

BROUSSARD CONSTRUCTION CO.  
OF ACADIANA, LLC and BILLY  
BROUSSARD

\_\_\_\_\_ JUDICIAL DISTRICT COURT

VERSUS

DOCKET NUMBER:

THE GOVERNOR'S OFFICE OF  
HOMELAND SECURITY AND  
EMERGENCY PREPAREDNESS (GOHSEP)

PARISH OF \_\_\_\_\_, LOUISIANA

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**PETITION FOR DAMAGES**

**NOW INTO COURT**, through the undersigned counsel, comes BILLY BROUSSARD ("Broussard"), an individual residing in St. Martin Parish, Louisiana, appearing individually and on behalf of BROUSSARD CONSTRUCTION COMPANY OF ACADIANA, LLC, ("Broussard Construction") as a member and co-Manager, who brings this action for damages, for the following reasons:

**PARTIES**

1. The Plaintiff, BILLY BROUSSARD, is a resident of and domiciled in the Parish of St. Martin, State of Louisiana.
2. The Plaintiff, BROUSSARD CONSTRUCTION COMPANY OF ACADIANA, LLC, is a Louisiana Limited Liability company, duly organized under the laws of the State of Louisiana with its principal place of business located in St. Martin Parish, State of Louisiana.
3. Made Defendant herein is THE GOVERNOR'S OFFICE OF HOMELAND SECURITY AND EMERGENCY PREPAREDNESS ("GOHSEP"),

**JURISDICTION AND VENUE**

4. Jurisdiction is proper.
5. Venue is proper in this Court as to all parties pursuant to Louisiana Civil Code of Procedure Articles 42, 74 and 76.1, as the principal office and operations of \_\_\_\_\_ are located in \_\_\_\_\_ Parish, State of Louisiana.

**FACT SECTION**

The Federal Emergency Management Agency ("FEMA") coordinates the federal government's role in preparing for, preventing, mitigating the effects of, responding to, and recovering from all domestic disasters, whether natural or man-made, including acts of terror.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. § 5121, et seq. (hereinafter referred to as the Stafford Act), authorizes the FEMA Public Assistance Program to award Federal funding to State and local governments, Federally recognized tribes, and eligible private non-profit organizations in order to assist them in

their disaster response and recovery activities. Specifically, the Program provides assistance for debris removal, implementation of emergency protective measures, and permanent restoration of eligible facilities and infrastructure.

The Federal government may provide grants through the Public Assistance Program to reimburse the response and recovery efforts of an applicant (State and local governments, and certain private non-profit organizations) for Presidentially declared disasters. To receive supplemental disaster assistance under the Public Assistance Program, applicants must meet FEMA eligibility criteria. An applicant may conduct debris operations in any manner it deems appropriate. However, only costs associated with applicants, facilities, and work deemed eligible according to FEMA eligibility criteria and complying with special consideration requirements are reimbursed under the Public Assistance Program. Therefore, these eligibility criteria and special consideration requirements should be taken into consideration by the applicant when developing its debris management plan.

Eligible means qualifying for and meeting the stipulated requirements of the Public Assistance grant. The term eligible can be applied to applicants, facilities, work, and costs. Chapter Highlights Public Assistance Grant Program General Eligibility Criteria – Definition of Eligibility – Grantee/Subgrantee – Facility – Work – Public Interest – Reasonable Cost Environmental and Historic Preservation Special Considerations – National Environmental Policy Act – Executive Orders Duplication of Benefits – Other Federal Agencies – Insurance Settlements – Salvage Value Chapter 1 – Public Assistance Debris Removal Eligibility Page 4 FEMA 325, Public Assistance Debris Management Guide Eligibility is based on a hierarchy of statute, regulations, policies, fact sheets, guidance documents, and disaster-specific documents: • Statute is the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 et seq. (Stafford Act), the authority governing the Public Assistance Program. • Regulations, which are published in 44 Code of Federal Regulations (CFR), Parts 13 and 206, implement and interpret the statute. • Policies are written to apply the statute and regulations to specific subjects and situations. • Fact Sheets, guidance documents, and disaster-specific documents provide clarification and detailed explanations of issues and concerns. The terms ineligible or not eligible are used to indicate the applicant, facility, work, or cost does not qualify for a Public Assistance grant.

Grantee means the government, usually the State, to which a grant is awarded by the Federal government and is accountable for the use of the funds provided.

Subgrantee (applicant) is the entity to which a subgrant is awarded and is accountable to the grantee for the use of the funds provided.

To be eligible, an item of work must meet all of the following: 1) Be required as a result of the disaster event; 2) Be located within a designated disaster area, except that sheltering and evacuation activities may be located outside of the designated disaster area; and 3) Be the legal responsibility of an eligible applicant.

An applicant may hire a contractor to perform such work as debris clearance, removal, disposal, reduction, recycling, and/or monitoring. Public Assistance grant funding is limited to the scope of work necessary to remove debris that is an immediate threat to life, public health and safety, or poses an immediate threat of significant damage to improved public or private property. Moreover, the costs must be reasonable for the respective scope of work in order to be eligible for Public Assistance grant reimbursement. The procurement of the contract is subject to all provisions of 44 CFR Part 13.

Eligible applicants are required to monitor debris removal operations in order to document eligible quantities and reasonable expenses to ensure that the work is eligible for Public Assistance grant funding. Failure to do so properly may jeopardize funding. Chapter 3 – Debris Removal from Public Property FEMA 325, Public Assistance Debris Management Guide Page 31 In Federally declared disasters, FEMA personnel periodically validate the applicant's monitoring efforts to ensure eligible debris is being removed and processed efficiently. Debris monitoring is primarily the responsibility of the applicant. Applicants may use force account resources, temporary hires, and/or contractors to accomplish the monitoring.

The Gravity Drainage District is a political subdivision of the State.

When a disaster event occurs that produces large amounts of debris, FEMA requires coordination between the Public Assistance Applicant (in this case, GDD), the State, and FEMA to ensure that the debris removal operations are efficient, effective, and eligible for FEMA Public Assistance grant funding. The applicant, GDD, was responsible for documenting eligible quantities to ensure that the work is eligible for reimbursement from FEMA in accordance with FEMA's guidelines.

According to FEMA, monitoring debris removal operations requires comprehensive operation and documentation by the applicant, in this case GDD, of debris removal work performed from the point of debris collection to final disposal.

FEMA instructs its applicants that monitoring debris removal work involves constant observation of crews to ensure that workers are performing eligible work in accordance with FEMA's guidelines, and this monitoring helps to verify compliance with all applicable law.

During debris removal obligations, it is the responsibility of the State of Louisiana to ensure that the grant requirements outlined in 44 CFR are being met, and that the applicant, GDD, is receiving funds only for costs that are eligible under FEMA guidelines.

The State of Louisiana is also responsible for monitoring the applicant to ensure compliance with all applicable law. FEMA specifically charges the State with the responsibility of ensuring that the GDD was sufficiently monitoring the debris removal operation, and requires the State to notify the GDD of compliance issues and to outline corrective actions.

In the event additional debris is found, and no determination has been made regarding its "eligibility", the GDD and the State had the obligation to notify FEMA that additional debris had been identified, because only FEMA has the authority to make eligibility decisions.

Under the guidelines promulgated by FEMA, initial debris removal worksheets typically do not have a defined scope of work, "since precise quantities of debris is difficult to attain".

### **THE INDIAN BAYOU PROJECT**

### **THE STATE CERTIFIED GDD'S DOCUMENTS AS ACCURATE**

1. IN November 2012, Mark DeBosier, GOHSEP's state coordinating officer. A copy of DeBosier's correspondence is attached as Exhibit "\_\_\_\_\_".

### **SUMMARY**

2. GOHSEP had an obligation to monitor all of the debris that was removed from the bayou, and identify eligible debris.
3. At the time GOHSEP certified/varified to FEMA from the District was true, GOHSEP knew it was not true. That was in 2012.
4. GOHSEP made a false claim to FEMA on behalf of the district.

In October 2016, GOHSEP acknowledged that its monitors were aware that debris was being pulled out of the bayou that had not been identified as eligible, and the GOHSEP monitors failed to \_\_\_\_\_.

**FACTUAL ALLEGATIONS**

Plaintiff seeks damages, including a return of all funds \_\_\_\_\_ that were for any purpose other than for the benefit of \_\_\_\_\_.

Pursuant to LSA-R.S. 12:1-748, Petitioner seeks the *Ex Parte* appointment of a receiver to take charge of the assets, property, daily operations, and management of \_\_\_\_\_.

Pursuant to Louisiana law governing fraud, Petitioner is entitled to all of his attorney fees and costs incurred in bringing this action.

By signing this Pleading, undersigned counsel verifies that the factual allegations contained herein are true to the best of her understanding, knowledge and belief.

**WHEREFORE**, Petitioners, BROUSSARD, individually and on behalf of and BROUSSARD CONSTRUCTION COMPANY OF ACADIANA, LLC, pray for the following:

1. After a trial on the merits, a ruling against defendants and in favor of petitioner for damages, costs, and attorney fees, pursuant to the provisions of \_\_\_\_\_ Operating Agreement and applicable law.
2. For all other relief to which Petitioners are entitled.

Respectfully submitted,

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Robin A. Sylvester (21154)  
**Sylvester Law Firm, LLC**  
1019 Coolidge Street  
Lafayette, Louisiana 70503  
Telephone: (337) 513-0504  
Facsimile: (337) 513-0514

COUNSEL FOR BILLY BROUSSARD and  
BROUSSARD CONSTRUCTION  
COMPANY OF ACADIANA, LLC,  
Petitioners

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OF ACADIANA, LLC and BILLY  
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**VERIFICATION**

I, Billy Broussard, being duly sworn, depose as follows:

1. I am the duly authorized representative of Petitioner in this proceeding.
2. I have read the Petition and I have personal knowledge of the factual allegations stated therein.
3. The facts alleged are true to my knowledge, understanding and belief.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Sworn to before me on this \_\_\_\_ day of October, 2017.

\_\_\_\_\_  
**ROBIN A. SYLVESTER**  
**1019 COOLIDGE STREET**  
**LAFAYETTE LOUISIANA 70503**  
**NOTARY PUBLIC – LOUISIANA**  
**LAFAYETTE PARISH**  
**NOTARY ID 138503**

**PLEASE SERVE:**

THE GOVERNOR’S OFFICE OF HOMELAND SECURITY and EMERGENCY PREPAREDNESS  
Through its agent for service of process:

BROUSSARD CONSTRUCTION CO.  
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**REQUEST FOR NOTICE**

Plaintiffs, Billy Broussard and Broussard Construction Company of Acadiana, LLC, respectfully requests written notice of the dates of all hearings and trials, and notice of the rendition of all orders and interlocutory of final judgments and orders, with sufficient time to allow responsive action within the applicable legal delays, all in accordance with La. CCP Articles 1572, 1913 and 1914.

Written notices should be mailed to Robin Sylvester at Sylvester Law Firm, 1019 Coolidge Boulevard, Lafayette, Louisiana 70503.

Respectfully submitted,

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Robin A. Sylvester (21154)  
**Sylvester Law Firm, LLC**  
1019 Coolidge Blvd.  
Lafayette, Louisiana 70503  
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COUNSEL FOR PLAINTIFFS,  
BROUSSARD CONSTRUCTION  
COMPANY OF ACADIANA, LLC and  
BILLY BROUSSARD