodplain. The next tiered approach, 0.2PFA (500-year floodplain method), was therefore considered.

FEMA 0.2PFA (500-year floodplain)

- *FEMA maps must show a 500-year floodplain in order to be used*
- *Critical Actions require both the 0.2PFA and the Freeboard Value Approach (FVA) be used to determine which elevation is higher, the 0.2PFA or FVA.*

According to FEMA floodplain map #48471C0525D (Effective Date 8/16/11), the project is located in Zone X (Area of Minimal Flooding). Although Zone X is not considered a FFRMS floodplain, because the 500-year floodplain is not shown on this map, it can not concluded that the project is not in a 500-year floodplain which is considered a FFRMS floodplain.

In order to ensure that all appropriate FEMA floodplain data was considered and the most stringent data source was used for the comparable flood data, all available effective, preliminary and pending FIRMS were reviewed:

Effective Maps - 6; Preliminary Maps - 0; Pending Maps - 0

Upon completion of this review, it was discovered that there was no other FEMA mapping data available. As such, this method can not be used to determine whether the project is located in a FFRMS floodplain. The next tiered approach, Freeboard Value Approach (FVA), was therefore considered.

Freeboard Value Approach (FVA):

FVA defines the FFRMS floodplain as the elevation and flood hazard area that results from:

1. *Adding two (2) feet to the base flood elevation (BFE) for non-critical actions or*
2. *Adding three (3) feet to the BFE for critical actions.*

This approach is used for noncritical actions if neither CISA data nor FEMA-mapped 0.2-percent-annual-chance floodplain data is available or actionable. For critical actions, the higher of 0.2PFA or FVA must be used.

According to FEMA's Floodplain Base Elevation tool, the Floodplain base elevation is 325.7'. Since the project is not a critical action and the FVA requires two (2) feet be added to the Floodplain Base Elevation, **it was determined that the FFRMS floodplain is 327.7'.**

According to the USGS Topo Builder Tool, a portion of the project is below the floodplain base elevation (327.7'): ROW from Campbell Rd. southeast towards Cedar Ln 2,296'. Area of Disturbance in FFRMS: .02 acres. As such, the 8-step process is required.

Natural Values of the Floodplain:

The natural resources of the floodplain include water, biological, and societal resources. The proposed project will have minimal impacts to the floodplain because there will be minimal disturbance to the floodplain.

The **City of New Waverly** has considered the following alternatives and mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values:

1. **Do work only outside the floodplains.** Completing the project without disturbing any floodplain is not possible. (Not Viable)
2. **Obtain a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR).** - It was determined that neither a LOMA nor a LOMR was likely nor practical for the project area. (Not Viable)
3. **Other infrastructure considered.** - After considering other potential projects in the City, it was determined that of the eligible projects, this project was of the highest priority. (Not Viable)
4. **No Action or Alternative Actions that Serve the Same Purpose.** - The current sanitary sewer system is inadequate and must be addressed to prevent public health hazards. (Not Viable)

Mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values:

- Preserving Property: Project designs should, to the best extent possible, incorporate measures to reduce the risk of damage to the new infrastructure via a flood.
- Preserving Natural Values and Minimizing Impacts: After construction is completed, the disturbed area will need to be immediately re-vegetated with native grasses. Only native plants are to be used in the floodplain, and on the site.
- Deposition and excavation of materials will need to be performed in such a manner that erosion and sedimentation will be controlled.
- Precautions will need to be taken in the handling of fuels or other hazardous materials to prevent discharge or spillage resulting in lower groundwater quality.
- Erosion control measures such as hay bales or silt screen barriers will need to be implemented and maintained during construction as required.
- The project engineer will need to incorporate best management practices into the specifications and plans.

Date of any final or conditional LOMR's or LOMA's from FEMA: None requested.

The **City of New Waverly** will ensure applicable state and local floodplain protection procedures are followed. The **City of New Waverly** has reevaluated the alternatives to building in the floodplain and has determined that it has no practicable alternative. Environmental files that document compliance with steps 3 through 6 of Executive Order 11988, are available for public inspection, review and copying upon request at the times and location delineated in the last paragraph of this notice for receipt of comments.

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Second, an adequate public notice program can be an important public educational tool. The dissemination of information and request for public comment about floodplains can facilitate and enhance Federal efforts to reduce the risks and impacts associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in floodplains, it must inform those who may be put at greater or continued risk.

Written comments must be received by the **City of New Waverly** at the following address on or before **November 20, 2024**, a minimum 7 calendar day comment period will begin the day after the publication and end on the 8th day after the publication: **City of New Waverly, 200 Gibbs St., New Waverly TX 77358**. A full description of the project may also be reviewed from 9:00 am to 5:00 pm from the previously mentioned address. Comments may also be submitted via email at todd@texasenvironmentals.com.

Date: November 12, 2024

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:
8-STEP PROCESS - FLOODPLAIN

**New Waverly Contract No. 22-085-045-D298-sewer - Reeval
State/Local Identifier: 22-085-045-D298 / B-18-DP-48-0002**

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Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

Project for water and fire

Remove and replace 8,430 linear feet of 6-inch force main.

There may be disturbance to trees as it is anticipated that the clearing of any trees and brush within the easements that are being acquired will be completed. It is possible that excavation of trenches will affect root systems of adjacent trees which could lead to removal of trees, but that will not be known until construction.

The easements are to be cleared to provide access to construct the pipeline as well as access to maintain the pipeline in the future.

Acquisition:

The project will require acquisition to ensure adequate ROW is available. Grantee shall acquire easements as needed to accommodate construction and carry out all acquisition of needed easements and/or rights-of-way in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

Step 1: Determine whether the action is located in a FFRMS floodplain.

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Area of Disturbance in FFRMS: .02 acres

As such, the 8-step process is required.

Step 2: *Notify the public for early review of the proposal and involve the affected and interested public in the decision-making process.*

There are designated floodplains associated with the proposed project sites. An early floodplain notice was published regarding the project, affording the opportunity for public input. No comments were received.

Publication Date: 10/18/24

Step 3: Identify and evaluate practicable alternatives.

The City project site selection criteria are:

- (a) The project cannot cause current residents to become displaced;
- (b) The project must be within the City in order for grant proceeds to be used;
- (c) The project must address infrastructure which was damaged due to recent flooding.

The City considered several alternative sites and actions:

1. **Do work only outside the floodplain.** It is not possible to complete work without disturbing the floodplain.
2. **Obtain a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR).** - The City also considered applying for a LOMA Map Amendment or Letter of Map Revision but it was determined that this site would not be a good candidate for such action and the time required to request such action could not be justified.
3. **Other infrastructure considered.** - Other infrastructure projects were also considered within the City Jurisdictional limits. However, the City concluded that this project was the highest priority of any eligible projects.
4. **No Action or Alternative Actions that Serve the Same Purpose.** - A no-action alternative was considered but the sanitary sewer system is not currently not functioning properly which could pose a health hazard to the community.

Step 4: Identify Potential Direct and Indirect Impacts of Associated with Floodplain Development.

1. Preventing loss of life and property as a result of flooding is the highest priority. Another flood could damage the new infrastructure.
2. In addition to concerns for life and property, the City has considered the natural values of the floodplain. The natural resources of the floodplain include water, biological, and societal resources. The proposed project will have minimal impacts to the floodplain because there will be minimal disturbance to the floodplain.
3. After consultation with the USFWS and review of the TPWD County List of Threatened and Endangered Species, it was concluded that the project will have no quantifiable impact on plant and animal life. Only native plants are to be used in the floodplain and on the site.
4. Societal resources should also be considered during the design process. The designs are meant to complement the natural features of the area and to offer an aesthetically pleasing structure. The site will not have an effect on agricultural lands.

Step 5: *Where practicable, design or modify the proposed action to minimize the potential adverse impacts to lives, property, and natural values within the floodplain/ and to restore, and preserve the values of the floodplain.*

Mitigation Requirements:

CFR 55.20 (e)(1):

For actions in the FFRMS floodplain, the required elevation described in this section must be documented on an Elevation Certificate or a Floodproofing Certificate in the Environmental Review Record prior to construction, or by such other means as HUD may from time to time direct, provided that notwithstanding any language to the contrary, the minimum elevation or floodproofing requirement for new construction or substantial improvement actions shall be the elevation of the FFRMS floodplain as defined in this section.

Non-Critical Actions

CFR 55.7(d)(1):

- The FFRMS floodplain includes those areas that result from adding an additional two feet to the base flood elevation based on best available information.

Critical Actions

CFR 55.7(d)(2):

- The FFRMS floodplain includes those areas that result from adding an additional three feet to the base flood elevation based on best available information.

Applicable Projects

According to the HUD Exchange on Floodplain Management (Complying with 24 CFR Part 55 (2)), if a project involves new construction or substantial improvement, elevation requirements apply.

Substantial Improvement:

A substantial improvement is any repair, reconstruction, modernization or improvement of a structure, including one of the following:

1. The cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred
2. That results in an increase of more than 20 percent in the number of dwelling units in a residential project or in the average peak number of customers and employees likely to be on-site at any one time for a commercial or industrial project

Certain types of projects are specifically not considered substantial improvement under Part 55.

- Any project solely for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that is solely necessary to assure safe living conditions
- Any alteration of a structure listed on the National Register of Historical Places or on a State Inventory of Historic Places
- Structural repairs, reconstruction, or improvements not meeting the definition for substantial improvement are considered "minor improvements."

Because a portion of the project does not involve a structure as defined by HUD, elevation requirements do not apply.

Structure Elevation

- NA

Elevation Requirement:

- NA

Mitigation Measures:

1. Preserving Property: Project designs should, to the best extent possible, incorporate measures to reduce the risk of damage to the new infrastructure via a flood.
2. Preserving Natural Values and Minimizing Impacts: After construction is completed, the disturbed area will need to be immediately re-vegetated with native grasses. Only native plants are to be used in the floodplain, and on the site.
3. Deposition and excavation of materials will need to be performed in such a manner that erosion and sedimentation will be controlled.
4. Precautions will need to be taken in the handling of fuels or other hazardous materials to prevent discharge or spillage resulting in lower groundwater quality.
5. Erosion control measures such as hay bales or silt screen barriers will need to be implemented and maintained during construction as required.
6. The project engineer will need to incorporate best management practices into the specifications and plans.

Step 6: *Reevaluate the Alternatives.*

1. **Do work only outside the floodplains.** Completing the project without disturbing any floodplain is not possible. (Not Viable)
2. **Obtain a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR).** - It was determined that neither a LOMA nor a LOMR was likely nor practical for the project area. (Not Viable)
3. **Other infrastructure considered.** - After considering other potential projects in the City, it was determined that of the eligible projects, this project was of the highest priority. (Not Viable)
4. **No Action or Alternative Actions that Serve the Same Purpose.** - The current sanitary sewer system is inadequate and must be addressed to prevent public health hazards. (Not Viable)

Step 7: *Determination of No Practicable Alternative*

It is our determination that there are no practical alternatives for locating the project in the floodplain:

A final notice was posted detailing the reasons why the project must be located in the floodplain/ , a list of *alternatives* considered, and all mitigation measures taken to minimize adverse impacts and preserve natural and beneficial floodplain values. No concerns were expressed by the public concerning this notice.

Posting Date: 11/12/24

Step 8: *Implement the Proposed Action*

The City will assure that this plan, as modified and described above, is executed and necessary language will be included in all agreements with participating parties. The City will also take an active role in monitoring the construction process to ensure no unnecessary impacts occur nor unnecessary risks are taken.