

RESOLUTION NO. 2022-08



STATE OF TEXAS

§

IN THE COMMISSIONERS COURT

COUNTY OF COMAL

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**UPDATING RESOLUTION #2004-02 –  
APPROVING THE LICENSE OF REAL PROPERTIES ACQUIRED BY COMAL  
COUNTY THROUGH THE FEMA HAZARD MITIGATION PROGRAM**

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**WHEREAS**, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended (the “Stafford Act”), identifies the use of disaster relief funds under Section 404 (Hazard Mitigation Grant Program, “HGMP”), including the acquisition and relocation of structures in the floodplain; and

**WHEREAS**, Section 404 of the Stafford Act provides a process for Comal County, Texas (the “County”), through the State, to make application for funding to be used to acquire interests in property, including the purchase of structures in the floodplain, to demolish and/or remove the buildings, and to convert the land use into perpetual open space; and

**WHEREAS**, the County, through the State, made application and entered into a Federal Emergency Management Agency-State Agreement (the “FEMA-State Agreement”) dated October 18, 1998; and

**WHEREAS**, the County purchased certain real properties (the “FEMA Properties”) through the FEMA-State Agreement, the HGMP, and the Stafford Act; and

**WHEREAS**, the terms of the Stafford Act, regulation promulgated under 44 C.F.R. §206.434 and the FEMA-State Agreement requires that the County agree that the FEMA Property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices; and

**WHEREAS**, the County desires to enter into individual, specific and separate license agreements (hereinafter “Licenses”) with entities or persons to use, maintain and secure the various and specific FEMA Properties for non-commercial purposes in accordance with the terms and rules as set out in the FEMA-State Agreement, the HGMP, the Stafford Act, and Licenses; and

**WHEREAS**, each County Commissioner shall be authorized to negotiate and execute Licenses within his/her respective precinct on behalf of the County; and

**WHEREAS**, each License will be ratified, individually, by the Commissioners Court after it is executed as described above; and

**WHEREAS**, a person or entity, except a validly recorded and existing Home/Property Owners' Association ("POA"), entering into a License with the County will be required to pay an annual fee for the use of a specific FEMA property; and

**WHEREAS**, a validly recorded and existing POA shall be exempt from paying an annual fee to use a specific FEMA Property because such use is understood to be open to all members owning lots of the subdivision of which the POA governs; and

**WHEREAS**, attached to this Resolution as Exhibit "A" and incorporated herein by reference is a License form that will be utilized, however, such form may be amended to fit a particular and specific agreement; and

**WHEREAS**, the Commissioners Court of Comal County may enter into Licenses with persons or entities to use and maintain the FEMA Properties for non-commercial purposes in the following prioritized order:

1. A validly recorded and existing POA having jurisdiction for the subdivision in which a FEMA Property is located.
2. The adjacent property owner having the greatest length of common boundary to the FEMA Property, according to a recorded plat or deed. Priority will be given to full-time Comal County residents living within the subdivision in which the FEMA property is located. In the case of a tie or if there are no full-time residents, the chosen property owner will be selected by a random drawing.
3. An adjacent property owner having a common boundary to the FEMA Property, according to a recorded plat or deed.
4. All the adjacent property owners having a common boundary to the FEMA Property, according to a recorded plat or deed may agree to split the fee between themselves and enter into a License individually.
5. Any Comal County resident who owns property in the same subdivision in which the FEMA Property is located and does not have a common property line with the FEMA Property. Priority will be given to full-time Comal County residents living within the subdivision in which the subject FEMA property is located. If there a multiple qualified interested parties, the chosen property owner will be selected by a random drawing.

**WHEREAS**, full-time Comal County resident is defined as a person who lives a majority of time in Comal County. Proof of residency shall be established by a valid Texas Driver's License, Texas Identification Card, or voter registration; and

**WHEREAS**, the Commissioners Court desires to protect and maintain the status quo and the privacy of individuals and residents of subdivisions which contain FEMA Properties as it existed prior to the County's acquisition of the FEMA Properties; and

**WHEREAS**, the annual cost for each Licensee per lot for non-POAs shall be the following:

1. River Front Lots: \$300.00;
2. Non-River Front Lots: \$50.00;
3. Any other fees or dues associated with the Lots.

**NOW, THEREFORE, BE IT RESOLVED**, that the Commissioners Court of Comal County may enter into Licenses with persons or entities to use and maintain the various and specific FEMA Properties consistent with the purposes and intent as stated in this Resolution and authorize the Comal County Commissioners to negotiate and execute such Licenses on behalf of the County.

**PASSED AND APPROVED** this 24th day of March 2022.

*Absent*

**SHERMAN KRAUSE, COUNTY JUDGE**

*Donna Eccleston*

**DONNA ECCLESTON  
COUNTY COMMISSIONER, PCT. #1**

*Scott Haag*

**SCOTT HAAG  
COUNTY COMMISSIONER, PCT. #2**

*Kevin Webb*

**KEVIN WEBB  
COUNTY COMMISSIONER, PCT. #3**

*Jen Crowover*

**JEN CROWOVER  
COUNTY COMMISSIONER, PCT. #4**

**ATTEST:**

*Bobbie Koepf*

**BOBBIE KOEPP, COUNTY CLERK**

