



CITY COUNCIL MEETING SPECIAL SESSION

Tuesday, March 05, 2024 at 5:00 PM

City Hall, 102 W. Ashley Wilson Rd, Sweeny, Texas / Join in ZOOM at <https://zoom.us/j/97803022318> Meeting ID: 978 0302 2318 The City does not currently have the technology to conduct virtual meetings remotely with optimal audio. It may be difficult to hear the meeting if participating remotely. It is recommended that those interested in participating in public meetings attend in person until the technology upgrades are completed.

AGENDA

BE IT KNOWN that the City Council of the City of Sweeny will meet in **Special Session** on **Tuesday, March 05, 2024 at 5:00 PM.** at City Hall, 102 W. Ashley Wilson Rd, Sweeny, Texas / Join in ZOOM at <https://zoom.us/j/97803022318> Meeting ID: 978 0302 2318 The City does not currently have the technology to conduct virtual meetings remotely with optimal audio. It may be difficult to hear the meeting if participating remotely. It is recommended that those interested in participating in public meetings attend in person until the technology upgrades are completed. with the following agenda. Council is conducted under modified Roberts Rules of Order as approved by Resolution 102-16; July 19, 2016. In accordance with Chapter §551 of the Texas Government Code, if required, the Council may conduct an executive session on any of the agenda items provided the City Attorney is present.

CALL TO ORDER/ROLL CALL

PLEDGES & INVOCATION

CITIZENS WISHING TO ADDRESS CITY COUNCIL

This item is available for those citizens wishing to address City Council on an issue not on the agenda. Any item discussed cannot be voted on but could be considered for placement on the agenda of the next regularly scheduled meeting. Limited to three (3) minutes.

CONSENT AGENDA

All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless requested by the Mayor or a Council Member; in which event, the items will be removed from the consent agenda and considered separately.

- [1.](#) Budget Amendment: Sidewalk
- [2.](#) Discussion and possible action on a request from City Council to provide additional information on Type B-eligible economic development activities.

REGULAR AGENDA

- [3.](#) Discussion and possible action to variance requested allowing alcohol at the Pride Day festivities; Ordinance 113.04; Sweeny Beautification Committee

4. Discussion and possible action on a request from Sweeny Beautification to close a portion of County Road 332, more commonly known as Ashley Wilson Road, from the west side of the intersection of CR332 and Main Street to the second entrance at the Sweeny Community Center.
5. Discuss and take action to award a construction contract to Matula & Matula Construction, Inc. for the amount of \$3,994,185.06 for the base bid and \$280,052.40 for bid alternative number one for a total of \$4,274,237.46 related to the City's grant contract with the Texas General Land Office, Contract No. 22-082-007-D205.
6. Discussion and possible action to approve the Profession Services Agreement with Texas Rebuild / E3 to confirm preliminary findings of AMI meter accuracy.
7. Presentation of Resilient Communities Program Grant
8. Discussion and possible action on continuing Capital Improvements Project (CIP) planning.

ITEMS OF COMMUNITY INTEREST

ADJOURN REGULAR SESSION

I certify that the notice and agenda of items to be considered by the Sweeny City Council on **March 05, 2024** was posted on the City Hall bulletin board on March 01, 2024, at approximately _____AM/PM.

Kaydi Smith, City Secretary

I hereby certify that this Public Notice was removed from the City Hall bulletin board on _____, 2024 at approximately _____AM/PM.

Kaydi Smith, City Secretary



AGENDA MEMO

Business of the City Council

City of Sweeny, Texas

Meeting Date	03/05/2024	Agenda Item	
Approved by City Manager		Presenter(s)	Karla Wilson
Reviewed by City Attorney		Department	Finance
Subject	Budget Amendment		
Attachments	Purchase Order/Invoice 23-0515 from Android Construction Services, LLC		
Financial Information	Expenditure Required:	\$6,800.00	
	Amount Budgeted:	\$ 0.00	
	Account Number:	50-21-6416 Streets-Sidewalk Project	
	Additional Appropriation Required:	\$6,800.00	
	Additional Account Number:	40-00-6006 Transfer from Sidewalk Fund	

Executive Summary

This item requests a budget amendment to fund sidewalk replacements costs from the Sidewalk Fund (current available balance \$333,448) and to increase the budget for Sidewalk Project (adopted budget \$0) accordingly. This will avoid sidewalk replacement costs being charged to the Maintenance of Water System budget which is already over budget due to emergency repairs.

Work referenced: Replaced approximately 40' of sidewalk at the corner of Ashley Wilson Road and Main Street at a cost of \$6,800. (Android invoice attached)

Recommended Action

Staff recommends budget amendment in the amount of \$6,800 to account 50-21-6416, Streets-Sidewalk Project funded from Fund Balance of Sidewalk Fund.



AGENDA MEMO

Business of the City Council

City of Sweeny, Texas

Meeting Date	03.05.2024	Agenda Item	
Approved by City Manager	Yes	Presenter(s)	Lindsay Koskiniemi, City Manager
Reviewed by City Attorney	No	Department	Economic Development
Subject	Discussion and possible action on a request from City Council to provide additional information on Type B-eligible economic development activities.		
Attachments	1) Type A & B Eligible Activities 2) Chapter 1 Economic Development Handbook 3) Chapter 505 Local Government Code		
Financial Information	Expenditure Required:	N/A	
	Amount Budgeted:	N/A	
	Account Number:		
	Additional Appropriation Required:		
	Additional Account Number:		

Executive Summary

At the special City Council meeting held on January 30, 2024, the Council requested to have additional information on Type B-eligible economic development activities. There are several activities that are eligible for Type B corporation participation that must provide jobs, however there are exceptions to this requirement.

Section 13 of the “Type A and Type B Sales Tax” document, prepared by Jeff Moore, General Counsel for Sweeny Economic Development Corporation, (page 6/38 to 8/38) states the following:

“13. What Are Permissible Type B Projects?”

Type B Projects That Must Create or Retain Primary Jobs

Not all Type Projects are required to create or retain primary jobs. Nonetheless, certain sections of the Act require certain Type B projects create or retain primary jobs. Consequently, Type B corporations may assist with the following projects, provided the following projects create or retain a primary job:

- (1) Type B corporation may provide land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are for the creation or retention of primary jobs; and that are found by the board of directors to be required or suitable for the development, retention, or expansion:
 - (a) Manufacturing and industrial facilities
 - (b) Research and development facilities
 - (c) Military facilities, including closed or realigned military bases
 - (d) Transportation facilities, including airports, hangars, rail ports, rail switching facilities, maintenance and repair facilities, cardo facilities, related infrastructure located on or adjacent to an airport or rail port facility, marine ports, inland ports, mass commuting facilities, and parking facilities



AGENDA MEMO

Business of the City Council

City of Sweeny, Texas

- (e) Sewage or solid waste disposal facilities
 - (f) Recycling facilities
 - (g) Air water pollution control facilities
 - (h) Distribution centers
 - (i) Small warehouse facilities capable of serving as decentralized storage and distribution centers
 - (j) Primary job training facilities for use by institutions of higher education
 - (k) Regional or nations corporate headquarters facilities
- (2) Type corporations may provide land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including a project to provide:
- (a) Public safety facilities
 - (b) Streets and roads
 - (c) Drainage and related improvements
 - (d) Demolition of existing structures
 - (e) General municipally owned improvements; and
 - (f) Any improvements or facilities that are related to a project described by this subsection; and any other project that the board of directors in its discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs.

Type B Project Which Are Not Required to Create or Retain Primary Jobs:

Not all Type B projects are required to create or retain primary jobs. The following Type B projects are not required to create or retain primary jobs:

- (1) Job training classes
- (2) certain targeted infrastructure projects necessary to promote or develop new or expanded business enterprises, limited to streets and roads, rail spurs, water and sewer utilities, and electric utilities, gas utilities, drainage, site improvements, and related improvements, telecommunications and Internet improvements, and beach remediation along the Gulf of Mexico
- (3) Land, buildings, equipment, facilities, improvements, and expenditures required or suitable for use for a career center if the area to be benefited by the career center is not located within the taxing jurisdiction of a junior college district
- (4) Project consisting of profession and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events.
- (5) Affordable housing projects
- (6) Water supply facilities projects, with the requisite voter approval
- (7) Water conservation programs, with the requisite voter approval
- (8) Development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor busses
- (9) Development or expansion of airport or rail port facilities, including hangars, maintenance and repair facilities, cargo facilities, and related infrastructure located on or adjacent to an airport or rail port facility, if the project is undertaken by a Type B corporation is authorized to sublease the entity's interest for other authorized projects and is approved by city council by resolution."



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Business of the City Council

City of Sweeny, Texas

The same information can be found on pages 9-12 of the Chapter 1 Economic Development Handbook attached.

A copy of Chapter 505 – Type B Corporations, Local Government Code is provided. This is the section of the Code that covers Type B Economic Development Corporation statute.

Recommended Action

No recommended action – Council discretion if any action is warranted.

Type A and Type B Sales Tax

**Texas Economic Development Council
Economic Development Sales Tax Workshops
2021-2022**

Prepared by:

Jeff Moore

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General:

1. What is Type A and Type B sales tax?

Type A and Type B sales tax (formerly referred to as the Section 4A and Section 4B sales tax) are sales taxes which cities may impose for economic development. These sales taxes are authorized pursuant to the Development Corporation Act (also referred to as the “Act”).¹ Cities must hold a sales tax election to adopt either a Type A or Type B sales tax. If adopted, the city could not exceed the two percent (2%) local sales tax limit. The sales tax for economic development is one of the most popular tools used by cities to promote economic development.

2. How many cities have adopted a Type A or Type B sales tax?

Currently, there are 211 Type A economic development corporations, and 515 Type B economic development corporations for a total of 726 corporations.²

Adoption of Tax:

3. How are Type A or Type B sales tax adopted?

To adopt either a Type A or Type B sales tax the voters must approve the sales tax at a sales tax election.³

4. Who can initiate a Type A or Type B sales tax election?

Type A or Type B economic development sales tax may be initiated by city council approving an ordinance calling an election on the imposition of the sales tax; or by a petition signed by a number of qualified voters that equals at least twenty percent (20%) of the voters who voted in the most recent regular city election. If the city receives a petition signed by the required number of qualified voters then the city is required to pass an ordinance calling an election on the imposition of the tax.⁴

5. When must a Type A or Type B sales tax election be held?

Type A or Type B sales tax election must be held on a uniform election date as provided by Chapter 41 of the Election Code. The uniform election dates are as follows: (1) the first Saturday in May in an odd-numbered year; (2) the first Saturday in May in an even-numbered year, for an election

¹ TEX. LOC. GOV'T CODE Chapters 501 - 505 (formerly Art. 5190.6 of the Texas Revised Civil Statutes).

² TEXAS COMPTROLLER, ECONOMIC DEVELOPMENT CORPORATION REPORT, FISCAL YEARS 2018-2019.

³ TEX. LOC. GOV'T CODE ANN. §§ 504.251 & 505.251.

⁴ TEX. LOC. GOV'T CODE ANN. §§ 504.255 & 505.256.

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held by a political subdivision other than a county; or (3) the first Tuesday after the first Monday in November.⁵

6. Can every city adopt a Type A or Type B sales tax?

Not every city is authorized to adopt a Type A sales tax. Yet, it appears every Texas city could adopt a Type B sales tax provided the city does not exceed two percent (2%) in local sales tax.

Eligible Type A cities include a city located in a county with a population of 500,000 or fewer; a city which has a population of less than 50,000 and is located within two or more counties, one of which is Bexar, Dallas, El Paso, Harris, Hidalgo, Tarrant or Travis County; or a city which is under 50,000 population and is within the San Antonio or Dallas Rapid Transit Authority territorial limits, but has not elected to become part of the transit authority.⁶

Eligible Type B cities include an eligible Type A city; a city located in a county with a population of 500,000 or more according to the most recent federal decennial census and the current combined sales tax rate does not exceed eight and one-quarter percent (8.25%) at the time the Type B tax is proposed; or a city which has a population of 400,000 or more according to the most recent federal decennial census, and is located in more than one county, and the combined state and local sales tax rate does not exceed eight and one-quarter percent (8.25%).⁷ Given, an eligible Type A city is a city located in a county with a population under 500,000, and an eligible Type B city is a city located in a county with a population of 500,000 or more, it appears every Texas city is eligible to adopt the Type B sales tax provided the local sales tax rate does not exceed two percent (2%).⁸

7. If the Type A or Type B sales tax proposition fails at a sales tax election when could the city resubmit a Type A or Type B sales tax proposition to the voters for voter approval?

If voters do not approve a Type A or Type B sales tax proposition, another election to adopt a Type A or Type B sales tax could not be held for one (1) year.⁹ The Election Code allows a municipality to hold a subsequent election on the corresponding uniform election date that occurs approximately one (1) year later, even if the date falls several days before a full year has elapsed.¹⁰

⁵ TEX. ELEC. CODE ANN. § 41.001(a).

⁶ TEX. LOC. GOV'T CODE ANN. § 504.002.

⁷ TEX. LOC. GOV'T CODE ANN. § 505.002.

⁸ TEX. LOC. GOV'T CODE ANN. §§ 504.002(1), 505.002(1), 505.002(3).

⁹ TEX. LOC. GOV'T CODE ANN. §§ 504.255 and 505.256 and TEX. TAX CODE ANN. § 321.406.

¹⁰ TEX. ELEC. CODE ANN. § 41.0041(a).

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Tax Rate:

8. What is the tax rate for a Type A or Type B sales tax?

The sales tax rate for either a Type A or Type B sales tax is in increments of 1/8th of one percent which does not result in a combined rate that exceeds two percent (2%).¹¹

9. Can Type A or Type B increase/decrease a tax rate once it is adopted?

The Type A sales tax may be increased or reduced if the proposition is approved by the voters at an election called and held for that purpose. A city which imposes a Type A tax may, on its own motion, call an election to increase or reduce the Type A sales tax. Further, on a petition signed by at least ten percent (10%) or more of the registered voters of the city, the city may be required to call an election on a proposed increase or decrease of the Type A tax rate.¹² In 2017, the Texas Legislature approved legislation which authorizes the voters on a petition signed by ten percent (10%) or more of the registered voters requesting an election to require the city council to order an election on whether to increase or reduce the Type B sales tax rate.¹³

10. Can a city create more than one Type A or Type B corporation?

A city cannot create two Type A or two Type B corporations. The Development Corporation Act specifically precludes the creation of more than one Type B corporation.¹⁴ Likewise, Type A prohibits the creation of more than one Type A corporation.¹⁵ Nevertheless, provided the total local sales and use taxes did not exceed two percent (2%), an eligible city could create one Type A corporation and one Type B corporation.

¹¹ TEX. LOC. GOV'T CODE ANN. §§ 504.252(b) and 505.252(b).

¹² TEX. LOC. GOV'T CODE ANN. § 504.258.

¹³ See, TEX. LOC. GOV'T CODE ANN. § 505.2566.

¹⁴ TEX. LOC. GOV'T CODE ANN. § 505.003(b) (provides "[a] municipality may not authorize the creation of more than one Type B corporation.").

¹⁵ TEX. LOC. GOV'T CODE ANN. § 504.003(b) (provides "[a] municipality may not authorize the creation of more than one Type A corporation.").

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Permissible Expenditures of Sales Tax Proceeds:

11. What are permissible Type A projects?

Type A Projects Which Must Create or Retain Primary Jobs

In 2003, the Texas Legislature enacted a requirement that certain Type A projects create or retain primary jobs. The term “primary job” is defined further in the Act and is discussed below.¹⁶ However, not all Type A projects are required to create or retain primary jobs. The Act requires the following Type A projects create or retain primary jobs:

- (1) Type A corporations may provide land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are for the creation or retention of primary jobs; and that are found by the board of directors to be required or suitable for the development, retention, or expansion of:¹⁷
 - (a) manufacturing and industrial facilities;
 - (b) research and development facilities;
 - (c) military facilities, including closed or realigned military bases;
 - (d) recycling facilities;
 - (e) distribution centers,
 - (f) small warehouse facilities capable of serving as decentralized storage and distribution centers;
 - (g) primary job training facilities for use by institutions of higher education; and
 - (h) regional or national corporate headquarters facilities.

Type A Projects Which Are Not Required to Create or Retain Primary Jobs

The following Type A projects are not required to create or retain primary jobs:

- (1) job training classes;¹⁸
- (2) certain targeted infrastructure projects necessary to promote or develop new or expanded business enterprises, limited to streets and roads, rail spurs, water and sewer utilities, and electric utilities, gas utilities, drainage, site improvements, and related improvements, telecommunications and Internet improvements, and beach remediation along the Gulf of Mexico;¹⁹

¹⁶ TEX. LOC. GOV'T CODE ANN. § 501.002(12).

¹⁷ TEX. LOC. GOV'T CODE ANN. §§ 501.101(2)(A)-(L).

¹⁸ TEX. LOC. GOV'T CODE ANN. §§ 501.102 and 501.162.

¹⁹ TEX. LOC. GOV'T CODE ANN. § 501.103. *See also*, Op. Tex. Att'y Gen. No. KP-0065 (2016) (discussion on definition of “site improvements”).

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- (3) land, buildings, equipment, facilities, improvements, and expenditures required or suitable for use for a career center if the area to be benefited by the career center is not located within the taxing jurisdiction of a junior college district;²⁰
- (4) general aviation business service airport that is an integral part of an industrial park;²¹
- (5) port-related facilities to support waterborne commerce;²² and
- (6) development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses.²³

In addition, certain Type A corporations meeting the requisite revenue amounts, population, and other requirements specified in the Act, may assist with certain Type A projects without the creation or retention of primary jobs. These projects include the following:

- (1) Type A corporations located within twenty-five (25) miles of an international border, with a city population of less than 50,000 or an average rate of unemployment that is greater than the state average rate of unemployment during the preceding twelve (12) month period may assist with land, buildings, facilities, infrastructure, and improvements required or suitable for the development or promotion of new or expanded business enterprises through transportation facilities including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, marine ports, inland ports, mass commuting facilities, parking facilities, and related infrastructure located on or adjacent to an airport or railport facility;²⁴ and
- (2) Type A corporations, located in Hidalgo county, may provide certain assistance with infrastructure necessary to promote or develop new or expanded business enterprises, including airports, ports, and sewer or solid waste disposal facilities, provided Type A sales tax revenue does not support the project.²⁵

²⁰ TEX. LOC. GOV'T CODE ANN. § 501.105.

²¹ TEX. LOC. GOV'T CODE ANN. § 504.103(c)(1).

²² TEX. LOC. GOV'T CODE ANN. § 504.103(c)(2).

²³ TEX. LOC. GOV'T CODE ANN. § 502.052.

²⁴ TEX. LOC. GOV'T CODE ANN. §§ 501.106 and 504.103(c)(3).

²⁵ TEX. LOC. GOV'T CODE ANN. § 501.107.

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12. What are permissible Type A projects for a Type A corporation located in a city with a population of less than 7,500, and which has a Type B corporation?

In 2011, the Texas Legislature amended the statute by addressing the authority of a Type A corporation located within a city with a population of less than 7,500 and which also has a Type B corporation. The city council by ordinance may authorize a Type A corporation to undertake any project that a Type B corporation may undertake. The statute also provides that the city council by ordinance may also revoke the authority to pursue Type B projects. Yet, the revocation would not affect the authority of the Type A corporation to complete the project or to repay any debt incurred in connection with the project.²⁶

13. What are permissible Type B projects?

Type B Projects Which Must Create or Retain Primary Jobs

Not all Type B projects are required to create or retain primary jobs. Nonetheless, certain sections of the Act require certain Type B projects create or retain primary jobs. Consequently, Type B corporations may assist with the following projects, provided the following projects create or retain a primary job:

- (1) Type B corporations may provide land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are for the creation or retention of primary jobs; and that are found by the board of directors to be required or suitable for the development, retention, or expansion of:²⁷
 - (a) manufacturing and industrial facilities;
 - (b) research and development facilities,
 - (c) military facilities, including closed or realigned military bases;
 - (d) transportation facilities, including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, related infrastructure located on or adjacent to an airport or railport facility, marine ports, inland ports, mass commuting facilities, and parking facilities;
 - (e) sewage or solid waste disposal facilities;
 - (f) recycling facilities;
 - (g) air or water pollution control facilities;
 - (h) distribution centers;
 - (i) small warehouse facilities capable of serving as decentralized storage and distribution centers;
 - (j) primary job training facilities for use by institutions of higher education; and

²⁶ TEX. LOC. GOV'T CODE ANN. § 504.171.

²⁷ TEX. LOC. GOV'T CODE ANN. § 501.101.

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- (k) regional or national corporate headquarters facilities.
- (2) Type B corporations may provide land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including a project to provide:²⁸
- (a) public safety facilities;
 - (b) streets and roads;
 - (c) drainage and related improvements;
 - (d) demolition of existing structures;
 - (e) general municipally owned improvements; and
 - (f) any improvements or facilities that are related to a project described by this subsection; and any other project that the board of directors in its discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs.

Type B Projects Which Are Not Required to Create or Retain Primary Jobs

Not all Type B projects are required to create or retain primary jobs. The following Type B projects are not required to create or retain primary jobs:

- (1) job training classes;²⁹
- (2) certain targeted infrastructure projects necessary to promote or develop new or expanded business enterprises, limited to streets and roads, rail spurs, water and sewer utilities, and electric utilities, gas utilities, drainage, site improvements, and related improvements, telecommunications and Internet improvements, and beach remediation along the Gulf of Mexico;³⁰
- (3) land, buildings, equipment, facilities, improvements, and expenditures required or suitable for use for a career center if the area to be benefited by the career center is not located within the taxing jurisdiction of a junior college district;³¹
- (4) projects consisting of professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events;³²

²⁸ TEX. LOC. GOV'T CODE ANN. § 505.155.

²⁹ TEX. LOC. GOV'T CODE ANN. §§ 501.102 and 501.162.

³⁰ TEX. LOC. GOV'T CODE ANN. § 501.103. *See also*, Op. Tex. Att'y Gen. No. KP-0065 (2016) (discussion on definition of "site improvements").

³¹ TEX. LOC. GOV'T CODE ANN. § 501.105.

³² TEX. LOC. GOV'T CODE ANN. § 505.152.

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- (5) affordable housing projects;³³
- (6) water supply facilities projects, with the requisite voter approval;³⁴
- (7) water conservation programs, with the requisite voter approval;³⁵
- (8) development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses;³⁶ and
- (9) development or expansion of airport or railport facilities, including hangars, maintenance and repair facilities, cargo facilities, and related infrastructure located on or adjacent to an airport or railport facility, if the project is undertaken by a Type B corporation and enters into a development agreement with an entity who acquires a leasehold or other possessory interest from the Type B corporation and is authorized to sublease the entity's interest for other authorized projects; and is approved by city council by resolution.³⁷

In addition, certain Type B corporations meeting the requisite revenue amounts, population requirements, and other requirements specified in the Act, may assist with certain Type B projects without the creation or retention of primary jobs. These projects include the following:

- (1) Type B corporations located within twenty-five (25) miles of an international border, with a city population of less than 50,000 or an average rate of unemployment that is greater than the state average rate of unemployment during the preceding twelve (12) month period may assist with land, buildings, facilities, infrastructure, and improvements required or suitable for the development or promotion of new or expanded business enterprises through transportation facilities including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, marine ports, inland ports, mass commuting facilities, parking facilities, and related infrastructure located on or adjacent to an airport or railport facility;³⁸
- (2) Type B corporations, located in Hidalgo county, may provide certain assistance with infrastructure necessary to promote or develop new or expanded business enterprises, including airports, ports, and sewer or solid waste disposal facilities, provided Type B sales tax revenue does not support the project;³⁹

³³ TEX. LOC. GOV'T CODE ANN. § 505.153.

³⁴ TEX. LOC. GOV'T CODE ANN. §§ 505.154(1) and 505.304.

³⁵ TEX. LOC. GOV'T CODE ANN. §§ 505.154(2) and 505.304.

³⁶ TEX. LOC. GOV'T CODE ANN. § 502.052.

³⁷ TEX. LOC. GOV'T CODE ANN. § 505.1561.

³⁸ TEX. LOC. GOV'T CODE ANN. § 501.106.

³⁹ TEX. LOC. GOV'T CODE ANN. § 501.107.

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- (3) Type B corporations, which have not generated more than \$50,000 in revenues in the preceding two (2) fiscal years, may provide land buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development, retention, or expansion of business enterprises, provided city council authorizes the project by adopting a resolution following two (2) separate readings conducted at least one (1) week apart;⁴⁰
- (4) Type B corporations with a population of 20,000 or less, may provide land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the board of directors to promote new or expanded business development, provided projects which require an expenditure of more than \$10,000 city council must adopt a resolution authorizing the project after giving the resolution at least two (2) separate readings;⁴¹ and
- (5) Type B corporations located wholly or partly in Dallas or Harris county and has within its city limits and extraterritorial jurisdiction less than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the zoning laws or land use restrictions of the city, the term project also means Type B expenditures found by the board of directors to be required for the promotion of new or expanded business enterprises within the landlocked community.⁴²

14. What are permissible Type B projects for a Type B corporation which received less than \$50,000 in Type B sales tax revenue?

Certain Type B corporations are authorized to use Type B sales tax revenue for land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development, retention, or expansion of business enterprises. This broad use of sales tax revenue is available for Type B corporations which have not for each of the preceding two fiscal years received more than \$50,000 in Type B sales tax revenues, and the governing body of which has authorized the project has adopted a resolution only after giving the resolution at least two separate readings conducted at least one week apart.⁴³

15. What are permissible Type B projects for a Type B corporation located in a city with a population of 20,000 or less?

Type B corporations located in a city with a population of 20,000 or less may rely on the various definitions of “project” contained within the statute. Yet, in 2005, the Texas Legislature made a

⁴⁰ TEX. LOC. GOV'T CODE ANN. § 505.156.

⁴¹ TEX. LOC. GOV'T CODE ANN. § 505.158.

⁴² TEX. LOC. GOV'T CODE ANN. § 505.157.

⁴³ TEX. LOC. GOV'T CODE ANN. § 505.156.

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significant revision affecting many Type B economic development corporations. This amendment authorizes a Type B corporation located in a city with a population of 20,000 or less to assist with land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements. Nonetheless, the board of directors must determine the assistance will promote new or expanded business development. If the assistance will promote new or expanded business development, the Type B corporation is authorized to fund the project. The statute requires the following of certain procedural requirements for expenditures exceeding \$10,000. The Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until city council adopts a resolution authorizing the project after giving the resolution at least two (2) separate readings.⁴⁴

16. What are permissible Type B projects for a Type B corporation located in a “landlocked community”?

A “landlocked community” may rely on the various definitions of “project” contained in the Act. However, a landlocked community may also look only to a specific provision added recently by the Texas Legislature. In 2005 the Texas Legislature authorized a Type B corporation located in a “landlocked community” to use Type B sales tax revenue towards “expenditures found by the board of directors to be required for the promotion of new or expanded business enterprises within the landlocked community.”⁴⁵ The term “landlocked community” is defined to mean a city which is located wholly or partly located in a county with a population of 2 million or more and has within its city limits and extraterritorial jurisdiction less than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the zoning laws or land use restrictions of the city. Accordingly, this specific provision is limited to Type B corporations located wholly or partly within Harris or Dallas counties.

17. Can Type A and Type B corporations assist with Hurricane Ike disaster relief projects?

Type A and Type B economic development corporations located wholly or partly within the Hurricane Ike disaster area may provide assistance towards Hurricane Ike disaster area bonds. Corporations authorized to participate in Hurricane Ike disaster area bond projects must be located wholly or part in one of the following thirty-four (34) Texas counties: Angelina, Austin, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Greg, Grimes, Hardin, Harris, Harrison, Houston, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, Walker, Waller, and Washington Counties. For these eligible corporations, the term “project” is defined to mean the undertaking of costs which are eligible to be paid from the proceeds of qualified Hurricane Ike disaster area bonds.⁴⁶ Accordingly, the corporation should consult their bond counsel regarding

⁴⁴ TEX. LOC. GOV'T CODE ANN. § 505.158.

⁴⁵ TEX. LOC. GOV'T CODE ANN. § 505.157.

⁴⁶ TEX. LOC. GOV'T CODE ANN. § 501.452(1).

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Hurricane Ike bond projects. The term “project” does not include qualified residential rental projects, or projects the costs of which are payable from qualified mortgage bonds.⁴⁷

18. What is a “primary job”?

In 2003, the Texas Legislature amended the Development Corporation Act to require certain Type A or Type B projects create or retain primary jobs. Yet, not all projects must create or retain primary jobs. The term primary job means “a job that is . . . available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and” is included in one of nearly sixteen (16) different North American Industry Classification System (NAICS) sector codes.⁴⁸

The NAICS sector code categories include: crop production; animal production; forestry and logging; commercial fishing; support activities for agriculture and forestry; mining; utilities; manufacturing; wholesale trade; transportation and warehousing; information (excluding movie theaters and drive-in theaters); securities, commodity contracts, and other financial investments and related activities; scientific research and development services; management of companies and enterprises; telephone call centers; and correctional institutions.⁴⁹ Further, a job included within the national security sector code classification for the armed forces, army, navy, air force, marine corps, and military bases meet the definition of “primary job.”

19. Can a Type A corporation fund a Type B project?

Type A sales tax may be used to fund Type B projects with voter approval.⁵⁰ A public hearing must be conducted within the city to inform the residents of the city of the cost and impact of the project prior to the election.⁵¹ Further, the city must publish notice of the hearing in a newspaper with general circulation in the city at least thirty (30) days before the date set for the hearing. The notice must include the date, time, place, and subject of the hearing and should be published on a weekly basis until the date of the hearing.⁵² In addition, the Texas Legislature amended the statute in 2011 by addressing the authority of a Type A corporation located within a city with a population of less than 7,500 and which also has a Type B corporation. The city council by ordinance may authorize a Type A corporation to undertake any project that a Type B corporation may undertake.⁵³

⁴⁷ TEX. LOC. GOV'T CODE ANN. § 501.452(2).

⁴⁸ TEX. LOC. GOV'T CODE ANN. § 501.002(12).

⁴⁹ *Id.*

⁵⁰ TEX. LOC. GOV'T CODE ANN. § 504.152.

⁵¹ TEX. LOC. GOV'T CODE ANN. § 504.153.

⁵² *Id.*

⁵³ TEX. LOC. GOV'T CODE ANN. § 504.171.

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20. Can Type A or Type B corporations expend sales tax proceeds for promotional purposes?

Both Type A and Type B corporations may spend no more than ten percent (10%) of the corporate revenues for promotional purposes.⁵⁴ Recently, the Texas Attorney General considered promotional expenditures and concluded a promotional purpose is a question of fact for the board of directors to resolve in the first instance, subject to judicial review and the supervisory authority of the city council.⁵⁵ Further, the city council could approve or disapprove of a particular promotional expenditure. The Attorney General noted a corporation may not spend more than ten percent (10%) of its current annual revenues for promotional purposes in any given year. Yet, unexpended revenues specifically set aside for promotional purposes in past years may be expended for such purposes.⁵⁶

21. Can Type A or Type B corporations expend sales tax proceeds for job training classes?

A Type A or Type B corporation may spend sales tax proceeds for job training offered through a business enterprise under certain conditions. The business enterprise must commit in writing to create jobs which pay wages that are at least equal to the prevailing wage for the applicable occupation in the local market area, or increase its payroll to pay wages that are at least equal to the prevailing wage for the occupation in the local labor market area.⁵⁷

In addition, Type A and Type B corporations in a city with a population of 10,000 or more, located in a county that borders the Gulf of Mexico or the Gulf Intracoastal Waterway or borders the United Mexican States and in which four municipalities with a population of 70,000 or more are located, and has, or is included in a metropolitan statistical area of this state that has, an unemployment rate that averaged at least two percent (2.0%) above the state average for the most recent two (2) consecutive years for which statistics are available, may spend sales tax revenue for job training that consists of: (1) providing job-related life skills sufficient to enable an unemployed individual to obtain employment; and (2) providing job training skills sufficient to enable an unemployed individual to obtain employment.⁵⁸

22. Can Type A or Type B corporations expend sales tax proceeds for training seminars?

In the 2001 legislative session, the Texas Legislature amended the Development Corporation Act to require certain Type A and Type B economic development officials to complete a training

⁵⁴ TEX. LOC. GOV'T CODE ANN. §§ 504.105(a) and 505.103.

⁵⁵ Op. Tex. Att'y Gen. No. GA-0086 (2003).

⁵⁶ *Id.*

⁵⁷ TEX. LOC. GOV'T CODE ANN. §§ 501.102 and 501.162.

⁵⁸ TEX. LOC. GOV'T CODE ANN. § 501.163.

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seminar which ensures officials properly and legally operate the corporation and administer the tax imposed for the benefit of the Type A or Type B corporation.⁵⁹ One of the following three city officials are required to attend a seminar each twenty-four (24) month period: the city attorney, the city administrator, or city clerk. Further, the executive director or other person who is responsible for the daily administration of the corporation must attend a seminar in each twenty-four (24) month period.⁶⁰ The Development Corporation Act specifically authorizes to use of Type A or Type B sales tax proceeds to pay for the costs of attending the seminar.⁶¹

23. Can Type A or Type B corporations grant or gift Type A or Type B proceeds to a business entity without a performance agreement?

In 2003, the Texas Legislature amended the Development Corporation Act to address business incentives and performance agreements. Type A and Type B corporations may not provide a direct incentive or make expenditures on behalf of a business enterprise unless the corporation enters into a performance agreement with the business enterprise.⁶² The performance agreement at a minimum must provide for a schedule of additional payroll or jobs to be created or retained and the capital investment to be made as consideration for any incentives.⁶³ Further, the agreement must specify the terms for any repayment should the business fail to meet the performance requirements specified in the agreement.

24. Can Type A and Type B corporations hire an independent third party to conduct business recruitment or development?

Type A and Type B corporations may hire a third party for the purposes of conducting business recruitment or development.⁶⁴ Nonetheless, the corporation must enter into a written contract approved by the corporation's board of directors in connection with the payment of a commission fee, or thing of value to a broker, agent, or third party who is involved in business recruitment or development. This requirement does not apply to the business recruitment or development activities conducted by the executive director or other employees of the Type A or Type B corporation. Should the corporation hire a third party for the purposes of business recruitment or development without a written contract approved by the board, the corporation could be liable to the State of Texas for a civil penalty in an amount not to exceed \$10,000. Further, the Texas Attorney General's office could bring an action to recover the penalty in Travis County District Court or the district court in the county in which the violation occurred.⁶⁵

⁵⁹ TEX. LOC. GOV'T CODE ANN. § 502.101.

⁶⁰ TEX. LOC. GOV'T CODE ANN. § 502.101(a)(1) & (2).

⁶¹ TEX. LOC. GOV'T CODE ANN. § 502.101(d).

⁶² TEX. LOC. GOV'T CODE ANN. § 501.158(a).

⁶³ TEX. LOC. GOV'T CODE ANN. § 501.158(b).

⁶⁴ TEX. LOC. GOV'T CODE ANN. § 502.051.

⁶⁵ TEX. LOC. GOV'T CODE ANN. § 502.051(c).

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25. Can Type A or Type B corporations use sales tax proceeds to cleanup contaminated property?

Should the Texas Governor's office or Texas Commission on Environmental Quality encourage or request a Type A or Type B corporation to use sales tax proceeds to cleanup contaminated property, the corporation may not undertake the project until the use is approved by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot proposition is as follows:⁶⁶

"The use of sales and use tax proceeds for the cleanup of contaminated property."

26. Can Type B corporations expend sales tax proceeds for water supply facility projects?

A water supply facility is a permissible Type B project provided the voters approve the project in an election called and held for that purpose.⁶⁷ The term "water supply facility" includes dams, transmission lines, well field developments, and other water supply alternatives.⁶⁸ The ballot proposition which must be used to vote for or against the water supply facility is as follows:⁶⁹

"The use of sales and use tax proceeds for infrastructure relating to _____ (insert water supply facilities or water conservation programs, as appropriate)."

27. Can a Type B corporation expend sales tax proceeds for a water conservation program?

Water conservation programs include incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities.⁷⁰ These programs are permissible Type B projects provided the project is approved by a majority of the qualified voters in an election called held for that purpose. The ballot wording which must be used for such a proposition is as follows:⁷¹

"The use of sales and use tax proceeds for infrastructure relating to _____ (insert water supply facilities or water conservation programs, as appropriate)."

⁶⁶ TEX. LOC. GOV'T CODE ANN. §§ 504.304 and 505.305.

⁶⁷ TEX. LOC. GOV'T CODE ANN. §§ 505.154 and 505.304.

⁶⁸ TEX. LOC. GOV'T CODE ANN. § 505.154(1).

⁶⁹ TEX. LOC. GOV'T CODE ANN. § 505.304(b).

⁷⁰ TEX. LOC. GOV'T CODE ANN. § 505.154(2).

⁷¹ TEX. LOC. GOV'T CODE ANN. § 505.304(b).

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28. Can Type A or Type B corporations undertake projects which are located outside the city limits of the eligible city?

An economic development corporation may undertake projects outside of the city limits with permission of the governing body that has jurisdiction over the property.⁷² Consequently, should a Type A or Type B corporation decide to undertake a project located completely outside the city's extraterritorial jurisdiction or beyond it must get approval from the county commissioners court.

Type A Ballot Wording:

29. Is there required ballot wording for the adoption of a Type A sales tax?

The Development Corporation Act provides the ballot wording to adopt the Type A sales tax. The proposition must be worded as follows:⁷³

**“The adoption of a sales and use tax for the promotion and development of new and expanded business enterprises at the rate of _____ percent”
(insert appropriate rate).**

30. Is there required ballot wording to increase or decrease the Type A sales tax rate?

A city may on its own motion or on the petition of at least ten percent (10%) or more of the registered voters of the city call an election to increase or reduce the Type A sales tax rate.⁷⁴ The Type A sales tax rate may be reduced or increased in one or more increments of one-eighth of one percent to a minimum of one-eighth of one percent and a maximum of one-half of one percent. Nevertheless, the Development Corporation Act does not provide the ballot wording for such a proposition. The Act simply provides that “[t]he ballot for an election under this section shall be printed in the same manner as the ballot under Section 504.256.” Section 504.256 of the Texas Local Government Code contains the wording to adopt the Type A sales tax.

31. Is there required ballot wording to abolish a Type A sales tax?

There is required ballot language a city must use for a ballot proposition to abolish a Type A sales tax. The Development Corporation Act provides that the proposition for termination must be worded as follows:⁷⁵

⁷² TEX. LOC. GOV'T CODE ANN. § 501.159(a).

⁷³ TEX. LOC. GOV'T CODE ANN. § 504.256.

⁷⁴ TEX. LOC. GOV'T CODE ANN. § 504.258(b).

⁷⁵ TEX. LOC. GOV'T CODE ANN. § 504.352.

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“Termination of the _____ (name of the corporation).”

32. Is there required ballot wording if a city wished to impose a Type A sales tax for a certain time period?

A city is authorized to limit the imposition of a Type A sales tax for a certain time period. If a city decides to impose the sales tax for a limited period, the required ballot wording is as follows:⁷⁶

“The adoption of a sales and use tax for the promotion and development of new and expanded business enterprises at the rate of _____ of one percent (insert one-eighth, one-fourth, three-eighths, or one-half to be inserted as appropriate) to be imposed for _ years (the number of years to be inserted as appropriate).”

33. Is there required ballot wording should a city decide to limit the use of Type A sales tax proceeds to certain projects?

A city is authorized to limit the use of Type A sales tax to a specific project or projects. Should a city decide to limit the uses of the tax, the ballot proposition is as follows:⁷⁷

“The adoption of a sales and use tax for the promotion and development of (insert description of the project) at the rate of _____ of one percent (one-eighth, one-fourth, three-eighths, or one-half to be inserted as appropriate).”

34. Is there required ballot wording should a city which imposes a sales tax for property tax relief decide to reduce the tax to adopt a Type A sales tax?

The Type A sales tax and the sales tax for property tax relief may appear as separate ballot propositions. Cities may also offer a joint ballot proposition on the sales tax for property tax relief and Type A sales tax. If a city offers a joint proposition, the ballot proposition is as follows:⁷⁸

“The adoption of a sales and use tax within the municipality for the promotion and development of new and expanded business enterprises at the rate of ____ of one percent (insert appropriate rate) and the adoption of an additional sales and use tax within the municipality at a rate of _____ of one percent to be used to reduce the property tax rate” (insert appropriate rate).”

⁷⁶ TEX. LOC. GOV'T CODE ANN. §§ 504.256 and 504.257.

⁷⁷ TEX. LOC. GOV'T CODE ANN. § 504.260.

⁷⁸ TEX. LOC. GOV'T CODE ANN. § 504.261(b).

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35. Is there required ballot language should a Type A corporation choose to reduce or abolish their Type A sales tax to adopt a Type B sales tax?

A city may offer a joint ballot proposition to reduce or abolish an existing Type A sales tax and at the same time adopt a Type B sales tax. However, the Development Corporation Act does not provide statutory ballot wording for such a proposition. Also, a city can still choose to have the voters vote on repealing or reducing a Type A tax and adopting a Type B tax as separate ballot propositions.⁷⁹ If the city separates the measures into separate ballot propositions, it is possible that one, both, or neither of the items would be approved at the election.

36. Is there required ballot wording should a Type A corporation choose to use sales tax proceeds to cleanup contaminated property?

A Type A corporation may use sales tax proceeds to undertake the cleanup of contaminated property if the use is approved by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot wording which must be used is as follows:⁸⁰

“The use of sales and use tax proceeds for the cleanup of contaminated property.”

Type B Ballot Wording:

37. Is there required ballot wording for the adoption of a Type B sales tax?

The Development Corporation Act does not contain mandatory ballot language to adopt a Type B sales tax. The Texas Election Code simply provides that the city has authority to frame the ballot proposition, unless a statute provides the wording.⁸¹ The ballot proposition must indicate the rate proposed for the Type B sales tax. The voters then vote for or against the proposition.

38. Is there required ballot wording to increase or reduce the Type B sales tax rate?

In 2017, the Texas Legislature approved an amendment which provides that on a petition signed by ten percent (10%) or more of the registered voters of the city requesting an election to reduce or increase the Type B sales tax rate, the city council shall order an election on the issue. The tax rate may be reduced or increased to any rate that is an increment of one-eighth of one percent that the city determines is appropriate, and that would not result in a combined rate local sales tax rate

⁷⁹ TEX. LOC. GOV'T CODE ANN. § 505.255.

⁸⁰ TEX. LOC. GOV'T CODE ANN. § 504.304(b).

⁸¹ TEX. ELEC. CODE ANN. § 52.072(a).

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exceeding the two percent (2.0%) maximum rate.⁸² Yet, there is not statutory ballot wording to consider the matter.⁸³

39. Is there required ballot wording to abolish a Type B sales tax?

There is not ballot wording to abolish a Type B corporation created before September 1, 1999. The city, by resolution, could terminate or dissolve the Type B development corporation.⁸⁴ If the city passes such a resolution, the corporation and the tax would continue only for the time period necessary to pay off any outstanding debt.

The Act provides that a city must hold an election on dissolving a Type B corporation created on or after September 1, 1999, if a proper petition is submitted to the city council. The petition must be signed by at least ten percent (10%) of the registered voters of the city.⁸⁵ The ballot proposition to dissolve a Type B corporation created on or after September 1, 1999 is as follows:⁸⁶

“Termination of the _____ (name of the corporation).”

40. Is there required ballot wording if a city wished to impose a Type B sales tax for a certain time period?

There is not specified ballot wording which limits a Type B sales tax for a specified period of time. Nonetheless, the Development Corporation Act provides that an eligible city may allow the voters to vote on a ballot proposition that limits the length of time that a Type B sales and use tax may be imposed.⁸⁷ An eligible city that imposes a tax for a limited time may later extend the period of the tax's imposition or reimpose the tax only if the extension or reimposition is authorized by a majority of the qualified voters of the city voting in an election called and held for that purpose.

41. Is there required ballot wording should a city decide to limit the use of Type B sales tax proceeds to certain projects?

The Development Corporation Act does not specifically address Type B ballot wording for certain projects. Nonetheless, the Development Corporation Act provides that the city may allow the voters to vote on a ballot proposition that limits the use of the Type B sales and use tax to a specific project.⁸⁸ Further, a Type B corporation that has been created to perform a specific project as

⁸² See, TEX. LOC. GOV'T CODE ANN. § 505.2566.

⁸³ *Id.*

⁸⁴ TEX. LOC. GOV'T CODE ANN. § 501.401.

⁸⁵ TEX. LOC. GOV'T CODE ANN. § 505.352.

⁸⁶ TEX. LOC. GOV'T CODE ANN. § 505.353.

⁸⁷ TEX. LOC. GOV'T CODE ANN. § 505.2565(a).

⁸⁸ TEX. LOC. GOV'T CODE ANN. § 505.2575(a).

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provided by this subsection may retain its corporate existence and perform other projects as may be approved by the voters of the city under an election called and held for that purpose in the same manner as Section 504.260 of the Texas Local Government Code.⁸⁹

42. Is there required ballot wording should a city which imposes a sales tax for property tax relief decide to reduce the sales tax for property tax relief to adopt a Type B sales tax?

In 2005, the Texas Legislature amended chapter 321 of the Texas Tax Code by addressing combined municipal sales and use tax propositions.⁹⁰ The statute provides that a city may by a combined ballot proposition lower or repeal any municipal sales tax, including the additional sales tax for property tax relief, and by the same proposition raise or adopt any other municipal sales tax, including the additional sales tax for property tax relief. In addition, a city can still offer the propositions as separate ballot propositions.

43. Is there required ballot language should a Type A city choose to reduce or abolish their Type A sales tax to adopt a Type B sales tax?

A city is authorized to offer a joint ballot proposition to reduce or abolish an existing Type A sales tax and adopt a Type B sales tax.⁹¹ Nonetheless, the Development Corporation Act does not provide ballot wording for a combined proposition. A city may still offer the propositions as separate measures.

44. Is there required ballot wording should a Type B corporation choose to use sales tax proceeds to clean up contaminated property?

A Type B corporation may use sales tax proceeds to undertake the cleanup of contaminated property if the use is approved by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot wording which must be used is as follows:⁹²

“The use of sales and use tax proceeds for the cleanup of contaminated property.”

⁸⁹ TEX. LOC. GOV'T CODE ANN. § 505.2575(b).

⁹⁰ TEX. TAX CODE ANN. § 321.409.

⁹¹ TEX. LOC. GOV'T CODE ANN. § 505.255.

⁹² TEX. LOC. GOV'T CODE ANN. § 505.305.

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45. Can Type B corporations expend sales tax proceeds for water supply facility projects?

A water supply facility is a permissible Type B project provided the voters approve the project in an election called and held for that purpose.⁹³ The term “water supply facility” includes dams, transmission lines, well field developments, and other water supply alternatives.⁹⁴ The ballot proposition which must be used to vote for or against the water supply facility is as follows:⁹⁵

“The use of sales and use tax proceeds for infrastructure relating to _____ (insert water supply facilities or water conservation programs, as appropriate).”

46. Can a Type B corporation expend sales tax proceeds for a water conservation program?

Water conservation programs include incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities.⁹⁶ These programs are permissible Type B projects provided the project is approved by a majority of the qualified voters in an election called and held for that purpose. The ballot wording which must be used for such a proposition is as follows:⁹⁷

“The use of sales and use tax proceeds for infrastructure relating to _____ (insert water supply facilities or water conservation programs, as appropriate).”

⁹³ TEX. LOC. GOV'T CODE ANN. §§ 505.154 and 505.304.

⁹⁴ TEX. LOC. GOV'T CODE ANN. § 505.154.

⁹⁵ TEX. LOC. GOV'T CODE ANN. § 505.304(b).

⁹⁶ TEX. LOC. GOV'T CODE ANN. § 505.154.

⁹⁷ TEX. LOC. GOV'T CODE ANN. § 505.304(b).

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Administration of Sales Tax:

General:

47. Who administers and oversees a Type A or Type B sales tax?

Once the Type A or Type B sales tax is adopted, the sales tax revenues are administered by the corporations. Non-profit corporations must be created to administer these sales taxes. These corporations are governed by the Development Corporation Act, and Texas Non-Profit Corporation Act, as contained in the Texas Business Organizations Code.⁹⁸ The corporations determine which projects to fund, with city council retaining approval authority over all expenditures of the corporation.⁹⁹

48. If a city has both Type A and Type B sales tax must the city create separate corporations for administration of the Type A and Type B sales tax?

The city must establish separate corporations and boards of directors to administer the Type A and Type B taxes.¹⁰⁰

Role of City Council:

49. Does city council have to approve expenditures for permissible Type A and Type B projects?

The development corporation has the power to expend the proceeds of the economic development sales tax for purposes authorized by the Development Corporation Act.¹⁰¹ Nonetheless, city council retains authority to “approve all programs and expenditures of a corporation.”¹⁰² City council’s oversight includes the authority to approve promotional expenditures as well.¹⁰³

⁹⁸ TEX. LOC. GOV’T CODE ANN. §§ 504.003, 505.003 & 501.054.

⁹⁹ TEX. LOC. GOV’T CODE ANN. § 501.073(a) (formerly § 21) (“The corporation’s authorizing unit [city council] will approve all programs and expenditures of a corporation and annually review any financial statements of the corporation.”)

¹⁰⁰ TEX. LOC. GOV’T CODE ANN. §§ 504.003 and 505.003.

¹⁰¹ TEX. LOC. GOV’T CODE ANN. §§ 504.303 and 505.302.

¹⁰² TEX. LOC. GOV’T CODE ANN. § 501.073(a).

¹⁰³ Op. Tex. Att’y Gen. No. GA-0086 (2003) at 3 – 5 (concluding city council may approve or disapprove a particular promotional expenditure).

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50. Can city council fund certain Type A or Type B projects on their motion?

City council cannot expend Type A or Type B funds on their own initiative. Approval for funding of projects begins with the board of directors. Should the board of directors decide to fund a particular project, city council approval is required. Nonetheless, city council cannot fund a project on their initiative.¹⁰⁴ The board of directors must also approve the project.

51. Can a quorum of city council attend a Type A or Type B corporation meeting?

A quorum of city council could attend a Type A or Type B meeting. However, attendance by a quorum of city council would require compliance with the Open Meetings Act. Consequently, the city would want to post an agenda of the city council meeting for 72 hours prior to the meeting.¹⁰⁵ Further, recent amendments to the Open Meetings Act may require the agenda be posted on the city's Internet website.¹⁰⁶

52. Is city council entitled to the financial records of a Type A or Type B corporation?

The Development Corporation Act provides that city council will annually review the financial records of the corporation and at all times will have access to the books and records of the corporation.¹⁰⁷

53. Does city council appoint the directors of the Type A and Type B corporation?

The board of directors of a Type A corporation consists of at least five (5) directors who are appointed by city council.¹⁰⁸ Similarly, seven (7) directors appointed by city council serve on the Type B board.¹⁰⁹

¹⁰⁴ Op. Tex. Att'y Gen. No. JC-0488 (2002) at 3 ("Before addressing the City's principal concern, we address its assumption that the City, rather than its [Type B] development corporation, may expend the sales tax proceeds for the purposes authorized by the voters. This assumption is contrary to the Act.").

¹⁰⁵ TEX. GOV'T CODE ANN. §§ 551.041 and 551.043.

¹⁰⁶ TEX. GOV'T CODE ANN. § 551.056(b).

¹⁰⁷ TEX. LOC. GOV'T CODE ANN. § 501.073.

¹⁰⁸ TEX. LOC. GOV'T CODE ANN. § 504.051.

¹⁰⁹ TEX. LOC. GOV'T CODE ANN. § 505.051.

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54. Could city council discuss the appointment of the directors of the Type A or Type B corporation in executive session?

A city council may only meet in executive session under the personnel exception if the person being discussed is an officer or employee of the city. Neither the appointment of advisory committee members nor the hiring of independent contractors are proper subjects for executive sessions under the personnel exception.¹¹⁰ Whether a particular position is an officer or employee of the city is a question of fact.

In Texas Attorney General Letter Opinion 94-063 the Attorney General considered whether the Dallas City Council could deliberate in executive session the appointment of board members to the Dallas Area Rapid Transit Authority (DART). Although, the Attorney General noted factual determinations could not be resolved in the opinion process, the opinion concluded city council could discuss in executive session appointees to the Dallas Area Rapid Transit Authority. This conclusion was based on several factors, including: a public officer generally has a fixed term of office and could be removed only in accordance with law; public officers perform governmental functions “largely independent of the control of others;” and city council was authorized by state law to appoint members to the DART board.

55. Can city council remove the directors of a Type A or Type B corporation?

Type A board of directors serve terms not to exceed six (6) years and are subject to removal at any time by city council.¹¹¹ Type B board of directors serve two (2) year terms and are subject to removal at any time by city council.¹¹²

56. Can the city provide services or money to a Type A or Type B corporation?

The Development Corporation Act generally prohibits a city from lending its credit or granting any public money or thing of value to an economic development corporation. The city may not provide any funding or services to a development corporation unless the city is reimbursed for the expenditure.¹¹³

¹¹⁰ Op. Tex. Att’y Gen. No. DM-149 (1992) (members of advisory committee are not public officers or employees): *Board of Trustees v. Cox Enterprises*, 679 S.W.2d 86, 90 (Tex. App. – Texarkana 1984), *aff’d in part, rev’d in part on other grounds*, 706 S.W.2d 956 (Tex. 1986) (governing body may meet in executive session to discuss officers and employees only; independent contractors are not officers or employees).

¹¹¹ TEX. LOC. GOV’T CODE ANN. § 504.051(b) & (c). *See also*, Op. Tex. Att’y Gen. No. JC-0349 (2001).

¹¹² TEX. LOC. GOV’T CODE ANN. § 505.051(b) & (c).

¹¹³ TEX. LOC. GOV’T CODE ANN. § 501.007 (“(a) Except as provided by Subsection (b), a unit may not lend its credit or grant public money or another thing of value in aid of a corporation. (b) A municipality may grant public money to a corporation under a contract authorized by Section 380.002 [of the Local Government Code]”). *See also*, Op. Tex. Att’y Gen. No. JC-0109 (1999) at 3-5.

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In 2001, the Texas Legislature did create an exception to this general rule. A home rule city is now authorized to grant public money to a Type A or Type B corporation under a contract authorized by Section 380.002 of the Texas Local Government Code.¹¹⁴ The Type A or Type B corporation is required to use the grant of city money for the “development and diversification of the economy of the state, elimination of unemployment or underemployment in the state, and development and expansion of commerce in the state.”¹¹⁵

57. Who receives the Type A or Type B sales tax proceeds?

Once the Type A or Type B sales tax is effective, the sales tax is remitted to the State Comptroller who then remits the Type A and Type B sales tax proceeds to the city. The city upon receiving its local sales tax allotment from the Comptroller must remit the sales tax to the Type A or Type B corporation.¹¹⁶

58. Can city council sell land held by a Type A or Type B corporation without the Type A or Type B board’s approval?

In Texas Attorney General Opinion JC-0109 (1999), the Attorney General addressed land sales of a Type B corporation. The opinion noted, “the powers of the corporation are vested in the board of directors, . . . a [Type B] development corporation may not sell land without board approval. The board of directors of a development corporation is subject to the Open Meetings Act and therefore may not take final official action on a land sale except in an open meeting.”¹¹⁷

Type A and Type B Board of Directors:

59. How many board members serve on a Type A and Type B board of directors?

The board of directors of a Type A corporation consists of at least five (5) directors who are appointed by city council.¹¹⁸ Seven (7) directors serve on the Type B board.¹¹⁹

¹¹⁴ TEX. LOC. GOV'T CODE ANN. § 501.007(b).

¹¹⁵ TEX. LOC. GOV'T CODE ANN. § 380.002(b).

¹¹⁶ TEX. LOC. GOV'T CODE ANN. §§ 504.301 & 505.301.

¹¹⁷ Op. Tex. Att’y Gen. No. JC-0109 (1999) at 2&3.

¹¹⁸ TEX. LOC. GOV'T CODE ANN. § 504.051(a).

¹¹⁹ TEX. LOC. GOV'T CODE ANN. § 505.051(a).

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60. How long a term do Type A and Type B board of directors serve?

Type A board of directors serve a term not to exceed six (6) years.¹²⁰ Type B board members serve a two (2) year term.¹²¹

61. Can Type A and Type B board of directors be removed for any reason?

Both Type A and Type B board of directors serve at the pleasure of city council and may be removed by city council at any time without cause.¹²²

62. Can a Type A or Type B director be reappointed to a subsequent term?

The Attorney General concluded a Type A board member could be reappointed to a subsequent term, absent any contrary provision in the certificate of formation (formerly called articles of incorporation) or bylaws, or in a city charter, ordinance or resolution of the city.¹²³

63. Can the board of directors appoint someone to fill a vacancy when a board member resigns in the middle of his or her term?

The Development Corporation Act provides that the board of directors “is appointed by the governing body of the authorizing municipality.”¹²⁴ Consequently, city council would fill any vacancy on the Type A or Type B board.

64. Who determines which board members serve as President, Secretary and other officers of the corporation?

The Type A and Type B board of directors appoint the president, secretary, and the other officers which the city council considers necessary.¹²⁵

65. How long is a term as President, Secretary or other officers?

The Development Corporation Act provides that an officer of the corporation is elected or appointed at the time, in the manner, and for the term prescribed by the certificate of formation or bylaws. Yet, an officer’s term may not exceed three (3) years. In the absence of provisions in the certificate of formation or the bylaws prescribing the selection or terms of officers, the board of

¹²⁰ TEX. LOC. GOV’T CODE ANN. § 504.051(c).

¹²¹ TEX. LOC. GOV’T CODE ANN. § 505.051(b).

¹²² TEX. LOC. GOV’T CODE ANN. §§ 504.051(b) & 505.051(c).

¹²³ Op. Tex. Att’y Gen. No. JC-0349 (2001).

¹²⁴ TEX. LOC. GOV’T CODE ANN. §§ 504.051(b) & 505.051(b).

¹²⁵ TEX. LOC. GOV’T CODE ANN. §§ 504.052 & 505.053.

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directors shall annually elect or appoint officers.¹²⁶

66. Must a Type A board member be a resident of the city?

The Development Corporation Act does not specify any residency requirement for a Type A board member. A Type A director is not required to be a resident of the city.

67. Must a Type B board member be a resident of the city?

In a city with a population of 20,000 or more, the Type B board of directors must be residents of the city.¹²⁷ In a city with a population of less than 20,000, each Type B director must be a resident of the municipality; a resident of the county in which the major part of the area of the municipality is located; or reside within ten (10) miles of the municipality's boundaries and is in a county bordering the county in which most of the area of the municipality is located.

Moreover, a person may serve on the Type B board if the person was a Type A director at the time the Type A corporation was dissolved, and replaced with a Type B corporation.¹²⁸ Since the directors of Type A corporations are not required to be residents of the city, a non-resident of the city could serve as a Type B director in this instance.

68. Can city council members serve as directors on the Type A or Type B corporation?

The Development Corporation Act limits the number of city officers or city employees who may serve as Type B directors. The Act provides that three (3) of the seven (7) directors may not be employees, officers, or members of the governing body of the eligible Type B city.¹²⁹

The Development Corporation Act does not address whether council members may serve on the Type A board. Nonetheless, the Texas Attorney General noted service on the board of directors of a Type B board is not a "public officer" for the purposes of the common-law doctrine of incompatibility.¹³⁰ Accordingly, such dual service on the Type A board would not violate the common-law doctrine of incompatibility nor the Texas constitutional prohibition on holding two paid offices. However, such service could be prohibited by local ordinance or bylaws of the corporation.

¹²⁶ TEX. LOC. GOV'T CODE ANN. § 501.065(b).

¹²⁷ TEX. LOC. GOV'T CODE ANN. § 505.052.

¹²⁸ TEX. LOC. GOV'T CODE ANN. § 505.052(d).

¹²⁹ TEX. LOC. GOV'T CODE ANN. § 505.052(c) ("Three directors of a Type B corporation must be persons who are not employees, officers, or members of the governing body of the authorizing municipality.")

¹³⁰ Op. Tex. Att'y Gen. No. JC-0547 (2002) at 3. ("As we have noted, an industrial development corporation, by statute, has none of the 'attributes of sovereignty,' and that, as a result, . . . a member of the board does not hold a 'public office.'")

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69. Could a mayor or council member serve for a Type A or Type B corporation in a paid capacity such as executive director of a Type A or Type B corporation?

Recently, the Texas Attorney General concluded the mayor of an eligible Type B city could also serve as the paid executive director of the Type B corporation.¹³¹ Although such dual service may not be prohibited, such dual service may implicate the conflict of interest provisions applicable to local public officials under chapter 171 of the Local Government Code. Accordingly, a mayor or council member with a “substantial interest” in the Type A or Type B corporation would have to file the required affidavit and abstain from voting or discussing matters of the corporation when the action contemplated will have an economic effect on the corporation that is different from its effect on the public.

70. What constitutes a quorum of the Type A or Type B board of directors?

A majority of the board constitutes a quorum. Consequently, three (3) members of a five (5) member Type A board constitute a quorum.¹³² If a Type A corporation should increase their board membership, a quorum would be a majority of the number of board members. Four (4) members of the seven (7) member Type B board constitute a quorum.¹³³

71. Are Type A or Type B board of directors paid?

Type A and Type B board members may not be paid. The directors serve without compensation but must be reimbursed for actual expenses.¹³⁴

72. Would the nepotism statute preclude city council from appointing family members or relatives to the Type A or Type B board of directors?

The nepotism statute, Texas Government Code Chapter 573, prohibits a public official from appointing, confirming the appointment, or voting on the appointment of a “close relative” of certain city officials to paid positions.¹³⁵ Since, neither Type A nor Type B board members are paid, the state nepotism statute would not preclude such appointments.¹³⁶ Nonetheless, a home

¹³¹ Op. Tex. Att’y Gen. No. JC-0547 (2002).

¹³² TEX. LOC. GOV’T CODE ANN. § 504.053.

¹³³ TEX. LOC. GOV’T CODE ANN. § 505.054.

¹³⁴ TEX. LOC. GOV’T CODE ANN. § 501.062(d).

¹³⁵ TEX. GOV’T CODE ANN. § 573.041.

¹³⁶ Tex. Att’y Gen. LO 96-010 (1996) (concluding because a member of the board of directors of an industrial development corporation, established under the Development Corporation Act of 1979, V.T.C.S. article 5190.6, receives only reimbursement for the member’s expenses, the member was not “directly or indirectly compensated from public funds or fees of office.” Thus, section 573.041 of the Government Code, which generally prohibits nepotistic appointments, was inapplicable).

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rule city could enact more restrictive nepotism limitations and preclude such appointments.¹³⁷

73. Are the board meetings of Type A or Type B board subject to the Open Meetings Act?

Type A and Type B corporations and the board of directors are subject to the Open Meetings Act.¹³⁸ Further, for most Type A or Type B boards meetings must occur within the city limits. Yet, in 2011, the Texas Legislature amended state law to allow Type A and Type B boards located within a county with a county population of less than 30,000 to conduct their meetings within the county.¹³⁹

74. Can the board of directors of Type A or Type B corporations take action without a meeting if the board of directors consents in writing?

Section 501.071 of the Texas Local Government Code provides that “[a]n action that may be taken at a meeting of a board of directors, including an action required by this subtitle to be taken at a meeting, may be taken without a meeting if each director signs a written consent providing the action to be taken.” However, in 1983 the Development Corporation Act was amended by providing that the board of directors is subject to the Open Meetings Act.¹⁴⁰ Consequently, in Texas Attorney General Opinion JM-120 (1983), the Attorney General concluded the addition of section 11(b), now Section 501.072 of the Texas Local Government Code, subjecting the board of directors to the Open Meetings Act “impliedly repealed” section 14(c), now Section 501.071(a) of the Texas Local Government Code. As a result, the board of directors of Type A or Type B corporations may not take official action by written agreement without a meeting. All official actions of the Type A or Type B corporation must occur in a posted meeting in full compliance with the Texas Open Meetings Act.

75. Are Type A and Type B corporations subject to the Public Information Act (formerly the Open Records Act)?

Both Type A and Type B corporations are subject to the Public Information Act.¹⁴¹

76. Are the Type A and Type B directors subject to the state conflicts of interest statute?

Generally, directors of non-profit corporations do not constitute a “local public official” subject to the conflicts of interest statute. Consequently, absent a local provision to the contrary directors of

¹³⁷ See, Tex. Att’y Gen. LO 93-30 (1993).

¹³⁸ TEX. LOC. GOV’T CODE ANN. § 501.072.

¹³⁹ TEX. LOC. GOV’T CODE ANN. §§ 504.054 and 505.055.

¹⁴⁰ TEX. LOC. GOV’T CODE ANN. § 501.072.

¹⁴¹ TEX. LOC. GOV’T CODE ANN. § 501.072.

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a Type A or Type B corporation are not subject to chapter 171 of the Texas Local Government Code.¹⁴² However, the Texas Non-Profit Corporation Act may prohibit certain transactions. In Texas Attorney General Opinion JC-338 (2001), the Attorney General noted the Texas Non-Profit Corporation Act prohibited the board of directors from approving a loan to a director of the Type B corporation.

Corporation Powers and Duties:

77. Once a Type A or Type B corporation is formed must city council approve articles of incorporation now referred to as certificate of formation?

The certificate of formation for all development corporations must be approved by city council.¹⁴³ Further, the certificate of formation of a Type A or Type B corporation must state that the corporation is governed by either Chapter 504 or Chapter 505 of the Texas Local Government Code,¹⁴⁴ and must be filed in triplicate with the Secretary of State's Office.¹⁴⁵ Upon the issuance of the certificate of incorporation, the corporate existence begins. Once the certificate of incorporation is issued, the board of directors is required to hold an organizational meeting for the purposes of adopting the corporation's bylaws and to elect officers.¹⁴⁶

78. Who can amend the certificate of formation?

The Development Corporation Act provides that the certificate of formation may be amended at any time by the board of directors or city council.¹⁴⁷ The board of directors is required to file with city council a written application requesting city council approve the amendments. The written application must specify the proposed amendments. If city council, by appropriate resolution, determines that it is advisable that the proposed amendments be made, authorizes the same to be made, and approves the form of the proposed amendment, the board of directors shall proceed to amend the certificate of formation.¹⁴⁸ The certificate of formation may also be amended at any time by city council by resolution.¹⁴⁹ Again, city council would be required to file the certificate of amendment with the Secretary of State.

¹⁴² Op. Tex. Att'y Gen. No. JC-0338 (2001) at 3 (concluding that a development corporation created under the Act is not a political subdivision nor any other "local governmental entity" subject to chapter 171 of the Local Government Code).

¹⁴³ TEX. LOC. GOV'T CODE ANN. § 501.051.

¹⁴⁴ TEX. LOC. GOV'T CODE ANN. §§ 504.004 and 505.004.

¹⁴⁵ TEX. LOC. GOV'T CODE ANN. § 501.057(b).

¹⁴⁶ TEX. LOC. GOV'T CODE ANN. § 501.063(a).

¹⁴⁷ TEX. LOC. GOV'T CODE ANN. § 501.301.

¹⁴⁸ *Id.*

¹⁴⁹ TEX. LOC. GOV'T CODE ANN. § 501.302.

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79. Must city council approve bylaws for the Type A or Type B corporation?

City council must approve the initial bylaws. After the issuance of the certificate of formation, the board of directors is required to hold an organizational meeting to adopt the bylaws and to elect officers.¹⁵⁰ The initial bylaws must be adopted by the board of directors and approved by city council by resolution.¹⁵¹

80. Can a Type A or Type B corporation amend its bylaws?

A Type A or Type B corporation is authorized to adopt and amend bylaws not inconsistent with its certificate of formation or with state law. In addition, amendments to the bylaws must be approved by resolution of the city council.¹⁵²

81. Are Type A or Type B corporations governed by the Texas Non-Profit Corporation Act?

Type A and Type B corporations are governed by the Development Corporation Act, chapters 501 to 505 of the Texas Local Government Code, and the Texas Non-Profit Corporation Act, as contained in the Texas Business Organizations Code. To the extent the provisions of the Texas Non-Profit Corporation Act conflict with the provisions of the Development Corporation Act, the Development Corporation Act prevails.¹⁵³

82. Can a Type A or Type B corporation assume a debt?

A Type A economic development corporation is prohibited from assuming a debt or making “an expenditure to pay the principal of or interest on a debt that existed before the date” the city authorized the creation of the corporation.”¹⁵⁴ The Development Corporation Act does not address whether a Type B corporation is prohibited from paying principal or interest on a debt if the debt existed before the date the city creates a Type B corporation.

83. When a Type A or Type B corporation sells real property must the corporation comply with certain notice and bidding requirements applicable to cities?

The Texas Attorney General determined an economic development corporation who sells real property unrelated to a project is not required to comply with the notice and bidding procedures

¹⁵⁰ TEX. LOC. GOV'T CODE ANN. § 501.063(a).

¹⁵¹ TEX. LOC. GOV'T CODE ANN. § 501.064.

¹⁵² TEX. LOC. GOV'T CODE ANN. § 501.064(c)(2).

¹⁵³ TEX. LOC. GOV'T CODE ANN. § 501.054(a).

¹⁵⁴ TEX. LOC. GOV'T CODE ANN. § 504.104.

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applicable to Texas cities, chapter 272 of the Texas Local Government Code.¹⁵⁵ Nonetheless, a Type A or Type B corporation must obtain fair market value when selling real property unrelated to a project.¹⁵⁶

84. May a city convey real property to a Type A or Type B corporation?

In 2009, the Texas Legislature approved a bill authorizing a city with a population of 20,000 or less to convey real property to a Type A or Type B corporation without complying with the notice bidding requirements of chapter 272 of the Texas Local Government Code.¹⁵⁷ The city may convey real property to the Type A or Type B corporation provided the economic development corporation agrees to use the property in a manner that primarily promotes a public purpose of the municipality. However, the city may not convey real property acquired through eminent domain. Further, should the economic development corporation at any time fail to use the property in that manner, ownership of the property automatically reverts to the city. The municipality shall transfer the property by an appropriate instrument of transfer. The instrument must include a provision that: (1) requires the economic development corporation to use the property in a manner that primarily promotes a public purpose of the municipality; and (2) indicates that ownership of the property automatically reverts back to the city should the corporation at any time fail to use the property in that manner.

85. May a Type B corporation purchase real property with proceeds without an appraisal of the property's market value?

In 2011, the Texas Legislature amended the statute to provide that a Type B corporation may not purchase real property for a project wholly or partly with bond proceeds until the Type B corporation obtains an independent appraisal of the property's market value.¹⁵⁸

86. Are purchases made by Type A and Type B corporations exempt from state sales and use taxes?

An otherwise taxable item sold, leased, or rented to or stored, used, or consumed by a Type A or Type B corporation is exempt from sales and use taxes imposed by chapter 151 of the Texas Tax Code, provided the item is for the exclusive use and benefit of the corporation.¹⁵⁹ The exemption does not apply to an item that is a project or part of a project that is to be leased, sold, or lent by the Type A or Type B corporation.¹⁶⁰

¹⁵⁵ Op. Tex. Att'y Gen. No. JC-0109 (1999).

¹⁵⁶ *Id.* at 2.

¹⁵⁷ TEX. LOC. GOV'T CODE ANN. § 253.012.

¹⁵⁸ TEX. LOC. GOV'T CODE ANN. § 505.1041.

¹⁵⁹ TEX. TAX CODE ANN. § 151.341(a). *See also*, 34 Tex. Admin. Code. § 3.322(c)(7).

¹⁶⁰ TEX. TAX CODE ANN. § 151.341(b).

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87. Are Type A and Type B economic development corporations required to file with the Internal Revenue Service Form 990?

An issue which occasionally comes up is whether a Type A or Type B corporation must file with the IRS Form 990. Form 990 is a form used by tax-exempt organizations to file annual information returns. There are however exceptions to the filing requirement. The Internal Revenue Service in Revenue Procedure 95-48, I.R.B. 1995-47, 13., (Nov. 20, 1995) concluded governmental units, and affiliates of governmental units are exempt from the Form 990 filing requirements. Accordingly, a corporation may wish to review this issue with their attorney. Further, a corporation could request from the IRS a determination whether their entity qualifies as an “affiliate of a governmental unit,” and exempt from the Form 990 filing requirements. The IRS in making the determination will want to review the corporation’s certificate of formation, bylaws, and there is a charge set by the IRS for the ruling.

Role of Citizens:

88. Can citizens initiate Type A or Type B sales tax election?

An election to adopt either the Type A or Type B sales tax may be initiated by citizens. If the city council receives a petition signed by a number of qualified voters that equals at least twenty percent (20%) of the voters who voted in the most recent city election, city council would be required to pass an ordinance ordering an election on the imposition of the tax.¹⁶¹ Additionally, city council on its own initiative may approve an ordinance calling for an election to adopt either the Type A or Type B sales tax.¹⁶²

89. Can citizens object to Type A expenditures?

When a Type A corporation pursues a project it is required to obtain city council approval of the project.¹⁶³ Generally, there is no additional requirement of notice or hearing for projects undertaken by Type A corporations. Nonetheless, citizen taxpayers through an action in district court could seek declaratory and or injunctive relief to prevent the funding of a particular project.¹⁶⁴

¹⁶¹ TEX. LOC. GOV'T CODE ANN. §§ 504.255 and 505.256 (stating Chapter 321 of the Texas Tax Code governs the imposition, computation, administration of the Type A and Type B sales tax) and TEX. TAX CODE ANN. § 321.401(c) (requiring city council to pass an ordinance ordering an election on the Type A or Type B sales tax if a petition is presented).

¹⁶² TEX. TAX CODE ANN. § 321.401(b).

¹⁶³ TEX. LOC. GOV'T CODE ANN. § 501.073(a) (“The corporation’s authorizing unit will approve all programs and expenditures of a corporation...”).

¹⁶⁴ See, *Gaut v. Amarillo Economic Development Corporation*, 921 S.W.2d 884 (Tex. App. – Austin 1996) (plaintiffs filed a petition seeking declaratory and injunctive relief to prevent Type A corporation’s performance of jet service contract with American Airlines for continued jet service for DFW Airport to the Amarillo airport).

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90. Can citizens object to Type B expenditures?

Generally, a Type B corporation must hold at least one (1) public hearing on a proposed project.¹⁶⁵ However, in 2007 the Texas Legislature approved legislation applicable to Type B cities with a population of less than 20,000.¹⁶⁶ A Type B corporation in a city with a population of less than 20,000 is not required to hold a public hearing if the proposed project is authorized by Subchapter C of Chapter 501 of the Texas Local Government Code. Subchapter C of Chapter 501 of the Texas Local Government Code is Sections 501.101 to 501.107 of the Texas Local Government Code. Any hearing must be held prior to the expenditure of any funds on the project. The Type B corporation may hold one (1) public hearing to consider one project or a group of projects. After the projects have been considered at a public hearing and sixty (60) days have passed since the first published notice of the project, the Type B corporation may make expenditures related to the project.¹⁶⁷

Further, the public has a right to gather a petition to object to a particular expenditure.¹⁶⁸ The petition must be submitted within sixty (60) days following the first published notice of the project or categories of projects. This petition must be signed by ten percent (10%) or more of the registered voters of the city requesting an election be held before the project is undertaken. If the petition is submitted in a timely manner and is signed by the requisite number of voters, an election is required. The corporation may not undertake the project until the voters approve the project at an election on the issue. If the voters disapprove the project at the election, the Type B tax proceeds may not be used for the project. An election is not required to be held after the submission of a petition if the qualified citizens of the city have previously approved the undertaking of a specific project or projects.¹⁶⁹

91. Can the citizens force the funding of a particular Type A or Type B project?

The Development Corporation Act does not address the ability of citizens to force the directors of a Type A or Type B board to fund a particular project.

92. Can citizens seek to abolish a Type A sales tax?

On a petition signed by at least ten percent (10%) or more of the registered voters of the city, the city can be required to order an election on the dissolution of the Type A corporation. If the election for dissolution is approved, the Type A tax would continue to satisfy any remaining obligations that were executed prior to the date of the dissolution election. When the last of the obligations

¹⁶⁵ TEX. LOC. GOV'T CODE ANN. § 505.159(a).

¹⁶⁶ TEX. LOC. GOV'T CODE ANN. § 505.159(b).

¹⁶⁷ TEX. LOC. GOV'T CODE ANN. § 505.160(a).

¹⁶⁸ *Id.*

¹⁶⁹ TEX. LOC. GOV'T CODE ANN. § 505.160(b).

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are satisfied, any remaining assets of the corporation shall be transferred to the city, and the corporation is dissolved.¹⁷⁰

93. Can citizens seek to abolish a Type B sales tax?

An eligible Type B city must hold an election on the issue of dissolution of a Type B corporation created on or after September 1, 1999¹⁷¹ if a proper petition is submitted to the city council.¹⁷² The petition requesting the election on the dissolution of the Type B corporation must be signed by at least ten percent (10%) of the registered voters of the city. At the dissolution election, the ballot shall be printed to permit voting for or against the proposition. The ballot proposition to dissolve a Type B corporation created on or after September 1, 1999 is as follows:¹⁷³

“Termination of the _____ (name of the corporation).”

For Type B corporations created prior to September 1, 1999, the city could pass a resolution to dissolve the corporation.¹⁷⁴ If the city passed the resolution, the tax would continue to pay off any outstanding obligations.

Procedural Requirements:

Hearing Requirements:

94. Must Type A corporations conduct hearings prior to funding Type A projects?

Generally, when Type A corporations pursue projects they are required to obtain city council approval of the project.¹⁷⁵ Type A corporations generally do not have additional notice and hearings requirements on individual projects undertaken by the corporation. Nonetheless, there are exceptions requiring the Type A corporation to conduct a public hearing. If a Type A corporation desires to pursue a sports venue project, or a Type B project, a public hearing is required.¹⁷⁶

¹⁷⁰ TEX. LOC. GOV'T CODE ANN. §§ 504.351 and 504.353. *See also*, Op. Tex. Att'y Gen. No. JC-0553 (2002).

¹⁷¹ TEX. LOC. GOV'T CODE ANN. § 505.351. (formerly Texas Senate Bill 269, Section 2, 76th Legislature, Regular Session (1999)).

¹⁷² TEX. LOC. GOV'T CODE ANN. § 505.352.

¹⁷³ TEX. LOC. GOV'T CODE ANN. § 505.353.

¹⁷⁴ TEX. LOC. GOV'T CODE ANN. § 501.401(c).

¹⁷⁵ TEX. LOC. GOV'T CODE ANN. § 501.073(a) (“The corporation’s authorizing unit [city council] will approve all programs and expenditures of a corporation and annually review any financial statements of the corporation.”)

¹⁷⁶ TEX. LOC. GOV'T CODE ANN. §§ 504.152 and 504.153.

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95. If Type A corporations pursue a Type B project must the Type A corporation conduct hearings?

Type A corporations must conduct a public hearing prior to the Type B project.¹⁷⁷ If the economic development corporation desires to use Type A proceeds to undertake a Type B project, it is required to conduct a public hearing prior to the election. The hearing must be held in the city and must inform the residents of the cost and impact of the project or category of projects. Additionally, the city must publish notice of the hearing in a newspaper of general circulation in the city at least thirty (30) days prior to the hearing date. The notice must indicate the date, time, place and subject of the hearing. The notice should be published on a weekly basis until the date of the hearing.¹⁷⁸

96. Must Type B corporations conduct a public hearing prior to funding Type B projects?

Generally, a Type B corporation must hold at least one (1) public hearing on a proposed project.¹⁷⁹ In 2007, the Texas Legislature amended the Development Corporation Act applicable to Type B cities with a population of less than 20,000.¹⁸⁰ A Type B corporation in a city with a population of less than 20,000 is not required to hold a public hearing if the proposed project is contained in Subchapter C of Chapter 501 of the Texas Local Government Code. Additionally, the Type B corporation must obtain city council approval of the expenditure.¹⁸¹ When required a Type B corporations could conduct one (1) public hearing to consider several projects. Nonetheless, notice of the project or projects must be published in a newspaper of general circulation in the city. After the projects have been considered at a public hearing, as necessary, and once sixty (60) days have passed since the first published notice of the projects, the Type B corporation is authorized to make expenditures related to the projects.

97. Can citizens object to Type B expenditures?

The public has a right to gather a petition objecting to a particular Type B project.¹⁸² The petition must be submitted within sixty (60) days of the first published notice of a specific project or type of project, and must be signed by more than ten percent (10%) of the registered voters of the city. If the governing body of the city receives a petition from more than ten percent (10%) of the registered voters of the city requesting an election be held before that specific project or the general type of project is undertaken, the corporation may not undertake the project until the voters approve the project at an election called and held to consider the proposed Type B project.¹⁸³ An election

¹⁷⁷ TEX. LOC. GOV'T CODE ANN. § 504.153.

¹⁷⁸ *Id.*

¹⁷⁹ TEX. LOC. GOV'T CODE ANN. § 505.159(a).

¹⁸⁰ TEX. LOC. GOV'T CODE ANN. § 505.159(b).

¹⁸¹ TEX. LOC. GOV'T CODE ANN. § 501.073(a).

¹⁸² TEX. LOC. GOV'T CODE ANN. § 505.160(a).

¹⁸³ *Id.*

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is not required to be held after the submission of a petition if the voters have previously approved the specific project at an election called for that purpose or in conjunction with another Type B election.

98. Must a Type B corporation conduct a hearing to pursue a sports venue project?

Type B corporations must conduct at least one public hearing to consider a sports venue project.¹⁸⁴ Initially, the city would have to call an election on a uniform election date to consider the sports venue project.¹⁸⁵ At the election, the voters of the city would vote on a ballot proposition authorizing the Type B corporation to use the sales and use tax, “including any amount previously authorized and collected, for a specific sports venue project.” The project or category of projects must be clearly described on the ballot proposition so that a voter will be able to discern the limits of the specific project or category of projects authorized by the proposition.¹⁸⁶ If maintenance and operating costs are to be paid from the sales or use tax, the ballot proposition must clearly state that fact. Again, a public hearing must be held within the city to inform the residents of the city of the cost and impact of the project prior to the election. At least thirty (30) days before the date set for the hearing, a notice of the date, time, place, and subject of the hearing must be published in a newspaper of general circulation within the city. The notice must be published on a weekly basis until the date of the hearing.¹⁸⁷

Publication of Notice:

99. Must Type A corporations publish notice of any hearings on proposed projects?

Generally, there is not a requirement that a Type A corporation conduct public hearings. Consequently, Type A corporations generally do not have a publication requirement. When a Type A board pursues a particular project city council must approve the project.¹⁸⁸ Yet, there is no requirement for additional public notice on individual projects undertaken by the Type A corporations. Nonetheless, there are exceptions which require publishing notice for sports venue projects, pursuing Type B projects,¹⁸⁹ and maintenance and operating costs of a project.¹⁹⁰

¹⁸⁴ TEX. LOC. GOV'T CODE ANN. § 505.203.

¹⁸⁵ TEX. LOC. GOV'T CODE ANN. § 505.202(c)(2).

¹⁸⁶ TEX. LOC. GOV'T CODE ANN. § 505.202(b).

¹⁸⁷ TEX. LOC. GOV'T CODE ANN. § 505.203.

¹⁸⁸ TEX. LOC. GOV'T CODE ANN. § 501.073(a).

¹⁸⁹ TEX. LOC. GOV'T CODE ANN. §§ 504.152 and 504.153.

¹⁹⁰ TEX. LOC. GOV'T CODE ANN. § 504.302.

100. Must a Type A corporation publish notice of their hearing for a sports venue project?

Type A corporations must publish notice of their hearing to consider a sports venue project.¹⁹¹ Initially, the city would have to call an election on a uniform election date to consider the sports venue project.¹⁹² At the election, the voters of the city would vote on a ballot proposition authorizing the Type A corporation to use the sales and use tax, “including any amount previously authorized and collected, for a specific project or for a specific category of projects, . . . including a sports venue” project.¹⁹³ The project or category of projects must be clearly described on the ballot proposition so that a voter will be able to discern the limits of the sports venue project.¹⁹⁴ If maintenance and operating costs are to be paid from the sales or use tax, the ballot proposition must clearly state that fact. A public hearing must be held within the city to inform the residents of the city of the cost and impact of the project prior to the election. At least thirty (30) days before the date set for the hearing, a notice of the date, time, place, and subject of the hearing must be published in a newspaper of general circulation within the city. The notice should be published on a weekly basis until the date of the hearing.¹⁹⁵

101. Must a Type A corporation publish notice to expend sales tax proceeds on maintenance and operating costs of a Type A project?

Type A corporations may use Type A sales tax proceeds on maintenance and operation expenses for a Type A project.¹⁹⁶ Yet, the voters of the city may petition for an election on the use of Type A proceeds for maintenance and operation costs of a particular project within sixty (60) days of the first published notice of the use of sales tax proceeds to pay maintenance and operating costs. This petition must be signed by at least ten percent (10%) of the registered voters of the city requesting that an election be held prior to tax proceeds being used to pay for the maintenance and operating costs of a project.¹⁹⁷

102. When must a Type B corporation publish notice of a proposed project?

Type B corporations must publish notice of all projects.¹⁹⁸ Excluding sports venue projects and absent a local provision, there is not a requirement the published notice of the hearing be published a certain number of days prior to the hearing. Further, Type B corporations must conduct at least

¹⁹¹ TEX. LOC. GOV'T CODE ANN. § 504.153.

¹⁹² TEX. LOC. GOV'T CODE ANN. § 504.152 (c)(2).

¹⁹³ TEX. LOC. GOV'T CODE ANN. § 504.152 (a).

¹⁹⁴ TEX. LOC. GOV'T CODE ANN. § 504.152(b).

¹⁹⁵ TEX. LOC. GOV'T CODE ANN. § 504.153.

¹⁹⁶ TEX. LOC. GOV'T CODE ANN. § 504.302(a).

¹⁹⁷ TEX. LOC. GOV'T CODE ANN. § 504.302(b).

¹⁹⁸ TEX. LOC. GOV'T CODE ANN. § 505.160(a).

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one (1) public hearing on most projects. Yet, a Type B corporation in a city with a population of less than 20,000 is not required to hold a public hearing if the proposed project is authorized by Subchapter C of Chapter 501 of the Texas Local Government Code.¹⁹⁹ Further, Type B corporations must wait sixty (60) days after first publishing notice of the specific project or category of projects before expending any monies for the Type B project.²⁰⁰

103. When must a Type B corporation publish notice of their hearing on a sports venue project?

Type B corporations must conduct at least one public hearing on a proposed sports venue project.²⁰¹ The public hearing is required to be held in the city to inform the residents of the city of the cost and impact of the project or category of projects. “At least 30 days before the date set for the hearing, notice of the date, time, place, and subject of the hearing must be published each week until the date of the hearing in a newspaper with general circulation in the municipality in which the project is located.”²⁰²

104. Must a Type B corporation publish notice to expend sales tax proceeds on maintenance and operating costs of a Type B project?

After a public hearing has been held on the proposed project, Type B corporations must wait sixty (60) days after first publishing notice of the specific project or category of projects before expending any monies for the Type B project. This includes the maintenance and operating costs of a Type B project. The Development Corporation Act specifically provides that the voters may object to expenditures for maintenance and operating costs of Type B projects by submitting a petition signed by more than ten percent (10%) of the registered voters of the city.²⁰³ The public has sixty (60) days from the date of the first published notice of the project to submit the petition.

¹⁹⁹ TEX. LOC. GOV'T CODE ANN. § 505.159(b).

²⁰⁰ TEX. LOC. GOV'T CODE ANN. § 505.160(a).

²⁰¹ TEX. LOC. GOV'T CODE ANN. §§ 505.159 and 505.203.

²⁰² TEX. LOC. GOV'T CODE ANN. § 505.203.

²⁰³ TEX. LOC. GOV'T CODE ANN. § 505.160(a).

I. The Economic Development Sales Tax

Using Sales Tax to Promote Economic Development

The use of the sales tax for economic development purposes has been one of the most popular and effective tools used by cities to promote economic development. Since the authorization for the local option tax took effect in 1989, more than 586 cities have levied an economic development sales tax. These cities have cumulatively raised in excess of \$573 million annually in additional sales tax revenue dedicated to the promotion of local economic development. Of these cities, 101 have adopted a Type A economic development sales tax, 367 cities have adopted a Type B economic development sales tax, and 118 cities have adopted both a Type A and a Type B sales tax.

History of the Economic Development Sales Tax

In 1979, the Texas Legislature passed the Development Corporation Act of 1979 (Texas Revised Civil Statutes Article 5190.6). The Development Corporation Act of 1979 (the “Act”) allowed a municipality to create nonprofit development corporations that could promote the creation of new and expanded industry and manufacturing activity within the municipality and its vicinity. The development corporations operated separately from the municipalities, with boards of directors that would oversee their efforts. These corporations, in conjunction with industrial foundations and other private entities, worked to promote local business development. However, prior to 1987, the efforts of these entities were dependent on funding from private sources, which was often difficult to obtain. At that time, development corporations could not legally receive funding from the state or local governments because of a Texas constitutional prohibition against the expenditure of public funds to promote private business activity.¹

In November 1987, the voters of Texas approved an amendment to the Texas Constitution providing that expenditures for economic development could serve a public purpose and were therefore permitted under Texas law.² This amendment states in pertinent part:

Notwithstanding any other provision of this constitution, the legislature may provide for the creation of programs and the making of loans and grants of public money . . . for the public purposes of development and diversification of the economy of the state.

Pursuant to this constitutional amendment, the Texas Legislature has enacted several laws that would allow state and local government funds to be used to promote economic development.

First, in 1989, the Texas Legislature amended the Act by adding Section 4A, which allowed the creation of a new type of development corporation. The legislation provided that a Section 4A development corporation could be funded by the imposition of a local sales and use tax dedicated to economic development. The tax could be levied only after its approval by the voters of the city at an election on the issue.

¹ See Tex. Const. art. III, § 52.

² Tex. Const. art. III, § 52-a.

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The proceeds of the Section 4A sales tax were dedicated by statute to economic development projects primarily to promote new and expanded industrial and manufacturing activities. This authority became popularly referred to as the Section 4A economic development sales tax. The Section 4A tax was generally available to cities that were located within a county of fewer than 500,000 and that had room within the local sales tax cap to adopt an additional one-half cent sales tax.

In 1991, the Texas Legislature made a number of changes to the Section 4A sales tax authorization. The new law allowed the tax to be adopted at any rate between one-eighth and one-half of one percent (in one-eighth percent increments). It additionally allowed cities to offer a joint proposition to be voted on that would authorize both a Section 4A economic development sales tax and a sales tax for property tax relief.

Also in the 1991, the Legislature authorized a new type of sales tax, a Section 4B sales tax. This legislation authorized a one-half cent sales tax to be used by certain cities to promote a wide range of civic and commercial projects. The legislation authorized 73 Texas cities to propose a Section 4B sales tax. Between 1991 and 1993, 19 cities adopted the new Section 4B sales tax.

The popularity of the Section 4B sales tax led the Texas Legislature in 1993 to broaden its availability to any city that was eligible to adopt a Section 4A sales tax. In other words, most cities in a county of less than 500,000 could adopt either the Section 4A or the Section 4B sales tax if they had room in their local sales tax. Until recently, only cities within El Paso County and Travis County were ineligible by statute to adopt either the Section 4A or the Section 4B tax. Now, cities located within El Paso County and Travis County are authorized to adopt a Section 4B tax.³ As of this publication, at least 586 cities have either a Section 4A or a Section 4B sales tax for economic development.

Historically the Act had been located in the Texas Revised Civil Statutes Article 5190.6, and the identification of “4A” and “4B” sales tax structures were in fact references to Sections 4A and 4B of the Act. In 2007, the 80th Legislature authorized the recodification of several civil statute provisions by topic, including those pertaining to planning and development. Under H.B. 2278 (80th Leg., R.S.), the Act was codified in the Local Government Code and was renamed the “Development Corporation Act.”⁴ As of April 1, 2009, which was the effective date of this change, economic development corporations adopting what was formally known as a “4A” or “4B” sales tax have come to be referred to as “Type A” or “Type B” corporations, as appropriate.

Differences Between Type A and Type B Sales Tax

There are a number of important differences between Type A and Type B sales taxes for

³ Tex. Loc. Gov’t Code § 505.002.

⁴ *Id.* § 501.001.

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economic development.⁵ In broad terms, Type A and Type B taxes can be distinguished on the following grounds: 1) the authorized use of the tax proceeds; 2) the oversight procedure regarding project expenditures; and 3) the means for adopting and altering the tax by election. These general differences are outlined below. Further distinctions are covered throughout this chapter of this handbook.

Differences in the Authorized Use of the Tax Proceeds

The Type A tax is generally considered the more restrictive of the two taxes in terms of authorized types of expenditures. The types of projects permitted under Type A include the more traditional types of economic development initiatives that facilitate manufacturing and industrial activity. For example, the Type A tax can be used to fund the provision of land, buildings, equipment, facilities, expenditures, targeted infrastructure and improvements that are for the creation or retention of primary jobs for projects such as manufacturing and industrial facilities, research and development facilities, military facilities, including closed or realigned military bases, recycling facilities, distribution centers, small warehouse facilities, primary job training facilities for use by institutions of higher education, and regional or national corporate headquarters facilities.⁶ The Type A sales tax may also fund business-related airports, port-related facilities, and certain airport-related facilities 25 miles from an international border,⁷ as well as eligible job training classes, certain career centers and certain infrastructural improvements which promote or develop new or expanded business enterprises.⁸

The Type B tax also can be used to fund the provision of land, buildings, equipment, facilities, expenditures, targeted infrastructure and improvements that are for the creation or retention of primary jobs for projects such as manufacturing and industrial facilities, research and development facilities, military facilities, including closed or realigned military bases, transportation facilities, sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, distribution centers, small warehouse facilities, primary job training facilities for use by institutions of higher education, regional or national corporate headquarters facilities,⁹ eligible job training classes, certain career centers and certain infrastructural improvements that promote or develop new or expanded business enterprises.¹⁰ However, unlike the Type A tax, the Type B tax can additionally fund projects that are typically considered to be community development initiatives. For example, authorized categories under Type B include, among other items, land, buildings, equipment, facilities, expenditures, and improvements for professional and amateur sports facilities, park facilities and events, entertainment and tourist facilities, and affordable housing.¹¹ Also, the Type B tax may be expended for the development

⁵ *But see id.* §§ 504.101, 505.101. Section 505.101 states that a Type B corporation “has the powers granted by this chapter and by other chapters of this subtitle and is subject to the limitations of a corporation created under another provision of this subtitle. To the extent of a conflict between this chapter and another provision of this subtitle, this chapter prevails.” Section 504.101 contains similar language that applies to Type A corporations.

⁶ *Id.* § 501.101.

⁷ *Id.* § 504.103.

⁸ *Id.* §§ 501.102-.104, .162.

⁹ *Id.* § 501.101.

¹⁰ *Id.* §§ 501.102-.104, .162.

¹¹ *Id.* §§ 505.152-.153.

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of water supply facilities or water conservation programs. In order to undertake a water supply facility or water conservation program, the facility or program has to be approved by a majority of the qualified voters of the city voting in an election called and held for that purpose.¹² Additionally, certain Type B development corporations are allowed to do projects that promote new and expanded business development.¹³

Differences in the Oversight Structure and Procedures

Although both Type A and Type B monies are overseen by the development corporation's board of directors and by the city council, they differ in the structure and type of oversight required for each.

With regard to structure, the Type A board has at least five members with no statutory criteria for their selection¹⁴, while a Type B board consists of seven members with certain statutory requirements.¹⁵ For instance, Type B board members have a residency requirement in the Act. A city council may place certain individuals who are not city residents onto Type B boards in two (2) very limited instances:¹⁶ first, in a city of fewer than 20,000 in population, a Type B director may either be a resident of the city, a resident of the county in which the major part of the area of the city is located, or reside in a place that is within 10 miles of the city's boundaries and is in a county bordering the county in which a major portion of the city is located.¹⁷ Second, a person may serve on a Type B board if that person was a Type A director at the time that a Type A corporation was dissolved, and the Type A corporation was replaced with a Type B corporation.¹⁸ Also with respect to Type B structure, no more than four of the seven Type B directors may also be city officers or employees.¹⁹

Regarding oversight procedures, both Type A and Type B boards pursuing projects are required to obtain city council approval of the project. There is no requirement for additional public notice or a public hearing on individual projects undertaken by the Type A corporation, but Type B corporations are subject to certain additional procedural requirements: they must provide public notice of the project and hold a public hearing prior to pursuing a project and the public has 60 days to petition for an election to be called on whether to pursue the project.

Differences in the Means for Adopting and Altering the Tax

Finally, there are differences in how Type A and Type B taxes may be created or altered by election. A Type A tax is authorized by an election that has mandatory statutory wording for the

¹² *Id.* §§ 505.154, .304.

¹³ *Id.* §§ 505.156-.158.

¹⁴ *Id.* § 504.051(a).

¹⁵ *Id.* § 505.051.

¹⁶ *Id.* § 505.052.

¹⁷ *Id.*

¹⁸ *Id.* § 505.052(d). (Since the directors of a Type A corporation are not required to be residents of the city, this change in the law would allow a non-resident to serve as a Type B director in this limited circumstance. However, in a city with a population greater than 20,000, the Type B board member must be a resident of the city.)

¹⁹ *Id.* § 505.052(c).

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ballot proposition. There is also authority for a Type A tax to be adopted in conjunction with a sales tax for property tax relief under one combined proposition at the same election. Once adopted, the Type A tax continues in existence until repealed by action of the voters. The Type A tax can be increased, reduced, or repealed at subsequent elections within the statutory range provided for the tax.

Conversely, the Type B tax has no required statutory wording for the ballot proposition. It can be adopted by a general ballot proposal for the adoption of a Type B sales tax for economic development. In most cases, however, cities place a long list of the authorized categories for expenditure in the ballot wording that adopts the Type B tax. Before the 79th legislative session, there was no authorization for a Type B tax to be combined onto one ballot proposition with a sales tax for property tax relief. If the voters wanted both taxes, they had to approve the items as separate ballot propositions. As of September 1, 2005, a Type B tax can be combined into one ballot proposition with a sales tax for property relief or any other special purpose municipal sales tax.²⁰

Up until 2017, there was no authorization for a Type B tax rate to be increased or reduced at subsequent elections. However, legislation passed in 2017 that authorizes a Type B tax to be increased or reduced by election within the statutory range provided for the tax.²¹ For corporations created on or after September 1, 1999, the Type B corporation may also be dissolved by petition of the voters and an election on the issue.²² In that case, the Type B tax would continue until the prior debt obligations of the Type B corporation had been paid in full.

Type A and Type B Economic Development Sales Tax

Eligibility to Adopt a Type A Tax

A city is eligible to adopt the Type A tax, with voter approval, if the new combined local sales tax rate would not exceed two percent and:²³

- the city is located in a county with a population of fewer than 500,000; or
- the city has a population of less than 50,000 and is located within two or more counties, one of which is Bexar, Dallas, El Paso, Harris, Hidalgo, Tarrant, or Travis; or
- the city has a population of less than 50,000 and is within the San Antonio or Dallas Rapid Transit Authority territorial limits but has not elected to become part of the transit authority.²⁴

It should be noted that participation in a rapid transit authority does not invalidate a city's ability to adopt a Type A tax if adoption of the tax would not place the area within the city above its

²⁰ Tex. Tax Code § 321.409.

²¹ Tex. Loc. Gov't Code § 505.2566

²² *Id.* § 505.351 - .352.

²³ *Id.* § 504.254.

²⁴ *Id.* § 504.002.

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statutory cap for the local sales tax rate.²⁵

If a city is eligible to adopt a Type A tax, the city council may propose any sales tax rate that is an increment of one-eighth of one percent.²⁶ The city may not adopt a sales tax rate that would result in a combined rate of all local sales taxes that would exceed two percent.²⁷

Eligibility to Adopt a Type B Tax

A city may impose the Type B tax, with voter approval, if the new combined local sales tax rate would not exceed 2 percent and if the city fits into one of the following categories:²⁸

- the city would be eligible to adopt a Type A sales tax (see earlier section on Eligibility to Adopt a Type A Tax);
- the city is located in a county with a population of 500,000 or more and the current combined sales tax rate does not exceed 8.25 percent at the time the Type B tax is proposed; or
- the city has a population of 400,000 or more and is located in more than one county, and the combined state and local sales tax rate does not exceed 8.25 percent.

An eligible Type B city includes a city “that is located in a county with a population of 500,000 or more,” and the Act also provides that an eligible city includes a city “located in a county with a population of 500,000 or fewer.” Consequently, every Texas city appears to be eligible to adopt a Type B sales tax provided the city’s combined local sales tax rate does not exceed two percent.²⁹ Further, it should be noted that participation in a rapid transit authority does not invalidate a city’s ability to adopt a Type B tax if adoption of the tax would not place the city above its statutory cap for the local sales tax rate.³⁰

If the city is eligible to adopt a Type B tax, the city council may propose any sales tax rate that is an increment of one-eighth of one percent.³¹ The city may not adopt a sales tax rate that would result in a combined rate of all local sales taxes that would exceed two percent.³²

²⁵ *Id.* § 504.259. *See also* Tex. Transp. Code § 452.6025. (Allowing a city located in a county in which a chapter 452 regional transportation authority has territory to call an election to be added to the transit authority provided a majority of the votes cast in the election favor the proposition. If the proposition is approved, the Type A sales tax can be reduced “to the highest rate that will not impair the imposition of the [regional transportation] authority’s sales and use tax.”)

²⁶ Tex. Loc. Gov’t Code. § 504.252(b).

²⁷ *Id.* §§ 504.252(b), 504.254.

²⁸ *Id.* § 505.002.

²⁹ *Id.* §§ 504.002, 505.002.

³⁰ *Id.* § 505.257. *See also* Tex. Transp. Code § 452.6025. (Allowing a city located in a county in which a chapter 452 regional transportation authority has territory to call an election to be added to the transit authority provided a majority of the votes cast in the election favor the proposition. If the proposition is approved, the Type B sales tax can be reduced “to the highest rate that will not impair the imposition of the [regional transportation] authority’s sales and use tax.”)

³¹ Tex. Loc. Gov’t Code § 505.252(b).

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Economic Development Corporation Projects

The Development Corporation Act provides a wide variety of purposes for which Type A and Type B tax proceeds may be expended. Some of these projects require the creation or retention of primary jobs.³³ Other statutory provisions require that the Type A and Type B corporations meet the requisite revenue amounts, population, and other requirements specified by the Act without having to create or retain primary jobs. A few projects do not require either the creation or retention of primary jobs or that certain criteria be met. It is important to emphasize that any activities of an economic development corporation must always be in furtherance, and attributable to, a "project".³⁴

Type A and Type B Projects Which Must Create or Retain Primary Jobs

In 2003, the Texas Legislature amended the definition of "project" to require that certain projects result in the "creation or retention of primary jobs".³⁵ Accordingly, most Type A and Type B projects must now create or retain primary jobs. Yet, not all projects contain this requirement. "Primary job" is defined to mean a job that is "available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy" and that meets any one of a specific list of sector numbers of the North American Industry Classification System (NAICS).³⁶

The enumerated sector numbers are:

111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211 to 213	Mining
221	Utilities
311 to 339	Manufacturing
42	Wholesale Trade
48 and 49	Transportation and Warehousing

³² *Id.*, Tex. Tax Code. § 321.101(f), Tex. Loc. Gov't Code § 505.256 (Making Chapter 321 of the Tax Code applicable to a Type B tax).

³³ The definition of "project" was significantly amended in the 78th Legislative Session. Changes made applied only to projects that were undertaken or approved after June 20, 2003. Any projects undertaken or approved before June 20, 2003 are governed by the law that was in effect on the date the project was undertaken or approved.

³⁴ Tex. Att'y Gen. Op. No. JC-0118 (1999) (Ruling under the former statute, Sales and use taxes levied under Section 4B of the Development Corporation Act of 1979, Tex. Rev. Civ. Stat. Ann. art. 5190.6 (Vernon 1987 & Supp. 1999), may only be used for project costs; they may not be used for "promotional" costs unrelated to projects).

³⁵ Tex. Loc. Gov't Code. §§ 501.101, 505.155. (Section 505.151 incorporates Type A projects under Chapter 501 as authorized projects for Type B corporations.)

³⁶ *Id.* § 501.002(12).

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51 (excluding 512131 and 512132)	Information (excluding movie theaters and drive-in theaters)
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416, 5417, and 5419	Scientific Research and Development Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers
922140	Correctional Institutions;
928110	National Security and for corresponding index entries for Armed Forces, Army, Navy, Air Force, Marine Corps, and Military Bases.

For more information on the North American Industry Classification System, please visit: <http://www.census.gov/eos/www/naics/>.

Section 501.101 of the Act specifically allows funding for the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are for the creation or retention of primary jobs that are found by the board of directors of the Type A and Type B corporation to be required or suitable for the development, retention, or expansion of the following eight types of projects:

Manufacturing and industrial facilities. A primary purpose of the economic development sales tax is to promote the expansion and development of manufacturing and industrial facilities which create or retain primary jobs.

Research and development facilities. Economic development corporations can help provide research and development facilities which create or retain primary jobs.

Military facilities. Economic development corporations can help promote or support an active military base, attract new military missions to a military base in active use; or redevelop a military base that has been closed or realigned.

Recycling facilities. With the recent federal and state statutory encouragement of recycling enterprises, a growing number of businesses are emerging to meet these needs, and cities will be competing to attract these businesses. Recycling facilities which create or retain primary jobs are permissible projects.

Distribution centers. In cities with access to major airports or ports, and in areas that have passed the Freeport exemption, the environment is often favorable for the location of distribution centers. Funding distribution centers which create or retain primary jobs is allowable under the Act.

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Small warehouse facilities. Again, in cities with access to major airports or ports, and in areas that have passed the Freeport exemption, the environment is often favorable for the location of warehouse facilities capable of serving as decentralized storage and distribution centers. Small warehouse facilities projects which create or retain primary jobs are permissible projects.

Primary job training facilities for use by institutions of higher education. The Development Corporation Act allows the funding for “primary job training facilities for use by institutions of higher education”. The term “institution of higher education” is defined under Section 61.003 of the Texas Education Code to include any public technical institute, public junior college, public senior college or university, medical or dental unit, or other agency of higher education as defined under Section 61.003.

Regional or national corporate headquarters facilities. “Corporate headquarters facilities” is defined to mean “buildings proposed for construction or occupancy as the principal office for a business enterprise’s administrative and management services.”³⁷ Accordingly, Type A and Type B corporations may fund corporate headquarter facilities, provided the facilities create or retain primary jobs.

Additionally, only Type B corporations may provide land, buildings, equipment, facilities and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including a project to provide:

- Transportation facilities (including but not limited to airports, hangars, airport maintenance and repair facilities, air cargo facilities, related infrastructure located on or adjacent to an airport facility, ports, mass commuting facilities and parking facilities)³⁸,
- Sewage or solid waste disposal facilities,³⁹
- Air or water pollution control facilities,⁴⁰
- Facilities for furnishing water to the public,⁴¹
- Public safety facilities,⁴²
- Streets and roads,
- Drainage and related improvements,

³⁷ *Id.* § 501.002(4).

³⁸ *Id.* § 501.101(2)(D). *See also id.* § 504.103 (Section 504.103 limits Type A corporation from doing certain projects.)

³⁹ *Id.* § 501.101(2)(E). *See also id.* § 504.103 (Section 504.103 limits Type A corporation from doing certain projects.)

⁴⁰ *Id.* § 501.101(2)(G). *See also id.* § 504.103 (Section 504.103 limits Type A corporation from doing certain projects.)

⁴¹ *Id.* § 501.101(2)(H). *See also id.* § 504.103 (Section 504.103 limits Type A corporation from doing certain projects.)

⁴² *Id.* § 505.155.

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- Demolition of existing structures,
- General municipally owned improvements,
- Any improvements or facilities that are related to any of those projects and any other projects that the board in its discretion determines promoted or develops new or expanded business enterprises that create or retain primary jobs.

Type A and Type B Projects Which Are Not Required to Create Primary Jobs

The following categories are authorized Type A and Type B projects that are not conditioned upon the creation or retention of primary jobs.

Job training classes. Certain job training required or suitable for the promotion or development and expansion of business enterprises can be a permissible project. Type A and Type B corporations may spend tax revenue for job training classes offered through a business enterprise only if the business enterprise agrees in writing to certain conditions. The business enterprise must agree to create new jobs that pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area, or agree to increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area.⁴³

Job-Related Skills Training for Certain Cities. Type A and Type B corporations located in a city with a population of 10,000 or more, and that are located in a county that borders the Gulf of Mexico or the Gulf Intracoastal Waterway or the United Mexican States and in which four cities with a population of 70,000 or more are located, and has or is included in a metropolitan statistical area of this state that has an unemployment rate that averaged at least two percent (2%) above the state average for the most recent two (2) consecutive years, may spend Type A or Type B sales tax revenue for job training that consists of providing job-related life skills sufficient to enable an unemployed individual to obtain employment; and providing job training skills sufficient to enable an unemployed individual to obtain employment.⁴⁴

Certain infrastructural improvements which promote or develop new or expanded business enterprises. “Project” also includes expenditures found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises. However, the infrastructure improvements are limited to streets and roads, rail spurs, water and sewer utilities, electric utilities, gas utilities, drainage, site improvement, and related improvements, telecommunications and Internet improvements, and beach remediation along the Gulf of Mexico.⁴⁵ Accordingly, Type A and Type B corporations may assist with limited infrastructural improvements that the board finds will promote or develop new or expanded business development.

⁴³ *Id.* § 501.162. *See id.* § 501.102.

⁴⁴ *Id.* § 501.163.

⁴⁵ *Id.* § 501.103.

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Career Centers. Certain career centers can be provided land, buildings, equipment, facilities, improvements and expenditures found by the board of directors to be required or suitable for use if the area to be benefited by the career center is not located in the taxing jurisdiction of a junior college district.⁴⁶

Commuter Rail, Light Rail or Motor Buses. A Type A and Type B corporation, as authorized by the corporation's board of directors, may spend tax revenue received under the Act for the development, improvement, expansion or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses.⁴⁷

In addition, there are three categories that are not required to create or retain primary jobs, but for which there are revenue amount, population and other requirements specified in the Act:

Airport Facilities. Type A and Type B corporations located wholly or partly within twenty-five miles of an international border, in a city with population of less than 50,000 or an average rate of unemployment that is greater than the state average rate of unemployment during the preceding twelve month period, may assist with land, buildings, facilities, infrastructure and improvements required or suitable for the development or promotion of new or expanded business enterprises through transportation facilities including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, marine ports, inland ports, mass commuting facilities, parking facilities, and related infrastructure located on or adjacent to an airport or railport facility.⁴⁸

Infrastructure for Airports, Ports, and Sewer or Solid Waste Disposal Facilities. Type A and Type B corporations located in a city wholly or partly in a county that is bordered by the Rio Grande with a county population of at least 500,000, and having wholly or partly within its boundaries at least four cities that each have a population of at least 25,000, may provide certain assistance with infrastructure necessary to promote or develop new or expanded business enterprises, including airports and port facilities, provided Type A or Type B sales tax revenues do not support the project.⁴⁹ This provision also allows for providing assistance for sewer facilities and solid waste facilities. However, only Type B corporations can provide assistance to these facilities because Type A corporations are not allowed to do those types of projects.⁵⁰

Hurricane Ike Disaster Relief. Type A and Type B corporations located wholly or partly within the Hurricane Ike disaster area may provide assistance towards Hurricane Ike disaster area bonds. Type A and Type B corporations authorized to participate in Hurricane Ike disaster area bond projects must be located wholly or partly in one of thirty-four Texas counties. (See footnote, below.) For these eligible corporations, the

⁴⁶ *Id.* § 501.105.

⁴⁷ *Id.* § 502.052

⁴⁸ *Id.* §§ 501.106, 504.103(c).

⁴⁹ *Id.* § 501.107.

⁵⁰ *Id.* § 504.103.

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term “project” is defined to mean the undertaking of costs which are eligible to be paid from the proceeds of qualified Hurricane Ike disaster bonds. The term “project” does not include qualified residential rental projects, or projects the costs of which are payable from qualified mortgage bonds.⁵¹

Type A Only Projects Which Are Not Required to Create Primary Jobs

Section 504.103 of the Local Government Code specifically allows economic development corporations to undertake two categories of projects without the requirement of creating or retaining primary jobs. The primary purpose of these projects is to provide:

Business airports (general aviation business service airports that are an integral part of an industrial park); and

Port-related facilities (port-related facilities to support waterborne commerce).

Type B Only Projects Which Are Not Required to Create Primary Jobs

Sections 505.152 through 505.154 of the Act specifically permit expenditures of Type B tax proceeds for land, buildings, equipment, expenditures and improvements suitable for the following types of projects:

Professional and amateur sports and athletic facilities. Professional and amateur sports and athletics facilities, including stadiums and ballparks, are permissible Type B projects.⁵²

Entertainment, tourist and convention facilities. Entertainment, tourist, and convention facilities, including auditoriums, amphitheaters, concert halls, museums and exhibition facilities are permissible Type B projects.⁵³

Public parks and related open space improvements. Public parks, park facilities and events, and open space improvements are permissible Type B projects.⁵⁴

Affordable housing. Projects required or suitable for the development and expansion of “affordable housing” as defined by federal law (42 United States Code Section 12745) are permissible Type B projects.⁵⁵

Water supply facilities. Any water supply facilities, including dams, transmission lines, well field developments, and other water supply alternatives can be permissible Type B

⁵¹ *Id.* § 501.452. The 34 counties that are subject to this section are: Angelina, Austin, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Gregg, Grimes, Hardin, Harris, Harrison, Houston, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, Walker, Waller, and Washington.

⁵² *Id.* § 505.152.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* § 505.153.

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projects.⁵⁶ Nonetheless, to undertake a water supply facility project, a majority of the qualified voters of the city voting in an election called and held for that purpose must approve the water supply project.⁵⁷ The ballot proposition for the election shall be printed to provide for voting for or against the proposition:⁵⁸

**The use of sales and use tax proceeds for infrastructure relating to
(insert description of water supply facility).**

Water conservation programs. Water conservation programs, including incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities can be permissible Type B projects.⁵⁹ As with water supply facilities, to undertake a water conservation program a majority of the qualified voters of the city voting in an election called and held for that purpose must approve the water conservation program.⁶⁰ The ballot proposition for the election shall be printed to provide for voting for or against the proposition.⁶¹

**The use of sales and use tax proceeds for infrastructure relating to
(insert description of water conservation program).**

Airport Facilities. Type B corporations may undertake a project which is required or suitable for the development or expansion of airport facilities, including hangars, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility, if the project is undertaken by a corporation created by an eligible city: (i) that enters into a development agreement with an entity in which the entity acquires a leasehold or other possessory interest from the corporation and is authorized to sublease the entity's interest for other projects authorized by this subdivision; and (ii) the governing body of which has authorized the development agreement by adopting a resolution at a meeting called as authorized by law.⁶²

Additionally, certain Type B corporations have been given more latitude in deciding what types of projects that they can do without the requirement of creating or retaining primary jobs but they must meet the requisite conditions.

Revenue Requirement. Type B corporations in cities that have not generated more than \$50,000 in sales and use tax revenues in the preceding two (2) fiscal years may provide land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development, retention, or expansion of business

⁵⁶ *Id.* § 505.154.

⁵⁷ *Id.* § 505.304.

⁵⁸ *Id.*

⁵⁹ *Id.* § 505.154.

⁶⁰ *Id.* § 505.304.

⁶¹ *Id.*

⁶² *Id.* § 505.1561.

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enterprises, provided the city council authorizes the project by adopting a resolution following two (2) separate readings conducted at least one (1) week apart.⁶³

Population Requirement. A Type B corporation in a city with a population of 20,000 or less may provide land, building, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the board of directors to promote new or expanded business development provided that, for projects which require an expenditure of more than \$10,000, the city council adopts a resolution authorizing the project after giving the resolution at least two (2) separate readings.⁶⁴

Landlocked Communities. For Type B corporations located wholly or partly in a county with a population of two million or more that has within its city limits and extraterritorial jurisdiction fewer than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the zoning laws or land use restrictions of the city, the term “project” also includes expenditures found by the board of directors to be required for the promotion of new or expanded business enterprises within the landlocked community.⁶⁵

Undertaking Projects Located Outside of the City

Section 501.159(a) of the Local Government Code provides that an economic development corporation may undertake projects outside of the city limits with permission of the governing body that has jurisdiction over the property. If the project is located completely within the jurisdiction of another municipality, the corporation would need approval of the city council for that municipality.

Uses of Type A and Type B Taxes

Use of a Type A Tax for Infrastructural Improvements

Type A tax proceeds are not intended to fund the general infrastructural needs of a city.⁶⁶ For example, Section 504.103 of the Act states that Type A tax proceeds cannot be used to undertake a project the primary purpose of which is to provide transportation facilities, solid waste disposal facilities, sewage facilities, facilities for furnishing water to the general public or air or water pollution control facilities. Section 504.103 further states that Type A tax proceeds may be used for these types of facilities only if the expenditure would “benefit property acquired for a project having another primary purpose.”

⁶³ *Id.* § 505.156.

⁶⁴ *Id.* § 505.158.

⁶⁵ *Id.* § 505.157.

⁶⁶ *See* Tex. Att’y Gen. LO-95-072 (1995) (V.T.C.S. article 5190.6, Section 4B authorizes the board of directors of a development corporation organized under V.T.C.S. article 5190.6 to determine whether the construction of sanitary sewer lines in an existing residential subdivision would promote or develop new or expanded business enterprises. Although it seems unlikely that the construction of sewer facilities in a residential subdivision would promote or develop new or expanded business enterprises, this office cannot exclude the possibility as a matter of law. The board’s determination would be reviewed under an abuse of discretion standard.)

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In 2003, the Texas Legislature amended the Act to allow Type A corporations to expend sales tax proceeds for specific infrastructural improvements necessary to promote or develop new or expanded business enterprises.⁶⁷ This provision authorizes and limits expenditures for streets and roads, rail spurs, water and sewer utilities, electric utilities, gas utilities, drainage, site improvements and related improvements, telecommunications and Internet improvements, and beach remediation along the Gulf of Mexico.⁶⁸

Use of Type A Tax for Type B Projects

In 1997, the Texas Legislature amended the Development Corporation Act to allow the voters of an area to approve at an election the use of Type A economic development sales tax funds for a project authorized under Type B.⁶⁹ This alternative was authorized to allow cities with a Type A tax to propose Type B projects to the voters without having to repeal or reduce the Type A tax and adopt a Type B tax.

As noted, any use of Type A funds for a Type B project must be approved by the city's voters at an election held on the issue and a public hearing must be conducted before the city holds the election. If the city already has a Type A tax, it only needs to have the voters approve at the election the use of Type A tax proceeds for a particular Type B project or a category of Type B projects. The city would need to list each project or category of projects on a separate ballot proposition for the voters' approval. Unfortunately, state law does not define what constitutes a separate category of projects. A city should consult with its local legal counsel before it drafts its ballot wording for such an election.

If the city chooses to propose the use of Type A funds for Type B purposes, it must hold a public hearing prior to the election.⁷⁰ At the public hearing, the city's residents must be informed of the estimated cost and impact of the proposed project or category of projects. The city must publish notice of the hearing in a newspaper of general circulation in the city at least 30 days before the date set for the hearing. The notice must include the time, date, place and subject of the hearing and must be published on a weekly basis until the date of the hearing.

In an election to approve the use of Type A funds for a Type B purpose, the law requires that a specific Type B project or category of projects be clearly described on the ballot.⁷¹ The ballot proposition must be clear enough for the voters to discern the limits of the specific project or category of projects to be authorized. State law does not indicate what type of limits must be identified. At a minimum, the proposition should clearly identify what types of project are anticipated. Additionally, if Type A funds are to be used to pay maintenance and operating costs (and not just initial construction cost, etc.) of a Type B project, then the ballot proposition must state that fact.

⁶⁷ Tex. Loc. Gov't Code § 501.103.

⁶⁸ *Id.*

⁶⁹ *Id.* § 504.152.

⁷⁰ *Id.* § 504.153.

⁷¹ *Id.* § 504.152(b).

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A city may ask the voters to consider the use of Type A funds for a Type B purpose at the same election in which the voters are considering the creation of the Type A tax itself.⁷² The city would use one ballot proposition for the adoption of the Type A tax and a separate ballot proposition to approve the use of Type A funds for a Type B purpose. A city may also have the voters consider authorizing the use of Type A funds for several different Type B projects or categories of projects at the same election. As noted earlier, each project or category of projects would need to be placed on a separate ballot proposition for the voters' approval. There does not seem to be any authorization for a city to have the voters consider the use of Type A funds for several different Type B projects or categories of projects within one ballot proposition, unless the city proposes a combined ballot proposition to repeal or reduce the Type A tax and in the same proposition adopt a Type B tax. If an election on a Type B project or category of projects fails to win voter approval, the city must wait at least one year before holding another election on that particular project or category.⁷³

Additionally, even when undertaking a properly authorized Type B project, a Type A corporation is governed by all the normal rules applicable to Type A corporations.⁷⁴ For instance, if the ballot proposition originally authorizing the Type A tax contained an expiration date for the tax, voter authorization of the use of Type A funds for a Type B purpose would not eliminate the expiration date of the tax.

During the 82nd Legislative Session, the Legislature passed a bill that would allow Type A corporations to do Type B projects if:

- The city that created the Type A corporation also has a Type B corporation; and
- The population of the city is 7,500 or less.⁷⁵

The city will have to pass an ordinance allowing the Type A corporation to do Type B projects. These Type A corporations would not have to have an election to do Type B projects. Also, by ordinance, the city may revoke the Type A corporation's ability to do Type B projects under this bill.

Use of Type A Tax and Type B Tax for "Sports Venue" Facilities

Type A and Type B funds may be used to fund "sport venue" projects.⁷⁶ Special statutory provisions apply to "sports venue" projects. A project qualifies as a "sports venue" if it is an arena, coliseum, stadium, or other type of area or facility that meets both of the following criteria:⁷⁷

⁷² *Id.* § 504.152(c).

⁷³ *Id.* § 504.154.

⁷⁴ *Id.* § 504.156.

⁷⁵ *Id.* § 504.171.

⁷⁶ *Id.* §§ 504.152-.156, 505.201-.206.

⁷⁷ *Id.* §§ 504.151(2), 505.201(2). (Note that the definition of "sports venue" in Section 505.201 of the Local Government Code differs from that contained in 504.151 of this Act. Type B corporations have an additional limitation within its definition of "sports venue". Type B corporations cannot fund arena, coliseum, stadium, or other type of area or facility that is or will be owned and operated by a state-supported institution of higher education.)

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- The primary use or primary planned use is for one or more professional or amateur sports or athletics events; and
- A fee for admission to the sports or athletics events is charged or is planned to be charged, except that a fee need not be charged for occasional civic, charitable or promotional events.

Texas law specifies that any funds authorized by the voters to be spent on a “sports venue and related infrastructure” may be spent on any on-site or off-site improvements that relate to a sports venue and that enhance the use, value, or appeal of the sports venue, including areas adjacent to it. Eligible expenditures would include any costs that are reasonably necessary to construct, improve, renovate, or expand the sports venue. The law specifically lists the following uses as examples of permissible “related infrastructure”: stores, restaurants, concessions, on-site hotels, parking facilities, area transportation facilities, roads, water or sewer facilities, parks, and environmental remediation.⁷⁸ However, each of these facilities must relate to and enhance the sports venue.

In order for a Type A or Type B corporation to do a “sports venue” project, both the Type A and Type B corporations must follow certain procedures. A city may submit to its voters a ballot proposition that would authorize the use of Type A or Type B funds for a specific “sports venue” project or category of projects, including any infrastructure related to that project or category.⁷⁹ Such a ballot proposition could contain language enabling the Type A or Type B corporation to use any Type A or Type B funds already collected to support the “sports venue” project. Before an election to authorize the use of the Type A or Type B tax for a sports venue, a public hearing must be conducted.⁸⁰ At that hearing, the city’s residents must be informed of the cost and impact of the proposed project or category of projects. The city is required to publish notice of the hearing in a newspaper of general circulation in the city at least 30 days before the date set for the hearing. The notice must include the time, date, place, and subject of the hearing and must be published on a weekly basis until the date of the hearing. Accordingly, the city will need to schedule its public hearing early enough so that it can provide at least 30 days notice of the hearing.

In an election to approve the use of Type A or Type B funds for a “sports venue” project, the law requires that a specific “sports venue” project or category of projects be clearly described on the ballot.⁸¹ The description must be clear enough for the voters to discern the limits of the specific project or category of projects to be authorized. State law does not indicate what constitutes a clear description or how to indicate the limits of the specific project. At a minimum, the ballot proposition should clearly indicate the types of projects anticipated. Additionally, if Type A or Type B funds are to be used to pay the maintenance and operating costs (and not just initial

⁷⁸ *Id.* §§ 504.151(1), 505.201(1).

⁷⁹ *Id.* §§ 504.152(a), 505.202(a).

⁸⁰ *Id.* §§ 504.153, 505.203.

⁸¹ *Id.* §§ 504.152(b), 505.202(b).

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construction cost, etc.) of a “sports venue” project, then the ballot proposition must state that fact.⁸²

A city may have the voters consider the use of Type A or Type B funds for a “sports venue” project at the same election in which the voters are considering the creation of the Type A or Type B tax itself.⁸³ A city that pursues such a combined proposition should consult with its local legal counsel and the comptroller’s office on this issue. State law requires that any “sports venue” election be held on a uniform election date. If a “sports venue” project or category of projects fails to win voter approval, the city must wait at least one year before holding another election on that particular project or category.⁸⁴

Use of Type A and Type B Tax Proceeds for Training Seminars

Certain Type A and Type B economic development corporation officers and city officials are required to complete a training seminar.⁸⁵ The officials must complete a seminar once every 24 months.⁸⁶ At least one person from each of the following is required to attend a seminar each 24-month period:

- the city attorney, the city administrator or city clerk; and
- the executive director or other person who is responsible for the daily administration of the corporation.⁸⁷

The corporation is authorized to use Type A or Type B proceeds to pay for the costs of attending a seminar.⁸⁸ The certificates of completion are issued by the person, entity, or organization providing the training seminars on a form approved by the comptroller’s office.⁸⁹ The comptroller’s office may impose an administrative penalty in an amount not to exceed \$1,000 for failure to attend the seminar.⁹⁰

Specific Procedural Requirements Before a Type B Corporation Can Expend Type B Tax Proceeds

Public Notice Requirement and the 60-Day Right to Petition

A Type B corporation must publish notice of the Type B projects it plans to undertake. This is because the public has a right to submit a petition objecting to a particular Type B project.⁹¹ The petition must be submitted within 60 days of the first published notice of a specific project or type of project and must be signed by more than 10 percent of the registered voters of the city.

82

Id.

83

Id. §§ 504.152(c), 505.202(c).

84

Id. §§ 504.154, 505.204.

85

Id. § 502.101.

86

Id. § 502.101(a).

87

Id. § 502.101(a)(1)-(2).

88

Id. § 502.101(d).

89

Id. § 502.103(a).

90

Id. § 502.103(b).

91

Id. §§ 505.160, .303.

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If a petition is pursued by the public, the petition can ask that the city hold an election on the issue before that specific project or type of project is undertaken. If the petition is submitted in a timely manner and an election is required, the corporation may not undertake the project until the voters approve the project at an election on the issue. If the voters disapprove the project at the election, the Type B tax proceeds may not be used for that purpose. It is important to note that a petition cannot force an election on a project if the voters have previously approved the specific project or that general category of projects at an earlier election called under the Act.

Public Hearing Requirement for Expending Type B Tax Proceeds

A Type B corporation is required to hold at least one public hearing on any proposed project, including a proposal to expend funds on maintenance and operating expenses of a project.⁹² However, a corporation created by an eligible city with a population of less than 20,000 is not required to hold a public hearing if the proposed project is defined by Sections 501.101 through 501.107 of the Act.⁹³ If a public hearing is required, the hearing must be held before the corporation expends any Type B funds on the project. There is nothing in the Act that prohibits the Type B corporation from holding one public hearing to consider a group of Type B projects. After the projects have been considered at a public hearing and 60 days have passed since the first public notice of the nature of the projects, the development corporation is free to make expenditures related to the projects pursuant to the adopted budget, subject to other applicable requirements.

Specific Costs of a Type A and Type B Project That May be Funded

Cities need to know what types of specific expenditures are contemplated within each category available for expenditure of Type A and Type B tax proceeds. For assistance in understanding what is permitted under the Act, cities should review the definition of the term “cost” under Section 501.152 of the Act. Section 501.152 defines what costs may be applied to a Type A or Type B. It states, in pertinent part, that costs for a project may include:

Land and facility improvements: the cost of acquisition, construction, improvement and expansion of land and buildings.

Machinery and supplies: the cost of machinery, equipment, inventory, raw materials and supplies.

Financial transaction costs: the cost of financing charges, interest prior to and during construction, and necessary reserve funds.

Planning costs: the cost of research and development, legal services, development of plans and specifications, surveys, and cost estimates; and other expenses necessary or incident to determining the feasibility and practicability of undertaking the project.

⁹² *Id.* § 505.159(a).

⁹³ *Id.* § 505.159(b).

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Brownfield Clean-up costs: Should the Texas Governor’s office or the Texas Commission on Environmental Quality encourage or request that a Type A or Type B corporation use sales tax proceeds to clean up contaminated property, the corporation may not undertake the project until the use is approved by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot proposition is as follows:⁹⁴

“The use of sales and use tax proceeds for the cleanup of contaminated property.”

Administrative Expenses of a Type A and Type B Project

Section 501.152 of the Act also states that the cost of a project may include the administrative expenses and other expenses that are incident to placing a project into operation. The law states that these expenses could include “the administrative expenses for the acquisition, construction, improvement, and financing of any project.” Additionally, Type A and Type B corporations are permitted to contract with other private corporations to carry out industrial development programs.⁹⁵ Also, should a Type A or Type B corporation contract with a broker, agent or other third party for business recruitment, a written contract approved by the board of directors is required for any payment of a commission, fee, or other thing of value to the third party.⁹⁶ Failure to enter into a written contract could result in a civil penalty not to exceed \$10,000.

Maintenance and Operating Expenses of a Type A and Type B Project

It should be noted that there is a difference between “administrative expenses that are necessary to put a project into operation” and the “maintenance and operating expenses” of an ongoing project. Type A and Type B corporations have statutory authority to spend Type A and Type B funds on maintenance and operation expenses for a Type A or Type B project.⁹⁷ However, the voters are allowed to petition for an election on the issue of whether to prohibit the Type A or Type B corporation from expending Type A or Type B funds for the maintenance and operation costs of a particular project. Such a petition must be signed by 10 percent of the registered voters of the city. The petition must be presented within 60 days after the city first publishes notice that the tax proceeds are going to be used for maintenance and operations of a specific project. However, an election is not required if the voters has previously approved the use of Type A or Type B proceeds for this purpose at an earlier election under the Act.

Promotional Expenses and Prior Debts

The Act limits Type A and Type B corporations to spending no more than 10 percent of the corporate revenues (Type A and Type B tax proceeds) for promotional purposes.⁹⁸ The Act does

⁹⁴ *Id.* §§ 504.304, 505.305.

⁹⁵ *Id.* §§ 504.102, 505.102.

⁹⁶ *Id.* § 502.051.

⁹⁷ *Id.* §§ 504.302, 505.303.

⁹⁸ *Id.* §§ 504.105, 505.103. *See* Tex. Att’y Gen. LO-94-037 (Ruling under the former statute, this opinion concluded the Development Corporation of Abilene, which operated under Section 4A of the Development Corporation Act, could spend proceeds of the sales and use tax imposed under Section 4A for “promotional purposes,” subject to the proviso of subsection (b)(1) that no more than 10 percent of corporation revenue

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not define the term “promotional purposes.” However, the Texas Attorney General has concluded that a promotional expenditure “must advertise or publicize the city for the purpose of developing new and expanded business enterprises.”⁹⁹ Further, a corporation is limited to spending not more than 10 percent of its current annual revenues for promotional purposes in any given year. Nonetheless, unexpended revenues specifically set aside for promotional purposes in past years may be expended along with 10 percent of current revenues without violating the cap.¹⁰⁰ Additionally, city council may disapprove a promotional expenditure.¹⁰¹ If there is some question as to whether a particular expenditure should be considered a promotional expense, the development corporation should consult with its local legal counsel.

A Type A corporation is prohibited from assuming a debt or paying the principal or interest on a debt if the debt existed before the date when the city created the development corporation.¹⁰² This limitation does not prevent a development corporation from undertaking or making future expenditures toward a project that is already in operation. It means that the corporation could not reimburse that project for its prior debts. However, the legislature has not addressed whether a Type B corporation is prohibited from paying principal or interest on a debt if the debt existed before the city created the Type B corporation.

Issuance of Bonds for a Type A or Type B Project

A Type A and Type B corporations may issue bonds, notes and other contractual obligations to fund its projects.¹⁰³ The sales tax proceeds received by the corporation may be used to pay the principal and interest on the bonds and any other costs related to the bonds.¹⁰⁴ For example, the Texas Attorney General concluded in Letter Opinion 92-86 that a Section 4A (now Type A) development corporation may finance bonds for the start-up costs of a technical college if the funds are used solely for vocational training purposes. Any bond or debt instrument of the corporation remains an obligation of the corporation and is not an obligation of the city, nor is it backed by the city ad valorem tax rate.¹⁰⁵ The city and the development corporation staff will want to visit with local bond counsel prior to the imposition of any debt obligation or debt instrument. All such bonds would need to receive approval by the Public Finance Division of the Office of the Attorney General.¹⁰⁶

could be spent for such purposes, and so long as the expenditures were otherwise consistent with the provisions of the act and state law generally).

⁹⁹ Tex. Att’y Gen. Op. No. GA-0086 (2003) at 2.

¹⁰⁰ *Id.* at 6.

¹⁰¹ *Id.* at 3-5.

¹⁰² Tex. Loc. Gov’t Code § 504.104. *But see* Tex. Att’y Gen. Op. No. DM-299 (1994). (Ruling under the former statute, this opinion indicates that Tex. Rev. Civ. Stat. art. 5190.6, § 4A(q) is not retroactive. A 4A corporation can, therefore, continue to make payments on any obligation that the corporation entered into before the enactment date of 4A(q) (in 1993). This would be true even if the obligation entered into before the enactment of 4A(q) was one that existed before the creation of the 4A corporation.)

¹⁰³ Tex. Loc. Gov’t Code §§ 501.155, .201, .214.

¹⁰⁴ *Id.* §§ 504.303, 505.104.

¹⁰⁵ *Id.* § 501.207.

¹⁰⁶ *Id.* § 501.201 (States that a development corporation may issue bonds obtaining the consent of any state department, division or agency, “other than the attorney general under chapter 1202, Government Code.”)

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Creating a Type A or Type B Economic Development Corporation

Creation of a Type A or Type B economic development corporation may be initiated either by the city¹⁰⁷ or by a group of citizens.¹⁰⁸ For citizens to initiate the creation of an economic development corporation, a group of three or more individuals who are qualified voters of the city must file a written application with the city requesting approval of an economic development corporation. The city may not charge a fee for consideration of the application. If the city determines that the corporation should be created, the city must approve the corporation's certificate of formation (formerly known as articles of incorporation)¹⁰⁹ by ordinance or resolution. The ordinance or resolution must indicate what purposes the corporation can further on the city's behalf. The purposes shall be limited to the promotion and development of industrial and manufacturing enterprises to encourage employment and the public welfare. The Type A economic development certificate of formation must state that the corporation is to be governed by Chapter 504 of the Local Government Code.¹¹⁰ The Type B economic development certificate of formation must state that the corporation is to be governed by Chapter 505 of the Local Government Code.¹¹¹

The certificate of formation for all development corporations must contain the items required under Section 501.056 of the Act and must be approved by the municipality's governing body.¹¹² The city may amend the certificate of formation at its sole discretion at any time.¹¹³

The certificate of formation must be filed in triplicate with the secretary of state's office pursuant to Section 501.057 of the Act. Upon the issuance of the certificate of incorporation, the corporate existence begins. After the issuance of the certificate evidencing the filing of the certificate of formation, the board of directors must hold an organizational meeting to adopt the bylaws of the corporation and to elect officers.¹¹⁴ The initial bylaws must also be approved by resolution of the governing body of the city.¹¹⁵ The first meeting of the board of directors of the corporation should be held pursuant to the requirements under Section 501.063 of the Act.

A city can create an economic development corporation without having an election to create a sales tax. However if the city wants the economic development corporation to receive sales tax funds, then there has to be an election to adopt a Type A or Type B economic development sales tax.

Initiating an Election to Adopt a Type A or Type B Sales Tax

An election to adopt a Type A or Type B economic development sales tax may be initiated either by:

¹⁰⁷ *Id.* § 504.003(a).

¹⁰⁸ *Id.* § 501.051.

¹⁰⁹ *Id.* § 501.011.

¹¹⁰ *Id.* § 504.004.

¹¹¹ *Id.* § 505.004.

¹¹² *Id.* § 501.051(b)(2).

¹¹³ *Id.* § 501.302.

¹¹⁴ *Id.* § 501.063.

¹¹⁵ *Id.* § 501.064.

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- city council approval of an ordinance calling for an election on the imposition of the tax¹¹⁶; or
- a petition signed by a number of qualified voters that equals at least 20 percent of the voters who voted in the most recent regular city election. If the city council receives such a petition, it is required to pass an ordinance to call an election on the imposition of the tax.¹¹⁷

Most cities pass the ordinance calling for a Type A or Type B sales tax election on their own motion and do not wait for the election to be initiated by a petition of the voters. If a city orders an election on the sales tax for economic development, it must follow all applicable requirements for elections contained in the Election Code, the Municipal Sales and Use Tax Act (Chapter 321 of the Tax Code), and other Texas statutes relating to elections.¹¹⁸ Notably, the following requirements must be met:

Potential Election Dates. The election must be held on a uniform election date as provided by Chapter 41 of the Election Code. There are uniform election dates in May and November. The current uniform election dates are:

- the first Saturday in May in an odd-numbered year;
- the first Saturday in May in an even-number year, for an election held by a political subdivision other than a county; or
- the first Tuesday after the first Monday in November.¹¹⁹

Time Frame for Ordering the Election. The city should order the election at least 78 days prior to the date of the election.¹²⁰ The Tax Code requires only that the city order the election at least 30 days before the date of the election.¹²¹ Nonetheless, it is advisable to provide at least 78 days' notice, since this is the requirement applicable to most other special elections in Texas and it allows time to comply with other Election Code requirements, such as early voting. In addition, the Election Code provision governing time frames for ordering an election "supersedes a law outside this code to the extent of any conflict."¹²²

¹¹⁶ *Id.* §§ 504.255, 505.256 (Stating that chapter 321 of the Texas Tax Code governs the imposition of a Type A or Type B tax), and Tex. Tax Code § 321.401(a) (An election may be called by the adoption of a city ordinance by city council).

¹¹⁷ *See* Tex. Loc. Gov't Code §§ 504.255, 505.256 (Stating that chapter 321 of the Tax Code governs the imposition of a Type A or Type B tax) and Tex. Tax Code § 321.401(c) (Requiring that the city council pass an ordinance calling for a sales tax election if a petition is presented). *See* Tex. Elec. Code ch. 277 (Requirements for petition signatures).

¹¹⁸ *See* Tex. Loc. Gov't Code § 504.255, 505.256 (Stating that chapter 321 of the Tax Code governs elections under chapter 504 and 505 of the Local Government Code) and Tex. Tax Code § 321.403 (stating that an election held under chapter 321 of the Tax Code must be held on the next available uniform election date).

¹¹⁹ Tex. Elec. Code § 41.0052.

¹²⁰ *Id.* § 3.005(c).

¹²¹ Tex. Tax Code § 321.403.

¹²² Tex. Elec. Code § 3.005(b).

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Notice to be Provided of Election. The city must publish notice of the election at least once in a newspaper of general circulation in the city.¹²³ The notice must be published not more than 30 days and not less than 10 days before the date of the election. The notice must state the nature and date of the election, the location of each polling place, hours that the polls will be open, and any other election-related information required by law.¹²⁴ Also, the city is required to deliver notice of their election to the county clerk and voter registrar of each county in which the city is located not later than the 60th day before the election.¹²⁵ Then, the county is required to post the notice to the county's website not later than the 21st day before the election, if the county maintains a website.¹²⁶ If the county does not maintain a website, then the city must post notice of the election on the bulletin board used to post the city's meeting notices.¹²⁷ The notice must also include the wording of all the ballot propositions.¹²⁸ The entire notice must generally be provided in both English and Spanish.¹²⁹

Ballot for Economic Development Corporations

Type A Ballot: The Act requires specific wording for a Type A sales tax proposition ballot, as follows:¹³⁰

The adoption of a sales and use tax for the promotion and development of new and expanded business enterprises at the rate of (insert appropriate rate) of one percent.

The actual wording used on the ballot must indicate what rate is proposed for the Type A sales tax. The voters then vote for or against the proposition.

Type B Ballot: Current law does not provide any required wording for the ballot for a Type B sales tax for economic development. Before the Development Act was codified, cities would use great care to include wording that described all of the categories of projects that the city would want to have the Type B corporation to pursue.¹³¹ Cities

¹²³ *Id.* § 4.003(a)(1), (c).

¹²⁴ *Id.* § 4.004(a).

¹²⁵ *Id.* § 4.008(a).

¹²⁶ *Id.* §§ 4.003(b), 4.008(a).

¹²⁷ *Id.* § 4.003(b).

¹²⁸ *Id.* § 4.004(b).

¹²⁹ *See id.* ch. 272.

¹³⁰ Tex. Loc. Gov't Code § 504.256.

¹³¹ *See* Tex. Att'y Gen. Op. No. JC-400 (2001) (The city of Sonora's ballot adopting the 4B sales tax read as follows: "The adoption of an additional one-half of one percent sales and use tax within the City pursuant to the provisions of Article 5190.6, V.A.T.C., with the proceeds thereof to be used and applied in the manner and to the purposes authorized by Section 4B of the Act, including but not limited to public facility improvements, commercial facilities, infrastructural improvements, new and expanded business enterprises, and other related improvements, facilities to furnish water to the general public, sewage and solid waste disposal facilities and maintenance and operating costs associated with all of the above projects." JC-400 at 4).

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should be sure to have their legal counsel review any proposed ballot wording prior to its use in an election proposition.

Setting a Limited Time Period for a Type A or Type B Tax

A Type A tax that is approved without a time limit is effective until repealed by election.¹³² However, a city may include in the wording of the ballot proposition a limitation on the length of time in years that a Type A tax may be imposed. For example, a city could limit the time period during which a Type A tax is imposed to four years. Once such a limit is approved by the voters, the tax may be extended beyond this time limit or reimposed only if the city has an election at which the voters authorize the extension or reimposition of the tax. If a city decides to include such a time limitation, the required ballot wording is as follows:¹³³

The adoption of a sales and use tax for the promotion and development of new and expanded business enterprises at the rate of *(insert appropriate rate)* of one percent to be imposed for *(insert number of years that the tax would be imposed)* years.

The actual wording used on the ballot must indicate what rate is proposed for the Type A sales tax and the number of years that the tax would be in effect. The voters then vote for or against the proposition.

As noted earlier, there is no required wording for a Type B tax ballot. However, an eligible city may allow the voters to vote on a ballot proposition that limits the length of time that a sales and use tax may be imposed. An eligible city that imposes a tax for a limited time under this subsection may later extend the period of the tax's imposition or reimpose the tax only if the extension or reimposition is authorized by a majority of the qualified voters of the city voting in an election called and held for that purpose in the same manner as an election held under Section 505.2565 of the Act.¹³⁴

Limiting the Types of Projects for a Type A or Type B Tax

On a ballot to adopt the Type A tax or on a ballot to increase or reduce a Type A tax, a city may also limit the use of the tax to a specific project.¹³⁵ For example, a city could limit the use of the Type A tax to a project for a specific manufacturing entity or to a specific type of project such as expenditures for an industrial park. If such a limit is approved by the voters, the city may not broaden the purposes for which the Type A tax may be used unless it holds another election. Any desired change would have to go back to the voters for approval at an election on the issue. Once the obligations for the specific project have been satisfied, the corporation is required to notify the Texas comptroller to cease collecting the Type A tax. To date, no city has limited the use of a

¹³² Tex. Loc. Gov't Code § 504.257(d).

¹³³ *Id.* § 504.257(a).

¹³⁴ *Id.* § 505.2565.

¹³⁵ *Id.* § 504.260.

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Type A tax to a specific project. If a city decides to include such a limitation, the required wording of the ballot is as follows:¹³⁶

The adoption of a sales and use tax for the promotion and development of (insert description of the project) at the rate of (insert appropriate rate) of one percent.

The actual wording used on the ballot must indicate what rate is proposed for the Type A sales tax and must include a description of the project. The voters then vote for or against the proposition.

A city may limit the use of the Type B tax to a specific project.¹³⁷ However, as noted earlier, there is no required wording for a Type B tax ballot. Accordingly, there is no special wording that must be used to limit the use of the Type B tax to certain projects. If a city wants to limit the use of Type B tax proceeds to certain projects, it may choose to list only the types or categories of projects it desires on the ballot. Also, the Act provides certain authorization to expand the types of projects undertaken if subsequently approved by the eligible voters.¹³⁸

Various Joint Ballot Proposition for a Type A or a Type B Tax

Joint Ballot Proposition for a Type A Tax and a Sales Tax for Property Tax Relief

A city may include the Type A sales tax and the sales tax for property tax relief as separate ballot propositions at the same election. In 1991, the Texas Legislature allowed cities to offer the voters a joint ballot proposition on a sales tax for property tax relief and a Type A sales tax for economic development.¹³⁹ In this scenario, the voters would vote for or against one ballot proposition that covers the adoption of both taxes.

Under this joint ballot proposition, the voters are not able to pass the property tax relief sales tax without also passing the Type A sales tax for economic development. Either both taxes pass or both taxes fail. If a city decides to use such a joint proposition, the required wording on the ballot is as follows:¹⁴⁰

The adoption of a sales and use tax within the city for the promotion and development of new and expanded business enterprises at the rate of (insert appropriate rate) of one percent and the adoption of an additional sales and use tax within the city at a rate of (insert appropriate rate) of one percent to be used to reduce the property tax rate.

The actual wording used on the ballot must indicate what rate is proposed for the Type A sales tax and what rate is proposed for the sales tax for property tax relief. The voters then vote for or

¹³⁶ *Id.* §§ 504.256, .260.

¹³⁷ *Id.* § 505.2575(a).

¹³⁸ *Id.* § 505.2575(b).

¹³⁹ *Id.* § 504.261.

¹⁴⁰ *Id.*

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against the proposition. If the total local sales tax has reached the legal maximum of two percent, a city may attempt simultaneously to reduce the sales tax for property tax relief and impose the Type A economic development sales tax in one ballot proposition. The city would still use the above-noted ballot wording.¹⁴¹

There is nothing that stops a city from using separate ballot items for the passage of a sales tax for property tax relief and a Type A sales tax for economic development. In this case, the voters would vote for or against the adoption of each of the two taxes and the passage of one would not influence the passage of the other. Cities, however, have historically preferred the incentive value of joining the two items onto one ballot proposition. If a city uses separate ballot propositions, it should be noted that it is not possible to make one ballot proposition dependent on the passage of a separate ballot proposition. In other words, the city could choose to offer one proposition proposing a reduction of the sales tax for property tax and a separate proposition for the adoption of a sales tax for economic development. Making the adoption of one of the propositions dependent on the passage of the other can be accomplished only where the legislature has authorized a joint proposition as described earlier.

Joint Proposition to Reduce or Abolish a Type A Tax and Adopt a Type B Tax

A city may offer a joint ballot proposition that would reduce or abolish an existing Type A tax and at the same time approve the creation of a Type B tax.¹⁴² That is, the city can have the voters approve or reject both items together by one “yes” or “no” vote. However, a city is not required to combine these two issues into one ballot proposition.

A city can still choose to have the voters vote on repealing or reducing a Type A tax and adopting a Type B tax as separate ballot propositions.¹⁴³ If the city places the items on separate ballot propositions, it is possible that one, both, or neither of the items would be approved at such an election. A city that chooses to provide these options to the voters would use the ballot wording suggested earlier for each of these items. In no case may a city offer ballot propositions that, if passed, would cause the city to exceed its two percent local sales tax cap.¹⁴⁴

Joint Proposition of a Type A or Type B Tax and Other Municipal Sales Tax

Cities are allowed to have joint ballot propositions to lower, repeal, raise or adopt municipal sales taxes.¹⁴⁵ This would include the Type A and Type B tax. If a city wants to lower the Type A or Type B tax and create a street maintenance tax, the city could combine the ballot

¹⁴¹ Tex. Att’y Gen. LO-93-104 (1993) (For a simultaneous election on the imposition, under Section 4A, V.T.C.S. article 5190.6, of a sales and use tax of one-fourth of one percent for economic development and the reduction of its previously adopted additional sales and use tax for the reduction of property taxes under Tax Code Section 321.101(b) from a rate of one-half of one percent to one-quarter of one percent, the city should use the proposition language set out in Section 4A(p), as follows: The adoption of a sales and use tax within the city for the promotion and development of new and expanded business enterprises at the rate of one-fourth of one percent and the adoption of an additional sales and use tax within the city at the rate of one-fourth of one percent to be used to reduce the property tax rate).

¹⁴² Tex. Loc. Gov’t Code § 505.255.

¹⁴³ *Id.*

¹⁴⁴ *See id.* § 505.256; Tex. Tax Code § 321.101(f).

¹⁴⁵ *See* Tex. Tax Code § 321.409.

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propositions instead of having separate ballot propositions. If the joint ballot proposition does not pass, then there will be no effect on those sales taxes.

Proposition to Increase or Reduce a Type A or Type B Tax

Type A Sales Tax

A city that has imposed a Type A tax may, on its own, motion call for an election to approve an increase or a reduction of the Type A tax rate.¹⁴⁶ The election would be administered by the same procedure that was used to originally adopt the tax. The Type A tax rate would be reduced or increased if the proposition were approved by a majority of the qualified voters who voted at an election held on the issue. The rate may be reduced or increased to any rate that is an increment of one-eighth of one percent that the authorizing municipality determines is appropriate, and that would not result in a combined rate that exceeds two percent. Also, on petition of at least 10 percent of the registered voters of the city, the city may be compelled to order an election on a proposed increase or decrease of the Type A tax rate.¹⁴⁷

It should be noted that the attorney general has concluded in Attorney General Opinion DM-137 (1992) that if there is an election to reduce the Section 4A (now Type A) sales tax or to limit the length of time of its collection, the reduction or limitation may not be applied to any bonds issued prior to the date of the election.

It is not clear what ballot wording would be required for a proposition to increase or reduce a Type A tax rate. Section 504.258 of the Local Government Code states that “the ballot shall be printed in the same manner as the ballot under Section 504.256.” Section 504.256 contains the regular wording on the ballot to adopt a Type A sales tax. The ballot wording to adopt the Type A tax is as follows: “The adoption of a sales and use tax for the promotion and development of new and expanded business enterprises at the rate of (insert appropriate rate) of one percent.” A city should consult with its legal counsel, in conjunction with the comptroller’s office, if it decides to ask the voters to reduce or increase an existing Type A tax.

Type B Sales Tax

Up until 2017, there was no express statutory authority for a Type B tax to be increased or decreased after its initial adoption. The legislature passed H.B. 3045 in 2017 to authorize a Type B tax to be increased or reduced by election within the statutory range provided for the tax. The new statute is nearly identical to the statute for increasing or reducing the Type A tax.¹⁴⁸ The statute for increasing or reducing a Type B tax does not, however, contain a provision addressing ballot language for such an election, primarily because, unlike a Type A corporation, there is no required ballot language for the initial adoption of a Type B tax. A city should consult with its legal counsel, in conjunction with the comptroller’s office, if it decides to ask the voters to reduce or increase an existing Type B tax.

¹⁴⁶ Tex. Loc. Gov’t Code § 504.258.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* § 504.2566

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Proposition to Abolish the Type A or Type B Tax

Type A Sales Tax

On petition of 10 percent or more of the registered voters of the city, the city can be required to order an election on the dissolution of the Type A corporation.¹⁴⁹ If the corporation is dissolved, the Type A tax may not be collected except to pay off any remaining obligations that were executed before the date of the dissolution election. The ballot for the election shall be printed to provide for voting for or against the proposition.¹⁵⁰

Termination of the *(insert name of the corporation)*.

The election must be held on a uniform election date and the election is subject to all the applicable requirements under law for elections.

If a majority of the voters voting on the issue approve the dissolution, the corporation continues its operations only long enough to pay off any bonds that were issued before the date of the election and to the extent necessary to dispose of its assets.¹⁵¹ The Attorney General has concluded that a corporation that is dissolving is required to submit its dissolution plan to city council for its review and approval.¹⁵² However, city council may not use this approval power to prevent the corporation from performing its statutory duty to, “to the extent practicable...dispose of its assets and apply the proceeds to satisfy” the corporation’s obligations. The assets are used to pay off any liabilities, and any remaining assets are transferred to the city.¹⁵³ The corporation is required to notify the comptroller to cease collection of the tax once the corporation has satisfied all of its obligations.¹⁵⁴

Type B Sales Tax Created before September 1, 1999

For a Type B corporation created before September 1, 1999, there is no statutory authority that allows a Type B tax to be abolished after its initial adoption. The city could use its power by resolution under Section 501.401 of the Act to terminate or dissolve the development corporation. If the city takes such an action, the corporation and the tax would continue only for the time period necessary to pay off any outstanding debt.

Type B Sales Tax Created on or after September 1, 1999

For a Type B corporation created on or after September 1, 1999, the Act provides that a city must hold an election on the issue of dissolving the corporation if a proper petition is submitted to the city council.¹⁵⁵ Such a petition must request an election on the dissolution of the Type B corporation and be signed by at least 10 percent of the registered voters of the city. The petition must also meet any other legal requirements that may be applicable, including the general

¹⁴⁹ *Id.* § 504.351(a).

¹⁵⁰ *Id.* § 504.352.

¹⁵¹ *Id.* § 504.353.

¹⁵² Tex. Att’y Gen. Op. No. JC-0553 (2002) at 6.

¹⁵³ Tex. Loc. Gov’t Code § 504.353(a)(2).

¹⁵⁴ *Id.* § 504.353(c).

¹⁵⁵ *Id.* § 505.352 (Provides that the municipality shall hold the election on the next uniform election date as required by Section 3.005 of the Election Code).

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petition requirements found in Chapter 277 of the Election Code. The election must be held on the first regular uniform election date that falls more than 77 days after the petition is filed with the city.¹⁵⁶ At the election, the ballot must be printed to read as follows:¹⁵⁷

Termination of the (*name of corporation*).

If a Type B corporation is dissolved pursuant to an election of this nature, the corporation will continue to operate long enough to pay off all its debts and obligations.

Once the corporation's debts and obligations are paid off, the corporation is dissolved and its property must be transferred to the city. The city must then notify the comptroller, who must stop collecting the Type B sales tax by the last day of the first calendar quarter that begins after the city has notified the comptroller.¹⁵⁸

Reporting Election Results of a Type A and Type B Tax

The Election Code requires that, no earlier than the third day and no later than the eleventh day¹⁵⁹ after the election, the governing body of the city must canvass the ballots and enter the resolution or ordinance declaring the results of the election into the minutes of a meeting. The resolution or ordinance must include the following:¹⁶⁰

- The date of the election;
- The proposition for which the vote was held;
- The total number of votes cast for and against the proposition; and
- The number of votes by which the proposition was approved.

If the proposed change in the tax rate is approved by a majority of the qualified voters of the city voting at an election on the issue, the city may levy the approved tax. The city secretary must, by certified or registered mail, send the comptroller a certified copy of the resolution or ordinance and must include a map of the city clearly showing the city's boundaries. After receiving the documents, the comptroller has 30 days to notify the city secretary that the comptroller's office will administer the tax.

¹⁵⁶ *Id.* § 505.352(b).

¹⁵⁷ *Id.* § 505.353.

¹⁵⁸ *Id.* § 505.354.

¹⁵⁹ Tex. Elec. Code § 67.003(b). *But see* Tex. Tax Code § 321.405 (Which gives the city 10 days to canvass an election on the proposed adoption of a Type A sales tax. It is not clear whether the Election Code provision or the Tax Code provision is controlling on this issue. Therefore, it is recommended that cities follow the stricter provisions of the Election Code and canvass the election between 3 and 11 days after it has taken place. Note that the Election Code may require a city to wait longer than three days to canvass, as it provides that the city must canvas not later than the 11th day after election day and not earlier than the later of: (1) the third day after election day; (2) the date on which the early voting ballot board verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or (3) the date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States).

¹⁶⁰ Tex. Tax Code. § 321.405.

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If the election fails, the city must wait one full year before bringing the issue to the voters again.¹⁶¹ However, the Election Code allows the city to hold a subsequent election on the corresponding uniform election date that occurs approximately one year later, even if the date falls several days before a full year has elapsed.¹⁶²

Effective Date of Type A or Type B Tax

Effective Date of Type A or Type B Sales Tax Election Only

The change in the sales tax rate becomes effective one full calendar quarter after notice of the election has been provided to the comptroller. The new tax rate applies to purchases on or after the first day of that calendar quarter as provided under Section 321.102(a) of the Tax Code.

May Election: Send notice to the comptroller no later than the last week in June. On October 1st, the new tax rate will take effect. The city will receive its first payment in December.

November Election: Send notice to the comptroller no later than the last week in December. On April 1st, the new tax rate will take effect. The city will receive its first payment in June.

Effective Date for Type A Sales Tax and Additional Municipal Sales Tax Election

At the same election, if the city adopts a Type A sales tax and adopts an additional municipal sales taxes, such as a sales tax for property tax relief, the city has two options with regard to the effective date of the tax. The city may opt to have the taxes take effect at the same time (the following October 1st if a full calendar quarter has passed since the election).¹⁶³ Or, alternatively, the city may choose to have the Type A tax take effect as soon as one calendar quarter has passed after the election, and have the sales tax for property tax relief take effect the following October 1st (after which a full calendar quarter has passed since the election). In this scenario, the Type A tax would generally take effect before the sales tax for property tax relief.¹⁶⁴ Some cities choose this option to maximize revenues from the tax; other cities choose to make it easier on retailers and allow both taxes to take effect at the same time in October.

Effective Date for Type B Sales Tax and Additional Municipal Sales Tax Election

At the same election, if the city adopts a Type B sales tax and an additional municipal sales tax, such as a sales tax for property tax relief, both taxes will not take effect until the following October 1st (assuming at least a complete calendar quarter has passed since the election).¹⁶⁵ If a

¹⁶¹ *Id.* § 321.406. *But see* Tex. Loc. Gov't Code §§ 504.255, .351, 505.256.

¹⁶² Tex. Elec. Code § 41.0041(a).

¹⁶³ Tex. Loc. Gov't Code § 504.255, Tex. Tax Code § 321.102(b) (While the option to have both taxes take effect on October 1 is not expressly set out in state statute, it has been the interpretation of the comptroller's office that such an option is allowed. Thus, it is currently comptroller's policy to give cities a choice with regard to the date of implementation for a Type A or Type B sales tax as outlined in this section.)

¹⁶⁴ Tex. Tax Code § 321.102(b).

¹⁶⁵ *Id.*, Tex. Loc. Gov't Code § 505.256.

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complete calendar quarter has not passed since the election, the tax would not take effect until the following October 1st.

Allocation of the Sales Tax Proceeds by the comptroller

Once the sales tax is effective, the comptroller remits the sales tax proceeds from the increase in the rate to the municipality with its other local sales tax proceeds. The Municipal Sales and Use Tax Act (Chapter 321 of the Tax Code) governs the imposition, computation, administration, abolition, and use of the tax except where it is inconsistent with the statutory provisions within the Development Corporation Act.¹⁶⁶

The city, upon receiving its local sales tax allotment from the comptroller, must remit the sales tax for economic development to the economic development corporation responsible for administering the tax.¹⁶⁷ The proceeds of a sales tax for property tax relief would remain with the city.

Directors of a Economic Development Corporation

Board of Directors of a Type A Economic Development Corporation

A Type A corporation is governed by at least a five-member board of directors.¹⁶⁸ The directors are appointed by a majority vote of the city council at an open meeting. The Act does not specify any qualifying criteria for a person who serves as a director on the Type A board. A Type A director is not required to be a city resident or a property owner. The directors serve without compensation but must be reimbursed for actual expenses.¹⁶⁹ The directors are appointed to a term not to exceed six years. Further, should the certificate of formation or the bylaws not address a term of office, then the Type A directors have a six-year term of office.¹⁷⁰ However, the directors serve at the pleasure of the city council and may be removed by the city council at any time without cause.¹⁷¹

In JC-349, ruling under the former statute, the attorney general concluded that a Section 4A director could be appointed to a subsequent term. The opinion noted that neither the Development Corporation Act nor the Texas Non-Profit Corporation Act barred such reappointment. Accordingly, a city council may reappoint a director to a subsequent term, provided there is not a contrary provision in the articles of incorporation, bylaws, city charter, city ordinance or resolution.

Board of Directors of a Type B Economic Development Corporation

A Type B corporation is governed by a seven-member board of directors.¹⁷² The seven directors are appointed by a majority vote of the city council at an open meeting. Unlike Type A

¹⁶⁶ Tex. Loc. Gov't Code §§ 504.255, 505.256.

¹⁶⁷ *Id.* §§ 504.301, 505.256.

¹⁶⁸ *Id.* § 504.051(a).

¹⁶⁹ *Id.* § 501.062(d).

¹⁷⁰ Tex. Att'y Gen. Op. No. JC-0349 (2001) at 3.

¹⁷¹ Tex. Loc. Gov't Code §§ 504.051(b), 501.062 (Referring to the removal of directors).

¹⁷² *Id.* § 505.051(a).

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corporation boards, the Act does place qualifying criteria for a person who serves as a director on a Type B board. If the Type B corporation is located in a city with a population of 20,000 or more, the Type B director must be a resident of the city.¹⁷³ If a Type B corporation is located in a city with a population of less than 20,000, the Type B director must:

- 1) be a resident of the city;
- 2) be a resident of the county in which the major part of the area of the city is located; or
- 3) resides in a place that is within 10 miles of the city’s boundaries and is in a county bordering the county in which a major portion of the city is located.¹⁷⁴

If a city dissolves a Type A corporation and creates a Type B corporation, the Act provides that a person serving as a Type A director at the time that the Type A corporation was dissolved may serve on the newly created Type B board.¹⁷⁵ Since the directors of a Type A corporation are not required to be residents of the city, this change in the law would allow a non-resident to serve as a Type B director in this limited circumstance.

State law limits the number of Type B directors who are also city officers or employees: it states that three of the seven positions must be persons who are not city officials or city employees.¹⁷⁶ The directors serve without compensation but they must be reimbursed for actual expenses.¹⁷⁷ A director serves at the pleasure of the city council for a term of two years; however, the city council may vote to remove a director at any time without having to specify a cause.¹⁷⁸

General Provisions Regarding Type A and Type B Board of Directors

A majority of the board constitutes a quorum.¹⁷⁹ The board of directors is subject to both the Open Meetings Act and the Public Information Act.¹⁸⁰ Additionally, the Development Corporation Act requires the board to conduct all of its meetings within the city limits, unless the city is located in a county with a population of less than 30,000.¹⁸¹ If the city’s Type A or Type B corporation is located in a county with a population of less than 30,000, then the board of directors may conduct a board meeting within the county.¹⁸² At one of its first meetings, the board is required to elect a president, a secretary and any other officers that the governing body of the city considers necessary.¹⁸³ The corporation’s registered agent must be a resident of Texas and the corporation’s registered office must be within the boundaries of the city.¹⁸⁴

¹⁷³ *Id.* § 505.052(a).
¹⁷⁴ *Id.* § 505.052(b).
¹⁷⁵ *Id.* § 505.052(d).
¹⁷⁶ *Id.* § 505.052(c).
¹⁷⁷ *Id.* § 501.062(d).
¹⁷⁸ *Id.* § 501.062(c).
¹⁷⁹ *Id.* §§ 504.053, 505.054.
¹⁸⁰ *Id.* §§ 501.072, 505.054.
¹⁸¹ *Id.* §§ 504.054, 505.055.
¹⁸² *Id.*
¹⁸³ *Id.* §§ 504.052, 505.053.
¹⁸⁴ *Id.* §§ 504.055, 505.056.

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If a city collects both a Type A and a Type B sales and use tax, the city must create separate corporations and boards of directors for the Type A and Type B taxes. However, the board members of one corporation may serve on the board of the other corporation. A city may not create more than one corporation to oversee the Type A tax or more than one corporation to oversee the Type B tax.¹⁸⁵

General Powers and Duties of Type A and Type B Development Corporations

Type A and Type B economic development corporations have the following general powers and duties:

Power to Expend Tax Proceeds. The development corporation has the power to expend the proceeds of the economic development sales tax for purposes authorized by the Act. All actions of the development corporation are pursuant to a majority vote of the governing body of the board and subject to oversight by the city.¹⁸⁶ In Texas Attorney General Opinion JC-0488 (2002), ruling under the former statute, the Attorney General noted that the city's spending of sales tax proceeds was "contrary to the Act."¹⁸⁷ Rather, the opinion noted, it was for the corporation to expend the Section 4B (now Type B) tax proceeds for the purposes authorized by the Act subject to city council approval.

Powers of a Nonprofit Corporation. The corporation shall have and exercise all powers and rights of a nonprofit corporation under the Texas Non-Profit Corporation Act (Chapter 22 of the Texas Business Organization Code), except to the extent such powers would be in conflict or inconsistent with the Development Corporation Act.¹⁸⁸

Legal and Financial Transaction Powers. The corporation shall have the power to sell and lease a project,¹⁸⁹ make secured and unsecured loans,¹⁹⁰ and to sue and be sued.¹⁹¹ Further, in Texas Attorney General Opinion JC-109 (1999), ruling under the former statute, it was noted that when an economic development corporation sells real property, the corporation is not required to comply with the notice and bidding requirements contained in Chapter 272 of the Local Government Code. Nonetheless, the economic development corporation must obtain fair market value when selling real property.¹⁹² If a Type B corporation wants to purchase property for a project wholly or partly with bond proceeds, the Type B corporation is required to obtain an independent appraisal of the property's market value.¹⁹³

¹⁸⁵ *Id.* §§ 504.003(b), 505.003(b).

¹⁸⁶ *Id.* § 501.054(b)(2).

¹⁸⁷ Tex Att'y Gen. Op. No. JC-0488 (2002) at 3.

¹⁸⁸ Tex. Loc. Gov't Code § 501.054(a).

¹⁸⁹ *Id.* §§ 501.153-.154, .159.

¹⁹⁰ *Id.* § 501.155(a).

¹⁹¹ *Id.* § 501.060.

¹⁹² Tex. Att'y Gen. Op. No. JC-109 (1999) at 2.

¹⁹³ Tex. Loc. Gov't Code § 505.1041.

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Status as Non-stock Corporation. The corporation is a nonprofit, nonmember, non-stock corporation.¹⁹⁴

Exemption from Federal, State and Local Taxation. In terms of state taxation, Section 501.075 of the Local Government Code provides that economic development corporations are considered public charities within the tax exemption of Article VIII, Section 2, of the Texas Constitution. Whether the corporation is exempt from various state and local taxes depends on the statutory provisions applicable to that tax. For example, the comptroller's office has treated economic development corporations as exempt from state and local sales taxes and the state franchise tax.¹⁹⁵ In order to claim these exemptions, corporations submit a copy of the corporation's certificate of formation to the Exempt Organizations Section of the comptroller's office. If a development corporation has qualified for federal tax exempt status prior to applying for state exemptions, a copy of the determination letter from the Internal Revenue Service should be sent to the comptroller at the time the corporation applies for exemption from the state sales tax and franchise tax. It should be noted that development corporations are exempt from state and local sales and state franchise taxes regardless of their tax exempt status with the Internal Revenue Service. The certificate of formation, and any IRS determination letter, should be submitted with a cover letter containing the development corporation's daytime phone number, charter number and tax identification number.

Projects owned by Type B economic development corporations are exempt from local property taxation under Section 11.11 of the Tax Code, pursuant to Section 505.161 of the Local Government Code. It is currently unclear whether the property owned by Type A economic development corporations is exempt from local property taxation. To determine whether property taxes or other state or local taxes are applicable, a development corporation may wish to visit with its legal counsel and its appraisal district.

Duty to Comply with Open Meetings Act and Public Information Act. The corporation and its board of directors are subject to the Open Meetings Act and the Public Information Act.¹⁹⁶

Limited Eminent Domain Power. A Type A corporation may not exercise the power of eminent domain except by action of the city council.¹⁹⁷ However, a Type B corporation may exercise the power of eminent domain only:

1. With approval of the action by the city; and
2. In accordance with and subject to the laws applicable to the city.¹⁹⁸

¹⁹⁴ *Id.* § 501.052.

¹⁹⁵ Tex. Tax Code §§ 151.341, 171.074.

¹⁹⁶ Tex. Loc. Gov't Code § 501.072.

¹⁹⁷ *Id.* § 504.106.

¹⁹⁸ *Id.* § 505.105.

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Limited Tort Claims Act Protection. The corporation and its directors and employees are not liable for damages arising out of the performance of governmental functions of the corporation.¹⁹⁹ The corporation is considered a governmental entity for purposes of the Texas Tort Claims Act.

Limited Power to Own or Operate Project. Generally, the corporation does not have the power to own or operate any project as a business entity other than as a lessor, seller, or lender. However, the corporation does have all the powers necessary to own and operate a project as a business if the project is part of a military installation or military facility that has been closed or realigned, including a military installation or facility closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 United States Code Section 2687), or if the project is authorized by Local Government Code Section 501.106.²⁰⁰

Ability of a Home Rule City to Provide an Economic Grant of Money to the Development Corporation. The Act generally prohibits a city from lending its credit or granting any public money or thing of value to an economic development corporation. In other words, a city may not generally provide any funding or services to a development corporation unless the city is fully reimbursed for the value of the expenditure. If a city and an economic development corporation enter into a contract for the provision of city services, such as accounting services, the economic development corporation must provide consideration in exchange for city services.²⁰¹

In 2001, the Texas Legislature created an exception to this general rule.²⁰² Certain home rule cities are authorized to grant public money to a Type A or Type B corporation under a contract authorized by Section 380.002 of the Local Government Code. The Type A or Type B corporation is required to use the grant of city money for the “development and diversification of the economy of the state, elimination of unemployment or underemployment in the state, and development and expansion of commerce in the state.”²⁰³

Ability of a City to Convey Real Property to an Economic Development Corporation. There are only a few ways a city can convey real property to an economic development corporation. First, if it’s the case that the real property was conveyed to the city by gift or as part of a legal settlement and the real property is adjacent to an area designated for development by the Type A or Type B corporation, then Section 253.009 of the Local Government Code would allow the property to be conveyed.²⁰⁴ Under that provision, the city would have to convey the property to the economic development corporation “for any fair consideration” approved by the city, and the city would have to adopt an ordinance that:

¹⁹⁹ *Id.* §§ 504.107, 505.106.

²⁰⁰ *Id.* § 501.160.

²⁰¹ Tex. Att’y Gen. Op. No. JC-109 (1999) at 3-5.

²⁰² Tex. Loc. Gov’t Code. § 501.007.

²⁰³ *Id.* § 380.002(b).

²⁰⁴ *Id.* § 253.009.

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1. describes the property being conveyed;
2. states that the conveyance complies with the requirements of Section 5.022 of the Property Code; and
3. states the consideration paid.

A conveyance under this provision does not have to comply with notice and bidding laws, including Chapter 272 of the Local Government Code.

Second, a city with a population of less than 1.9 million can convey real property or an interest in real property to a nonprofit organization under Section 253.011 of the Local Government Code.²⁰⁵ The term “nonprofit organization” is defined as an organization exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986. If an economic development corporation is covered by Section 501(c)(3) of the Internal Revenue Code, then the city can convey real property to an economic development corporation without complying with the notice and bidding requirements of Chapter 272 of the Local Government Code. The city can convey the property to the economic development corporation provided the development corporation agrees to use the property in a manner that primarily promotes a public purpose of the city. Further, should the development corporation at any time fail to use the property in that manner, ownership of the property would automatically revert to the city. The city shall transfer the property by an appropriate instrument of transfer. The instrument must include a provision that: (1) requires the development corporation to use the property in a manner that primarily promotes a public purpose of the city; and (2) indicates that ownership of the property automatically reverts back to the city should the corporation at any time fail to use the property in that manner.

In 2009, the Texas Legislature approved a bill authorizing a city with a population of 20,000 or less to convey real property to an economic development corporation without complying with the notice and bidding requirements of Chapter 272 of the Local Government Code.²⁰⁶ The city may convey real property to the economic development corporation provided the development corporation agrees to use the property in a manner that primarily promotes a public purpose of the city. Further, should the development corporation at any time fail to use the property in that manner, ownership of the property would automatically revert to the city. The city shall transfer the property by an appropriate instrument of transfer. The instrument must include a provision that : (1) requires the development corporation to use the property in a manner that primarily promotes a public purpose of the city; and (2) indicates that ownership of the property automatically reverts back to the city should the corporation at any time fail to use the property in that manner.

²⁰⁵ *Id.* § 253.011.

²⁰⁶ *Id.* § 253.012.

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Ability of a City to Provide City Insurance Coverage and Retirement Benefits to Development Corporation Staff/Officers. An economic development corporation may participate in the following types of insurance coverage from the city:²⁰⁷ health benefits coverage, liability coverage, workers' compensation coverage, and property coverage. These coverages can be obtained under the city's insurance policies, the city's self-funded coverage, or the coverage provided under an interlocal agreement with other political subdivisions. Health benefits coverage may be extended to the economic development corporation's directors and employees and their dependents. Workers' compensation benefits may be extended to the corporation's directors, employees and volunteers. Liability coverage may be extended to protect the corporation and its directors and employees. Also, the law allows economic development corporations to obtain retirement benefits under the city's retirement program and extend those benefits to the corporation's employees. An economic development corporation may not obtain any of these insurance coverages or retirement benefits unless the city consents.

Reverse Auction Procedures for Purchasing. A reverse auction procedure is a method of purchasing where suppliers of services or goods, anonymous to each other, submit bids to provide their services or goods. The bidding is a real-time process usually lasting either one hour or two weeks. The bidding takes place at a previously scheduled time period and at a previously scheduled Internet location.²⁰⁸ Economic development corporations are authorized to use reverse auction procedures, as defined by Section 2155.062 (d) of the Government Code, for the purchase of goods or services.²⁰⁹

Performance Agreements

Economic development corporations cannot simply provide gifts of sales tax proceeds. The attorney general has noted that expenditures of sales tax proceeds must be made pursuant to a contract or other arrangement sufficient to ensure that the funds are used for the intended and authorized purposes.²¹⁰ An economic development corporation is required to enter into a written performance agreement with a business enterprise when the corporation provides funding or makes expenditures on behalf of the business enterprise in furtherance of a permissible economic development project.²¹¹ This performance agreement between the corporation and the business enterprise at a minimum must contain the following:

1. a schedule of additional payroll or jobs to be created or retained;
2. the capital investment to be made by the business enterprise; and

²⁰⁷ *Id.* § 501.067.

²⁰⁸ Tex. Gov't Code § 2155.062(d).

²⁰⁹ Tex. Loc. Gov't Code § 501.074.

²¹⁰ Tex. Att'y Gen. Op. No. JC-118 (1999) at 9 ("Expenditures for even project costs must be pursuant to a contractual or other arrangement sufficient to ensure that the funds are used for the purposes authorized."); Tex. Att'y Gen. LO-97-061 at 4-5; LO-94-037 (1994) at 3.

²¹¹ Tex. Loc. Gov't Code § 501.158.

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3. the terms under which repayment must be made by the business enterprise to the economic development corporation should the business fail to meet the performance requirements specified in the agreement.²¹²

Also, the Texas Legislature requires that both governmental entities and economic development corporations put certain language in any written agreement involving public subsidies to businesses, which would include those given by economic development corporations. The language must specify that the business does not and will not knowingly employ an undocumented worker (which statement must also be in any application for the subsidy). The language also must require repayment of the subsidy at specified rates and terms of interest if the business is convicted of federal immigration violations under 8 U.S. Code Section 1324a(f) not later than the 120th day after receiving notice of the violation from the public entity or economic development corporation.²¹³

Requirement for Third-Party Contracts for Business Recruitment

Additionally, Type A and Type B corporations are required to enter into written contracts approved by the board of directors when the corporation uses a third party for certain business recruitment efforts. The written contract requirement does not apply to the payment of an employee of the Type A or Type B corporation.²¹⁴ Nonetheless, should the corporation pay a commission, fee, or other thing of value to a broker, agent, or other third party for business recruitment or development, a written contract is required.²¹⁵ Failure to enter into a written contract with a third party recruiter could result in a civil penalty up to \$10,000.²¹⁶ The Texas Legislature has authorized the attorney general to commence an action to recover the penalty in Travis County district court or in the county district court where the violation occurs.²¹⁷

Incentives to Purchasing Companies

In 2003, the Texas Legislature addressed purchasing companies and their ability to receive an incentive from a Type A or Type B corporation.²¹⁸ Type A and Type B corporations may not offer to provide economic incentives to businesses whose business consists primarily of purchasing taxable items using resale certificates and then reselling those same items to a related party. A related party means a person or entity which owns at least 80 percent of the business enterprise to which sales and use taxes would be rebated as part of an economic incentive.²¹⁹

Oversight of a Economic Development Corporation

Section 501.073 of the Act provides that the city shall approve all programs and expenditures of the development corporation and shall annually review any financial statements of the

²¹² *Id.*

²¹³ Tex. Gov't Code § 2264.001 - .101.

²¹⁴ Tex. Loc. Gov't Code. § 502.051(a).

²¹⁵ *Id.*

²¹⁶ *Id.* § 502.051(b).

²¹⁷ *Id.* § 502.051(c).

²¹⁸ *Id.* § 501.161.

²¹⁹ *Id.* § 501.161(a).

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corporation. It further provides that at all times the city will have access to the books and records of the development corporation. Additionally, Section 501.054(b)(2) of the Act states that the powers of the corporation shall be subject at all times to the control of the city's governing body. Also, Section 501.401 of the Act gives the city authority to alter the structure, organization, programs or activities of the development corporation at any time. This authority is limited by constitutional and statutory restrictions on the impairment of existing contracts. Additionally, bond covenants may restrict the restructuring or dissolution of an economic development corporation. Finally, the city council retains a certain degree of control over the corporation by virtue of its power at any time to replace any or all of the members of the board of directors of the development corporation.²²⁰

Economic Development Corporation Is Not Considered a Political Subdivision

State law typically imposes certain requirements or conditions upon political subdivisions such as cities. A frequent concern is whether state law requirements imposed upon cities also applies to Type A or Type B economic development corporations. Section 501.055(b) of the Local Government Code states that an economic development corporation "is not a political subdivision or political corporation for purposes of the laws of this state", including Section 52, Article III of the Texas Constitution. Accordingly, a statute's reference to the term "political subdivision" does not include a Type A or Type B economic development corporation.

The attorney general has considered whether certain statutes apply to economic development corporations. The Attorney General has concluded that Chapter 171 of the Local Government Code, governing conflicts of interest, does not apply to an economic development corporation.²²¹ Likewise, Chapter 272 of the Local Government Code, governing the city sale of real property, is not applicable to economic development corporations.²²² Nor is the prevailing wage law contained in Chapter 2258 of the Government Code applicable to a worker employed by or on behalf of an economic development corporation.²²³ Economic development corporations should consult their legal counsel when considering the application of a particular statute.

Annual Reporting Requirement for Economic Development Corporations

Section 502.151 of the Development Corporation Act requires both Type A and Type B economic development corporations to submit an annual, one-page report to the comptroller's office. The report must be submitted by April 1st of each year and must be in the form required by the comptroller.

The report must include the following:

- A statement of the corporation's primary economic development objectives
- A statement of the corporation's total revenues for the preceding fiscal year

²²⁰ *Id.* § 501.062(c).

²²¹ Tex. Att'y Gen. Op. No. JC-338 (2001) at 2.

²²² Tex. Att'y Gen. Op. No. JC-109 (1999).

²²³ Tex. Att'y Gen. Op. No. JC-032 (1999).

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- A statement of the corporation's total expenditures for the preceding fiscal year
- A statement of the corporation's total expenditures during the preceding fiscal year in each of the following categories:
 - administration
 - personnel
 - marketing or promotion
 - direct business incentives
 - job training
 - debt service
 - capital costs
 - affordable housing
 - payments to taxing units, including school districts
- A list of the corporation's capital assets, including land and buildings (for example, industrial parks, recreation and sports facilities, etc.)
- Any other information required by the comptroller²²⁴

If a corporation fails to file the required report or include all the required information, the comptroller may impose an administrative penalty against the corporation of \$200.²²⁵ However, before imposing such a penalty, the comptroller must provide written notice to the corporation of its error or omission in filing the report. That notice must include information on how to correct the error. Once it has received notice, the corporation has 30 days to correct its reporting error before the comptroller may impose the \$200 penalty. The form may be submitted to the comptroller's office by mail or through the comptroller's office website at <https://comptroller.texas.gov/economy/local/type-ab/report.php>.

²²⁴ Tex. Loc. Gov't Code § 502.151(a).

²²⁵ *Id.* § 502.152.



LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE C1. ADDITIONAL PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO
MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 505. TYPE B CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 505.001. DEFINITION. In this chapter, "authorizing municipality" means the municipality that authorizes the creation of a Type B corporation. Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.002. APPLICABILITY OF CHAPTER. This chapter applies only to:

- (1) a municipality:
 - (A) that is located in a county with a population of 500,000 or more; and
 - (B) in which the combined rate of all sales and use taxes imposed by the municipality, this state, and other political subdivisions of this state having territory in the municipality does not exceed 8.25 percent on the date of any election held under or made applicable to this chapter;
- (2) a municipality:
 - (A) that has a population of 400,000 or more;
 - (B) that is located in more than one county; and
 - (C) in which the combined rate of all sales and use taxes imposed by the municipality, this state, and other political subdivisions of this state having territory in the municipality, including taxes imposed under this chapter, does not exceed 8.25 percent; or
- (3) a municipality to which Chapter 504 applies.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.003. AUTHORITY TO CREATE CORPORATION. (a) A municipality may authorize the creation under this subtitle of a Type B corporation.

(b) A municipality may not authorize the creation of more than one Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.004. CONTENTS OF CERTIFICATE OF FORMATION. The certificate

of formation of a Type B corporation:

(1) must state that the corporation is governed by this chapter;
and

(2) may include in the corporation's name any word or phrase the authorizing municipality specifies.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.005. CORPORATION NOT SUBJECT TO CERTAIN PROVISIONS. Sections 501.203, 501.205, 501.251-501.254, 501.255(a) and (b), 501.256, and 501.257 do not apply to a corporation under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER B. GOVERNANCE OF CORPORATION

Sec. 505.051. BOARD OF DIRECTORS. (a) The board of directors of a Type B corporation consists of seven directors.

(b) A director is appointed by the governing body of the authorizing municipality for a two-year term.

(c) A director may be removed by the governing body of the authorizing municipality at any time without cause.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.052. RESTRICTION ON BOARD MEMBERSHIP. (a) Each director of a Type B corporation authorized to be created by a municipality with a population of 20,000 or more must be a resident of the municipality.

(b) Each director of a Type B corporation authorized to be created by a municipality with a population of less than 20,000 must:

- (1) be a resident of the municipality;
- (2) be a resident of the county in which the major part of the area of the municipality is located; or
- (3) reside:
 - (A) within 10 miles of the municipality's boundaries; and
 - (B) in a county bordering the county in which most of the area of the municipality is located.

(c) Three directors of a Type B corporation must be persons who are not employees, officers, or members of the governing body of the authorizing municipality.

(d) Notwithstanding Subsections (a)-(c), if a municipality terminates a Type A corporation's existence and authorizes the creation of a Type B corporation, a person serving as a director of the Type A corporation at the

time of termination may serve on the board of directors of the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.053. OFFICERS. The board of directors of a Type B corporation shall appoint:

- (1) a president;
- (2) a secretary; and
- (3) other officers of the corporation the governing body of the authorizing municipality considers necessary.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.054. QUORUM. A majority of the entire membership of the board of directors of a Type B corporation is a quorum.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.055. LOCATION OF BOARD MEETINGS. (a) Except as provided by Subsection (b), the board of directors of a Type B corporation shall conduct all meetings within the boundaries of the authorizing municipality.

(b) If the authorizing municipality is located in a county with a population of less than 30,000, the board of directors of a Type B corporation may conduct a board meeting within the boundaries of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 473, Sec. 2, eff. June 17, 2011.

Sec. 505.056. RESTRICTIONS ON REGISTERED AGENT AND OFFICE. (a) The registered agent of a Type B corporation must be an individual who is a resident of this state.

(b) The registered office of a Type B corporation must be located within the boundaries of the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 505.101. APPLICABILITY OF OTHER LAW; CONFLICTS. A Type B corporation has the powers granted by this chapter and by other chapters of this subtitle and is subject to the limitations of a corporation created

under another provision of this subtitle. To the extent of a conflict between this chapter and another provision of this subtitle, this chapter prevails.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.102. CONTRACT WITH OTHER PRIVATE CORPORATION. A Type B corporation may contract with another private corporation to:

- (1) carry out an industrial development program or objective; or
- (2) assist with the development or operation of an economic development program or objective consistent with the purposes and duties specified by this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.103. LIMITATION ON USE OF REVENUES FOR PROMOTIONAL PURPOSES. A Type B corporation may spend not more than 10 percent of the corporate revenues for promotional purposes. *Magazine Cost*

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.104. BOND REPAYMENT. (a) Bonds or other obligations that mature in 30 years or less and that are issued to pay the costs of projects of a type added to the definition of "project" by Subchapter D may be made payable from any source of funds available to the Type B corporation, including the proceeds of a sales and use tax imposed under this chapter.

(b) Bonds or other obligations that by their terms are payable from the tax proceeds:

- (1) may not be paid wholly or partly from any property taxes imposed or to be imposed by the authorizing municipality; and
- (2) are not a debt of and do not give rise to a claim for payment against the authorizing municipality, except as to sales and use tax revenue held by the municipality and required under this chapter to be delivered to the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.1041. APPRAISAL REQUIRED BEFORE PURCHASE OF PROPERTY WITH BOND PROCEEDS. A Type B corporation may not purchase property for a project wholly or partly with bond proceeds until the corporation obtains an independent appraisal of the property's market value.

Added by Acts 2011, 82nd Leg., R.S., Ch. 719, Sec. 2, eff. September 1,

Sec. 505.105. EMINENT DOMAIN. A Type B corporation may exercise the power of eminent domain only:

- (1) on approval of the action by the governing body of the authorizing municipality; and
- (2) in accordance with and subject to the laws applicable to the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.106. LIABILITY. (a) The following are not liable for damages arising from the performance of a governmental function of a Type B corporation or the authorizing municipality:

- (1) the corporation;
- (2) a director of the corporation;
- (3) the municipality;
- (4) a member of the governing body of the municipality; or
- (5) an employee of the corporation or municipality.

(b) For purposes of Chapter 101, Civil Practice and Remedies Code, a Type B corporation is a governmental unit and the corporation's actions are governmental functions.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER D. AUTHORIZED PROJECTS

Sec. 505.151. AUTHORIZED PROJECTS. In this chapter, "project" means land, buildings, equipment, facilities, expenditures, and improvements included in the definition of "project" under Chapter 501, including:

- (1) job training as provided by Section 501.162; and
- (2) recycling facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.152. PROJECTS RELATED TO RECREATIONAL OR COMMUNITY FACILITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store,

restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.153. PROJECTS RELATED TO AFFORDABLE HOUSING. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of development and expansion of affordable housing, as described by 42 U.S.C. Section 12745.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.154. PROJECTS RELATED TO WATER SUPPLY FACILITIES AND WATER CONSERVATION PROGRAMS. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for:

(1) the development or improvement of water supply facilities, including dams, transmission lines, well field developments, and other water supply alternatives; or

(2) the development and institution of water conservation programs, including incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.155. PROJECTS RELATED TO BUSINESS ENTERPRISES THAT CREATE OR RETAIN PRIMARY JOBS. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including:

(1) a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, and any improvements or facilities related to a project described by this subdivision; and

(2) any other project that the board of directors in the board's discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.156. PROJECTS RELATED TO BUSINESS ENTERPRISES IN CERTAIN MUNICIPALITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development, retention, or expansion of business enterprises if the project is undertaken by a Type B corporation authorized to be created by a municipality:

(1) that has not for each of the preceding two fiscal years received more than \$50,000 in revenues from sales and use taxes imposed under this chapter; and

(2) the governing body of which has authorized the project by adopting a resolution only after giving the resolution at least two separate readings conducted at least one week apart.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.1561. PROJECTS RELATED TO AIRPORT FACILITIES IN CERTAIN MUNICIPALITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development or expansion of airport or railport facilities, including hangars, maintenance and repair facilities, cargo facilities, and related infrastructure located on or adjacent to an airport or railport facility, if the project is undertaken by a Type B corporation authorized to be created by a municipality:

(1) that enters into a development agreement with an entity in which the entity acquires a leasehold or other possessory interest from the corporation and is authorized to sublease the entity's interest for other projects authorized by Sections 505.151 through 505.156; and

(2) the governing body of which has authorized the development agreement by adopting a resolution at a meeting called as authorized by law.

Added by Acts 2009, 81st Leg., R.S., Ch. 87, Sec. 15.014(a), eff. September 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 150, Sec. 2, eff. September 1, 2009.

Sec. 505.157. PROJECTS RELATED TO BUSINESS ENTERPRISES IN LANDLOCKED COMMUNITIES. (a) In this section, "landlocked community" means a municipality that:

(1) is wholly or partly located in a county with a population of two million or more; and

(2) has within its municipal limits and extraterritorial jurisdiction less than 100 acres that can be used for the development of

manufacturing or industrial facilities in accordance with the municipality zoning laws or land use restrictions.

(b) For a landlocked community that authorizes or has authorized the creation of a Type B corporation, "project" also includes expenditures found by the board of directors to be required for the promotion of new or expanded business enterprises in the landlocked community.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.158. PROJECTS RELATED TO BUSINESS DEVELOPMENT IN CERTAIN SMALL MUNICIPALITIES. (a) For a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, "project" also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation's board of directors to promote new or expanded business development.

(b) A Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.159. HEARING REQUIRED TO UNDERTAKE PROJECT. (a) Except as provided by Subsection (b), a Type B corporation shall hold at least one public hearing on a proposed project before spending money to undertake the project.

(b) A Type B corporation the creation of which was authorized by a municipality with a population of less than 20,000 is not required to hold a public hearing under this section if the proposed project is defined by Subchapter C, Chapter 501.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87, Sec. 15.015(a), eff. September 1, 2009.

Sec. 505.160. ELECTION REQUIRED FOR PROJECT; PETITION. (a) A Type B corporation may undertake a project under this chapter unless, not later than the 60th day after the date notice of the specific project or general type of project is first published, the governing body of the authorizing municipality receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the

specific project or general type of project is undertaken.

(b) The governing body of the authorizing municipality is not required to hold an election after the submission of a petition under Subsection (a) if the voters of the municipality have previously approved the undertaking of the specific project or general type of project:

(1) at an election ordered for that purpose by the governing body of the municipality; or

(2) in conjunction with another election required under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.161. PUBLIC PURPOSE DESIGNATION; EXEMPTION FROM TAXATION.

(a) The legislature finds for all constitutional and statutory purposes that:

(1) a project of the type added to the definition of "project" by this subchapter is owned, used, and held for a public purpose for and on behalf of the municipality that authorized the creation of the Type B corporation; and

(2) except as otherwise provided by this section, Section 501.160 of this subtitle and Section 25.07(a), Tax Code, do not apply to a leasehold or other possessory interest granted by a Type B corporation during the period the corporation owns projects on behalf of the authorizing municipality.

(b) A project is exempt from ad valorem taxation under Section 11.11, Tax Code, for the period described by Subsection (a)(2) of this section.

(c) This subsection applies only if the voters of the authorizing municipality of a Type B corporation have not approved the adoption of a sales and use tax for the benefit of the corporation under Section 505.251. An ownership, leasehold, or other possessory interest of a person other than the corporation in real property constituting a project of the corporation described by this section:

(1) is subject to ad valorem taxation under Section 25.07(a), Tax Code; or

(2) if the interest was created under an agreement entered into by the corporation before September 1, 1999, is covered by the provisions of the law codified by this section that govern ad valorem taxation of the ownership, leasehold, or other possessory interest that were in effect on the date the agreement was executed.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.201. DEFINITIONS. In this subchapter:

(1) "Related infrastructure" has the meaning assigned by Section 334.001.

(2) "Sports venue" means an arena, coliseum, stadium, or other type of area or facility that is primarily used or is planned for primary use for one or more professional or amateur sports or athletics events and for which a fee is charged or is planned to be charged for admission to the sports or athletics events, other than occasional civic, charitable, or promotional events. The term does not include an arena, coliseum, stadium, or other type of area or facility that is or will be owned and operated by a state-supported institution of higher education.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.202. ELECTION: USE OF TAX PROCEEDS FOR SPORTS VENUE PROJECTS. (a) An authorizing municipality may submit to the voters of the municipality a ballot proposition that authorizes the Type B corporation to use the sales and use tax, including any amount previously authorized and collected, for a specific sports venue project, including related infrastructure, or for a specific category of sports venue projects, including related infrastructure.

(b) The project or category of projects described by Subsection (a) must be clearly described on the ballot so that a voter is able to discern the limits of the specific project or category of projects authorized by the proposition. If maintenance and operating costs of an otherwise authorized facility are to be paid from the sales and use tax, the ballot language must clearly state that fact.

(c) The authorizing municipality may submit the ballot proposition at:

(1) an election held under another provision of this subtitle, including the election at which the proposition to initially approve the adoption of a sales and use tax for the benefit of the Type B corporation is submitted; or

(2) a separate election to be held on a uniform election date.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.203. PUBLIC HEARING PRECEDING ELECTION. Before an election may be held under Section 505.202, a public hearing must be held in the authorizing municipality to inform the municipality's residents of the cost and impact of the project or category of projects. At least 30 days before the date set for the hearing, notice of the date, time, place, and subject of the hearing must be published each week until the date of the hearing in

a newspaper with general circulation in the municipality in which the project is located.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.204. LIMITATION ON SUBSEQUENT ELECTION. If a majority of the voters voting on the issue do not approve a specific sports venue project or a specific category of sports venue projects at an election under Section 505.202, another election concerning the same project or category of projects may not be held before the first anniversary of the date of the most recent election disapproving the project or category of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.205. SUBSEQUENT APPROVAL OF ADDITIONAL PROJECTS. Prior approval of a specific sports venue project at an election or completion of a specific sports venue project approved at an election does not prevent an authorizing municipality from seeking voter approval of an additional project or category of projects under this subchapter to be funded from the same sales and use tax that is used to fund the previously approved sports venue project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.206. EFFECT OF SUBCHAPTER ON ELECTION AUTHORITY. This subchapter does not affect an authorizing municipality's authority to call an election under this chapter to impose a sales and use tax for any purpose authorized by this chapter after the sales and use tax described by this subchapter is, in accordance with Section 505.258, no longer collected.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER F. SALES AND USE TAX

Sec. 505.251. TAX AUTHORIZED. The governing body of the authorizing municipality by ordinance may adopt a sales and use tax for the benefit of a Type B corporation if the tax is approved by a majority of the voters of the municipality voting at an election held for that purpose in accordance with Chapter 321, Tax Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.252. SALES TAX. (a) If the authorizing municipality adopts

the tax under Section 505.251, a tax is imposed on the receipts from the sale at retail of taxable items within the municipality at the rate approved at the election.

(b) The rate of a tax adopted under this chapter must be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.253. USE TAX. (a) If the authorizing municipality adopts the tax under Section 505.251, an excise tax is imposed on the use, storage, or other consumption within the municipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality.

(b) The rate of the excise tax is the same as the rate of the sales tax portion of the sales and use tax and is applied to the sale price of the tangible personal property.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.254. SPECIFICATION OF TAX RATE ON BALLOT. In an election held to adopt the sales and use tax under this chapter, the ballot proposition must specify the rate of the tax to be adopted.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.255. ADOPTION OF TAX AT ELECTION TO REDUCE OR ABOLISH TAX FOR TYPE A CORPORATION. A municipality that holds an election to reduce the rate of or abolish a tax imposed under Chapter 504 may in the same proposition or in a separate proposition on the same ballot adopt a tax under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.256. APPLICABILITY OF TAX CODE. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, collection, and remittance of the sales and use tax, except as inconsistent with this chapter.

(b) Except as provided by this subsection, the tax imposed under this chapter takes effect as provided by Section 321.102(a), Tax Code. If an election is held under this chapter at the same time an election is held to impose or change the rate of the additional municipal sales and use tax, the tax under this chapter and the imposition or change in rate of the additional municipal sales and use tax take effect as provided by Section

321.102(b), Tax Code.

(c) After the effective date of the taxes imposed under this chapter, the adoption of a sales and use tax or the attempted adoption of a sales and use tax by the authorizing municipality or another taxing jurisdiction having territory in the municipality does not impair the taxes imposed under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.2565. LIMITATION ON DURATION OF TAX. (a) At an election held under Section 505.251, the authorizing municipality may also allow the voters to vote on a ballot proposition to limit the period for imposition of a sales and use tax.

(b) An authorizing municipality that has imposed a tax for a limited time under this section may extend the period of the tax's imposition or reimpose the tax only if the extension or reimposition is approved by a majority of the voters of the municipality voting at an election held for that purpose in the same manner as an election held under Section 504.257.

Added by Acts 2009, 81st Leg., R.S., Ch. 87, Sec. 15.016(a), eff. September 1, 2009.

Sec. 505.257. REDUCTION OF TAX WITHIN REGIONAL TRANSPORTATION AUTHORITY. Notwithstanding any other provision of this chapter, a tax imposed under this chapter by an authorizing municipality that is located within the territorial limits of a regional transportation authority and that has been added to the territory of the authority under Section 452.6025, Transportation Code, is subject to reduction in the manner prescribed by Section 452.6025, Transportation Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.2575. LIMITED SALES AND USE TAX FOR SPECIFIC PROJECT. (a) At an election held under Section 505.251, the authorizing municipality may also allow the voters to vote on a ballot proposition to limit the use of the sales and use tax to a specific project.

(b) A Type B corporation created to perform a specific project as provided by this section may retain its corporate existence and perform any other project approved by the voters of the authorizing municipality at an election held for that purpose in the same manner as Section 504.260 provides for an election held under Section 504.251. Before spending money to undertake a project, a Type B corporation shall hold a public hearing as otherwise provided by this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 87, Sec. 15.016(a), eff. September 1, 2009.

Sec. 505.258. CESSATION OF COLLECTION OF TAXES. A sales and use tax imposed under this chapter may not be collected after the last day of the first calendar quarter that occurs after the Type B corporation notifies the comptroller that:

(1) all bonds or other obligations of the corporation, including any refunding bonds, payable wholly or partly from the proceeds of the sales and use tax imposed under this chapter, have been paid in full; or

(2) the total amount, exclusive of guaranteed interest, necessary to pay in full the bonds and other obligations has been set aside in a trust account dedicated to the payment of the bonds and other obligations.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.259. ELECTION REQUIREMENT FOR CERTAIN MUNICIPALITIES. The election requirement under Section 505.251 is satisfied and another election is not required if the voters of the authorizing municipality approved the imposition of an additional one-half cent sales and use tax at an election held before March 28, 1991, under an ordinance calling the election that:

(1) was published in a newspaper of general circulation in the municipality at least 14 days before the date of the election; and

(2) expressly stated that the election was being held in anticipation of the enactment of enabling and implementing legislation without further elections.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER G. USE OF TAX PROCEEDS

Sec. 505.301. DELIVERY OF TAX PROCEEDS. On the authorizing municipality's receipt from the comptroller of the proceeds of the sales and use tax imposed under this chapter, the authorizing municipality shall deliver the proceeds to the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.302. PAYMENT OF PROJECT COSTS, BONDS, OR OTHER OBLIGATIONS. The proceeds of the sales and use tax imposed under this chapter may be used to:

(1) pay the costs of projects of the types added to the definition

of "project" by Subchapter D; or

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the Type B corporation to:

(A) pay the costs of the projects; or

(B) refund bonds or other obligations issued to pay the costs of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.303. PAYMENT OF MAINTENANCE AND OPERATING COSTS; ELECTION.

(a) The costs of a publicly owned and operated project purchased or constructed under this chapter include the maintenance and operating costs of the project.

(b) The proceeds of taxes may be used to pay the maintenance and operating costs of a project, unless not later than the 60th day after the date notice of the specific use of the tax proceeds is first published, the governing body of the authorizing municipality of the Type B corporation undertaking the project receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the tax proceeds may be used to pay the maintenance and operating costs of a project.

(c) The governing body of the authorizing municipality is not required to hold an election after the submission of a petition under Subsection (b) if the voters of the municipality have previously approved at an election ordered for that purpose by the governing body or in conjunction with another election required under this chapter that:

(1) the costs of a publicly owned and operated project purchased or constructed under this chapter include the maintenance and operating costs of the project; and

(2) the tax proceeds may be used to pay the maintenance and operating costs of a project.

(d) An authorizing municipality is not required to hold an election under this section if the municipality:

(1) is located in a county with a population of more than 1.3 million; and

(2) has held before February 1, 1993, an election under this chapter at which the additional sales tax was approved.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.304. PAYMENT FOR CERTAIN WATER-RELATED PROJECTS: ELECTION REQUIRED. (a) A Type B corporation may not use proceeds from the sales and use tax to undertake a project described by Section 505.154 unless the use

of tax proceeds for that purpose is authorized by a majority of the voters voting at an election held in the municipality for that purpose.

(b) The ballot in an election held under this section shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for infrastructure relating to _____ (insert water supply facilities or water conservation programs, as appropriate)."

(c) An election held under this section may be authorized by the governing body of an authorizing municipality subsequent to an earlier election authorized under Section 505.251.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.305. PAYMENT FOR CLEANUP OF CONTAMINATED PROPERTY; ELECTION.

(a) The economic development office, with the assistance of the Texas Commission on Environmental Quality, may encourage a Type B corporation to use proceeds from the sales and use tax imposed under this chapter for the cleanup of contaminated property.

(b) Notwithstanding any other provision of this chapter, a Type B corporation may use proceeds from the sales and use tax for the cleanup of contaminated property only if the use of tax proceeds for that purpose is authorized by a majority of the voters voting at an election held in the authorizing municipality for that purpose. The ballot in an election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for the cleanup of contaminated property."

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER H. TERMINATION OF CORPORATION

Sec. 505.351. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a Type B corporation created on or after September 1, 1999.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.352. ELECTION TO TERMINATE EXISTENCE OF CORPORATION ON PETITION. (a) The governing body of an authorizing municipality shall order an election on the termination of the existence of the Type B corporation on receipt of a petition requesting the election that is signed by at least 10 percent of the registered voters of the municipality.

(b) The authorizing municipality shall hold the election on the first available uniform election date that occurs after the time required by Section 3.005, Election Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 20

Item 2.

Sec. 505.353. BALLOT. The ballot for an election held under Section 505.352 shall be printed to permit voting for or against the proposition: "Termination of the _____ (name of corporation)."

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.354. TERMINATION OF EXISTENCE OF CORPORATION. (a) If a majority of the votes cast at an election held under Section 505.352 approve the termination, the Type B corporation shall:

(1) continue operations only as necessary to meet the obligations the corporation incurred before the date of the election, including paying the principal of and interest on the corporation's bonds; and

(2) liquidate the corporation's assets and apply the proceeds to satisfy the corporation's obligations, to the extent practicable.

(b) After the Type B corporation has satisfied all of the corporation's obligations, any remaining assets of the corporation shall be transferred to the authorizing municipality, and the existence of the corporation is terminated.

(c) The authorizing municipality shall promptly notify the comptroller and the secretary of state of the date the existence of a Type B corporation is terminated under this subchapter.

(d) A tax imposed under this chapter may not be collected after the last day of the first calendar quarter that begins after the authorizing municipality provides notice under Subsection (c).

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.

Sec. 505.355. ELECTION REJECTING TERMINATION. If less than a majority of the votes cast at an election held under Section 505.352 approve the termination, Section 505.354 has no effect.

Added by Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.01, eff. April 1, 2009.





AGENDA MEMO

Business of the City Council

City of Sweeny, Texas

Meeting Date	03/05/2024	Agenda Item	
Approved by City Manager		Presenter(s)	Sweeny Beautification Committee
Reviewed by City Attorney		Department	Sweeny Beautification Committee
Subject	Discussion and possible action to variance requested allowing alcohol at the Pride Day festivities; Ordinance 113.04; Sweeny Beautification Committee		
Attachments	Map Depicting; Ordinance 113.04		
Financial Information	Expenditure Required:	-	
	Amount Budgeted:	-	
	Account Number:	-	
	Additional Appropriation Required:	-	
	Additional Account Number:	-	

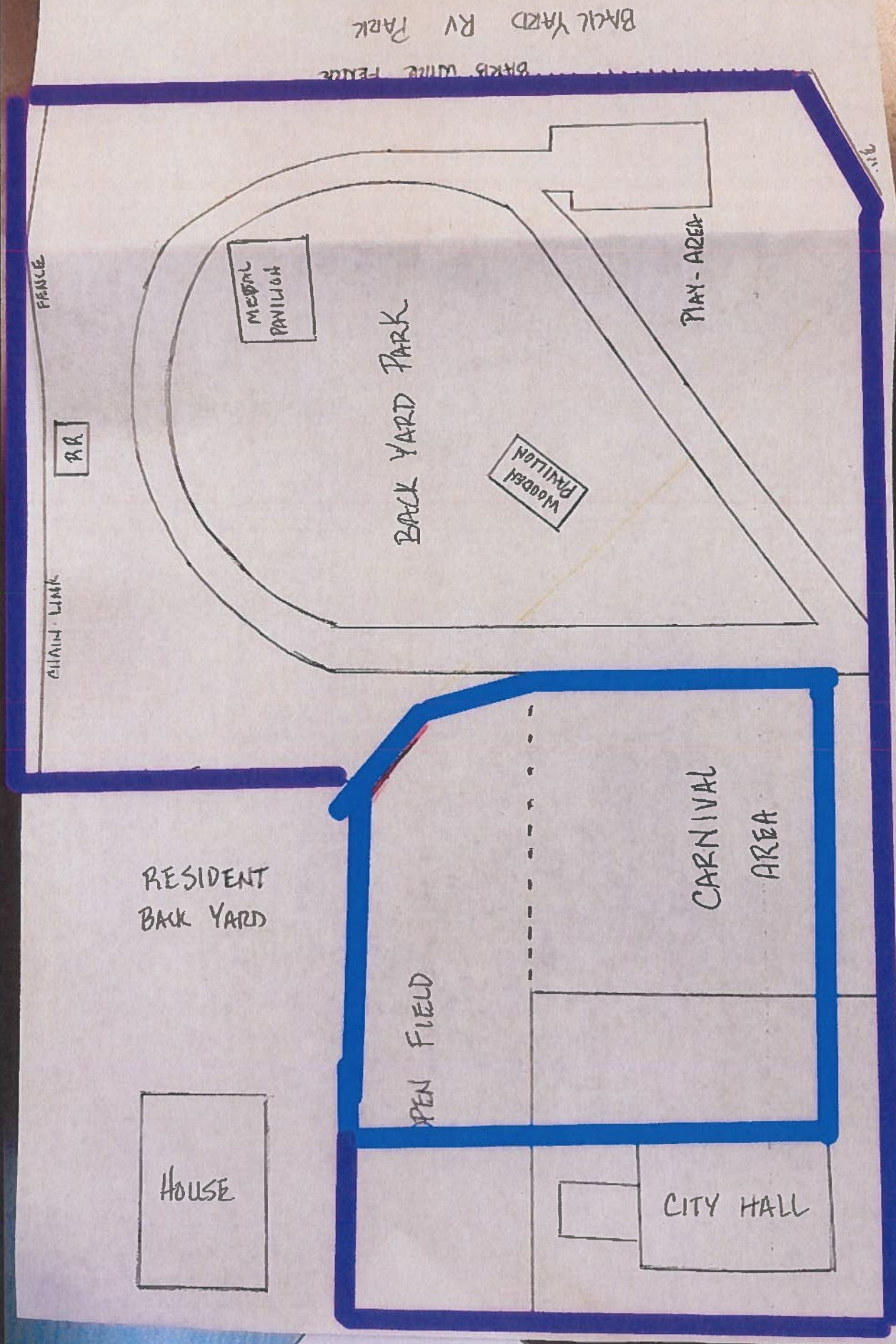
Executive Summary

Sweeny Beautification Committee is requesting a variance to allow alcohol at the Pride Day Festivities on Friday, May 3rd and Saturday, May 4th, 2024. Variance requested to Ordinance §113.04; Possession Or Consumption Of Alcoholic Beverages In Public Places.

Map is attached depicting the alcohol boundaries- encompassed in purple. This includes the areas behind City Hall, adjacent to City Hall, and Backyard Park. In the interest of safety, Beautification will be posting signage restricting public access within these boundaries, including but not limited too: vehicles, utility vehicles, golf carts, and motorcycles, with the exception of committee members or those designated to transfer those of limited physical abilities. Allowable committee members and transport services vehicles will have some type of designation shown by Beautification.

Recommended Action

To approve a variance to ordinance 113.04 allowing alcohol at the Sweeny Pride Day festivities on May 3rd & 4th, 2024 within the areas depicted on map submitted by Sweeny Beautification and in the interest of safety, restricting public vehicle access within the boundaries.





AGENDA MEMO

Business of the City Council

City of Sweeny, Texas

Meeting Date	03.05.2024	Agenda Item	
Approved by City Manager	Yes	Presenter(s)	Lindsay Koskiniemi, City Manager Brad Caudle, Chief of Police
Reviewed by City Attorney	No	Department	Police
Subject	Discussion and possible action on a request from Sweeny Beautification to close a portion of County Road 332, more commonly known as Ashley Wilson Road, from the west side of the intersection of CR332 and Main Street to the second entrance at the Sweeny Community Center.		
Attachments	Map of detour to Community Center with proposed signage locations		
Financial Information	Expenditure Required:	N/A	
	Amount Budgeted:	N/A	
	Account Number:		
	Additional Appropriation Required:		
	Additional Account Number:		

Executive Summary

The City recently learned that there will be Sweeny Pride event activity behind the Community Center at the pavilion in addition to the City Hall complex and Backyard Park.

City staff and Beautification members feel the safest thing to do is to close the portion of the roadway marked in red on the attached map. A screen shot of the map is provided and can also be accessed by clicking on the link below.

The proposed road closure would provide a safe way to get across Ashley Wilson Road from the Community Center to the City Hall complex and Backyard Park. Staff and Committee members anticipate festivities to take place at both locations.

The requested road closure is proposed from Friday May 3, 2024 from 5:00 p.m. to May 4, 2024 at 12:00 a.m. and May 4, 2024 from 11 a.m. to May 5, 2024 at 12:00 a.m.

If granted, the portion of roadway will have traffic barricades in place to prevent thru traffic.

Saturday, May 4, 2024 is election day, which will take place at the Community Center. The road closure proposes using Texas Avenue as the detour path for voters to access the Community Center coming from the north, east, and south directions. Yellow on the map indicates the detour path, and blue way points indicate detour signage that will be placed so people can still find the Community Center.

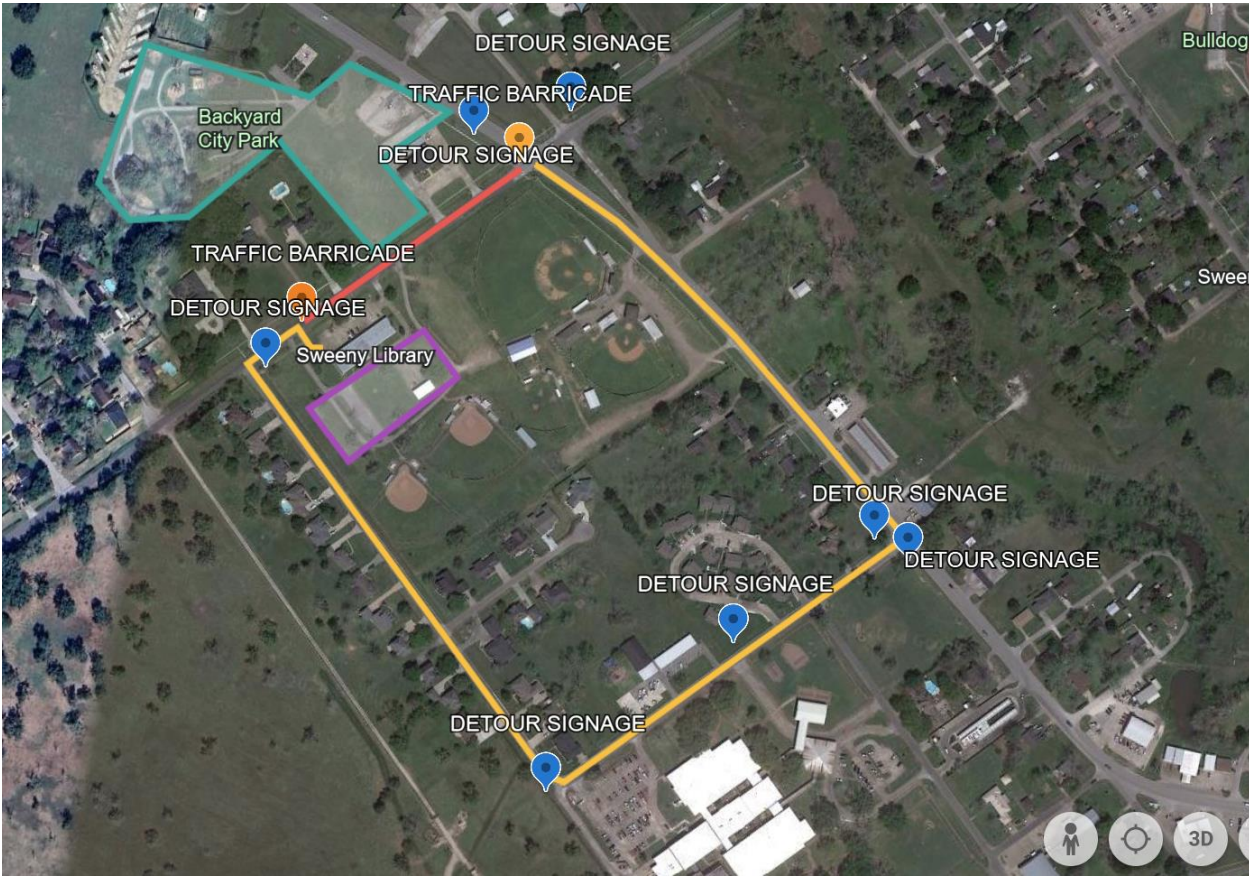
Chief Caudle will notify Brazoria County of the road closure, if granted by Council. Public Works will provide traffic barricades, detour signs will be placed, and additional traffic enforcement will be provided along Texas Avenue.



AGENDA MEMO

Business of the City Council
City of Sweeny, Texas

Item 4.



More detail is embedded in the Google map and can be accessed using the link:

https://earth.google.com/earth/d/1k7bAqrA_JL3xk5eMw0H5RMvQQ4cK9PSP?usp=sharing

Recommended Action

In the interest of pedestrian safety, City staff recommends approval.

Suggested motion:

“I move we approve staff’s request to close the portion of roadway along Ashley Wilson Road, also known as County Road 332 from the west side of the intersection at Main Street and Ashley Wilson Friday May 3, 2024 from 5:00 p.m. to May 4, 2024 at 12:00 a.m. and May 4, 2024 from 11 a.m. to May 5, 2024 at 12:00 a.m.”



AGENDA MEMO

Business of the City Council City of Sweeny, Texas

Item 5.

Meeting Date	03.05.2024	Agenda Item	
Approved by City Manager	Yes	Presenter(s)	William Huebner, P.E., City Engineer, Lindsay Koskiniemi, City Manager
Reviewed by City Attorney	No	Department	CIP - Sewer
Subject	Discuss and take action to award a construction contract to Matula & Matula Construction, Inc. for the amount of \$3,994,185.06 for the base bid and \$280,052.40 for bid alternative number one for a total of \$4,274,237.46 related to the City's grant contract with the Texas General Land Office, Contract No. 22-082-007-D205.		
Attachments	<ol style="list-style-type: none"> 1) Bid tabulations 2) Bid opening sign-in sheet 3) Branch Construction Bid 4) Matula & Matula Bid 5) Tejas Underground bid 6) Engineer's letter 		
Financial Information	Expenditure Required:	3% of project cost	
	Amount Budgeted:	N/A	
	Account Number:	2019 Certificates of Obligation	
	Additional Appropriation Required:		
	Additional Account Number:		

Executive Summary
<p>In 2018, the City of Sweeny retained the services of Grant Works to apply for funding post-Hurricane Harvey from the General Land Office for sanitary sewer upgrades. This project involves federal funding, therefore the City if required to award the construction contract to the lowest bidder. The project includes replacement of approximately 10,000 linear feet of sewer trunk line. The bid alternative includes 2 generators.</p> <p>The City received three (3) bids from Branch Construction, Matula and Matula Construction, and Tejas Underground Utilities. With consideration to only the base bid, Branch Construction was the lowest bidder with a base bid in the amount of \$3,974,865.00 and bid alternative (1) in the amount of \$316,400.00 for a total of \$4,291,265.00. Matula & Matula base bid amount was \$3,994,185.06 and bid alternative amount was \$280,052.00 for a total of \$4,274,237.46. Tejas Underground Utilities had the highest bid package.</p> <p>The City has the option to accept the lowest base bid from Branch Construction with no bid alternative, or the City has the option to accept the lowest bid package from Matula and Matula to include the two generators in the bid alternative, as the lowest total bid package including bid alternative is less than the engineer's opinion of probably construction cost.</p> <p>Staff's recommend action is to accept the lowest submittal including base bid and bid alternative from Matula and Matula with consideration to the future rising cost of generators.</p>



AGENDA MEMO

Business of the City Council
City of Sweeny, Texas

Item 5.

Recommended Action

Staff recommends Council award the contract to Matula and Matula Construction, Inc. to include the bid alternative for a total contract amount of \$4,274,237.46.

Suggested motion:

"I move we award a construction contract to Matula & Matula Construction, Inc. in the amount of \$3,994,185.06 for the base bid and \$280,052.40 for bid alternative number one for a total of \$4,274,237.46 related to the City's grant contract with the Texas General Land Office, Contract No. 22-082-007-D205."



Strand Associates, Inc.
1906 Niebuhr Street
Brenham, TX 77833
(P) 979.836.7937
www.strand.com

February 28, 2024

Ms. Lindsay Koskiniemi, City Manager
City of Sweeny
102 West Ashley Wilson Road
Sweeny, TX 77480

Re: GLO-MIT Sanitary Sewer Improvements
GLO Contract No. 22-082-007-D205
Contract 1-2023
City of Sweeny, Texas

Dear Ms. Koskiniemi:

Bids for the above-referenced Project were opened on February 22, 2024. Three Bids were received with the resulting Bid tabulation enclosed. The low Bid of \$3,974,865 for the Base Bid was less than ENGINEER's opinion of probable construction cost.

Branch Construction Group, LLC of Dickinson, Texas, was the apparent low Bidder at \$3,974,865 for the Base Bid only. If Bid Alternative No. 1 is awarded with the Base Bid, then Matula & Matula Construction, Inc. of Lake Jackson, Texas, is the apparent low Bidder. The Bids included a Bid Bond for 5 percent and Addendum No. 1 was acknowledged. The Bids are deemed to be responsive.

Strand Associates, Inc.® has not had previous experience with Branch Construction Group, LLC.

Strand Associates, Inc.® has previously worked with Matula & Matula Construction, Inc. on several projects for a variety of Cities. For those projects, the Cities determined Matula & Matula Construction, Inc. to be responsible.

If you determine that both contractors are responsible Bidders after your evaluation of their qualifications, we recommend determining if Bid Alternative No. 1 will be awarded. Based on that decision, you should proceed with award of the Contract to the apparent low Bidder in accordance with Article 14 of the Instructions to Bidders for Construction.

Sincerely,

STRAND ASSOCIATES, INC.®

William J. Huebner, P.E.

Enclosure

Bids Received: 2 P.M.
February 22, 2024


STRAND ASSOCIATES, INC.®
TBPE No. F-8405
TBPLS No. 10030000
1906 Niebuhr Street
Brenham, TX 77833

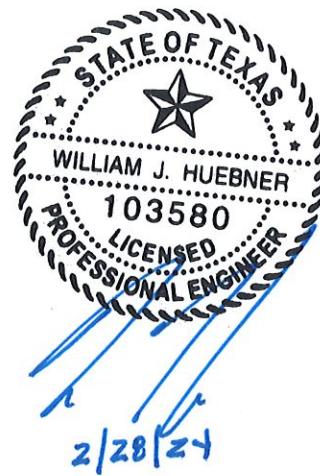
CITY OF SWEENEY
SWEENEY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

BID TABULATION SUMMARY

Bidder and Address	Bid Bond or Guarantee	Addenda Acknowledged	Computed Total Base Bid	Bid Alternative No. 1
Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539	5%	Yes	\$3,974,865.00 *\$3,934,365.00	\$316,400.00
Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566	5%	Yes	\$3,994,185.06	\$280,052.40
Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355	5%	Yes	\$4,985,188.00 *\$4,995,448.00	\$495,362.00

*CONTRACTOR'S COMPUTED TOTAL

Reviewed by: 



Bids Received: 2 P.M., February 22, 2024

STRAND ASSOCIATES, INC.*
 TBPE No. F-8405
 TBPLS No. 10030000
 1906 Niebuhr Street
 Brenham, TX 77833

CITY OF SWEENEY
 SWEENEY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023
 BID TABULATION BREAKDOWN

Branch Construction Group, LLC
 1621 FM 517 Road East, Suite D
 Dickinson, TX 77539

Matula & Matula Construction, Inc.
 122 West Way, Suite 325
 Lake Jackson, TX 77566

Tejas Underground Utilities, LLC
 30355 Old Hockley Road
 Magnolia, TX 77355

No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Utility Activities									
1.	Remove and Replace Existing Sanitary Sewer W/ 6-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	45	LF	\$ 30.00	\$ 1,350.00	\$ 107.50	\$ 4,837.50	\$ 164.80	\$ 7,416.00
2.	Remove and Replace Existing Sanitary Sewer W/ 8-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	65	LF	\$ 40.00	\$ 2,600.00	\$ 87.40	\$ 5,681.00	\$ 179.80	\$ 11,687.00
3.	Remove and Replace Existing Sanitary Sewer W/ 10-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	10	LF	\$ 90.00	\$ 900.00	\$ 441.80	\$ 4,418.00	\$ 822.40	\$ 8,224.00
4.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	20	LF	\$ 110.00	\$ 2,200.00	\$ 215.70	\$ 4,314.00	\$ 431.10	\$ 8,622.00
5.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 5- to 10-FT Depth	660	LF	\$ 75.00	\$ 49,500.00	\$ 95.40	\$ 62,964.00	\$ 98.90	\$ 65,274.00
6.	Remove and Replace Existing Sanitary Sewer W/12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 10- to 15-FT Depth	550	LF	\$ 85.00	\$ 46,750.00	\$ 130.20	\$ 71,610.00	\$ 80.80	\$ 44,440.00
7.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Bore	160	LF	\$ 150.00	\$ 24,000.00	\$ 211.20	\$ 33,792.00	\$ 135.10	\$ 21,616.00
8.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line Inside a 24-IN Welded Steel Casing, by Bore	45	LF	\$ 300.00	\$ 13,500.00	\$ 392.60	\$ 17,667.00	\$ 1,028.80	\$ 46,296.00
9.	Remove and Replace Existing Sanitary Sewer W/ 18-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut	15	LF	\$ 200.00	\$ 3,000.00	\$ 400.90	\$ 6,013.50	\$ 771.20	\$ 11,568.00
10.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	160	LF	\$ 275.00	\$ 44,000.00	\$ 351.90	\$ 56,304.00	\$ 657.60	\$ 105,216.00
11.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, 5-to 10-FT Depth	4,790	LF	\$ 252.00	\$ 1,207,080.00	\$ 226.70	\$ 1,085,893.00	\$ 255.60	\$ 1,224,324.00
12.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, Greater than 10-FT Depth	3,610	LF	\$ 300.00	\$ 1,083,000.00	\$ 269.60	\$ 973,256.00	\$ 241.90	\$ 873,259.00
13.	Remove and Replace Existing Service Lateral W/ 24- by 4-IN Service Wye, 4-IN Service Cleanout Inside the Meter Box, Connect to Existing Service Line at Right of Way	57	EA	\$ 5,000.00	\$ 285,000.00	\$ 5,576.90	\$ 317,883.30	\$ 3,683.00	\$ 209,931.00
									*\$220,191.00

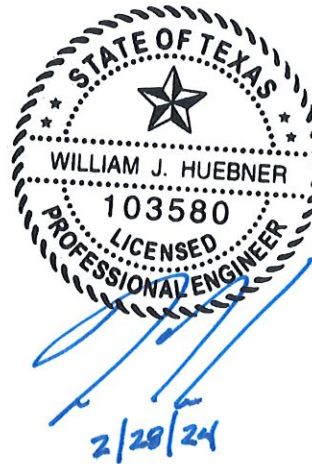
				Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539		Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566		Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355	
No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
14.	Remove and Replace Existing Sanitary Sewer Service Line W/4-IN Schedule 40 PVC.	1,975	LF	\$ 30.00	\$ 59,250.00	\$ 44.40	\$ 87,690.00	\$ 37.20	\$ 73,470.00
15.	Tie-in New 18-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 1,200.00	\$ 2,400.00	\$ 1,404.40	\$ 2,808.80	\$ 4,256.00	\$ 8,512.00
16.	Tie-in New 12-IN ASTM F679 PS 115 PVC to Existing Piping	3	EA	\$ 1,000.00	\$ 3,000.00	\$ 620.50	\$ 1,861.50	\$ 3,512.00	\$ 10,536.00
17.	Tie-in New 10-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 900.00	\$ 1,800.00	\$ 548.80	\$ 1,097.60	\$ 3,431.50	\$ 6,863.00
18.	Tie-in New 8-IN ASTM F679 PS 115 PVC to Existing Piping	9	EA	\$ 800.00	\$ 7,200.00	\$ 493.90	\$ 4,445.10	\$ 3,370.00	\$ 30,330.00
19.	Tie-in New 6-IN ASTM F679 PS 115 PVC to Existing Piping	6	EA	\$ 600.00	\$ 3,600.00	\$ 453.30	\$ 2,719.80	\$ 3,324.50	\$ 19,947.00
20.	Furnish all Materials to Install a 6-IN Drop Connections, All Depths	7	EA	\$ 600.00	\$ 4,200.00	\$ 2,156.30	\$ 15,094.10	\$ 1,763.00	\$ 12,341.00
21.	Furnish all Materials to Install a 8-IN Drop Connections, All Depths	1	EA	\$ 1,200.00	\$ 1,200.00	\$ 2,627.00	\$ 2,627.00	\$ 4,101.00	\$ 4,101.00
22.	Tie New 24-IN ASTM F679 PS 115 PVC to Existing MH	1	EA	\$ 2,000.00	\$ 2,000.00	\$ 7,500.40	\$ 7,500.40	\$ 6,840.00	\$ 6,840.00
23.	Remove and Dispose of the Existing MH	28	EA	\$ 500.00	\$ 14,000.00	\$ 780.40	\$ 21,851.20	\$ 4,246.00	\$ 118,888.00
24.	Install a 4-FT Precast Concrete MH, Standard Cone	13	EA	\$ 4,000.00	\$ 52,000.00	\$ 3,809.20	\$ 49,519.60	\$ 8,122.00	\$ 105,586.00
25.	Install 4-FT Precast Concrete MH, Flat Top W/ Vent Pipe	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 8,503.80	\$ 8,503.80	\$ 13,586.00	\$ 13,586.00
26.	Provide Additional Depth for 4-FT-DIA Concrete MH	36.4	VF	\$ 400.00	\$ 14,560.00	\$ 248.90	\$ 9,059.96	\$ 212.50	\$ 7,735.00
27.	Install a 5-FT Precast Concrete MH, Flat Top W/ Vent Pipe	2	EA	\$ 5,000.00	\$ 10,000.00	\$ 9,673.30	\$ 19,346.60	\$ 14,487.00	\$ 28,974.00
28.	Install a 5-FT Precase Concrete MH, Standard Cone	18	EA	\$ 5,000.00	\$ 90,000.00	\$ 5,570.90	\$ 100,276.20	\$ 10,119.00	\$ 182,142.00
29.	Provide Additional Depth for 5-FT-DIA Concrete MH	81	VF	\$ 500.00	\$ 40,500.00	\$ 338.90	\$ 27,450.90	\$ 300.00	\$ 24,300.00
30.	Install a 6-FT Precast Concrete MH, Standard Cone	1	EA	\$ 8,000.00	\$ 8,000.00	\$ 9,971.40	\$ 9,971.40	\$ 16,030.00	\$ 16,030.00
31.	Provide Additional Depth for 6-FT-DIA Concrete MH	7	VF	\$ 800.00	\$ 5,600.00	\$ 521.90	\$ 3,653.30	\$ 444.00	\$ 3,108.00

				Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539		Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566		Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355	
No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
32.	Perform Closed-Circuit Television on Existing Parallel Sewer Line to Determine Existing Service Location	2,165	LF	\$ 3.00	\$ 6,495.00	\$ 5.30	\$ 11,474.50	\$ 5.60	\$ 12,124.00
33.	Remove and Dispose of Existing Concrete Collar and Install New Cast-In-Place Concrete Collars Around MHs	6	EA	\$ 500.00	\$ 3,000.00	\$ 1,373.80	\$ 8,242.80	\$ 23,203.50	\$ 139,221.00
34.	Furnish All Equipment to Perform Bypass Pumping	1	LS	\$ 100,000.00	\$ 100,000.00	\$ 147,530.10	\$ 147,530.10	\$ 183,750.00	\$ 183,750.00
35.	Furnish Equipment to Perform Pot Holing or Hydro Excavation to Determine the Depth of Existing Gas Mains at the Locations Indicated on the Drawings	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 39,018.30	\$ 39,018.30	\$ 9,125.00	\$ 9,125.00
36.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line by Open Cut	2,085	LF	\$ 98.00	\$ 204,330.00	\$ 75.30	\$ 157,000.50	\$ 44.80	\$ 93,408.00
37.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line W/ Restrained Joints	400	LF	\$ 75.00	\$ 30,000.00	\$ 78.10	\$ 31,240.00	\$ 102.50	\$ 41,000.00
38.	Make 2-IN Connection to Existing Water Main	2	EA	\$ 2,500.00	\$ 5,000.00	\$ 1,964.00	\$ 3,928.00	\$ 2,022.00	\$ 4,044.00
39.	Make 6-IN Connection to Existing Water Main	6	EA	\$ 3,000.00	\$ 18,000.00	\$ 1,946.90	\$ 11,681.40	\$ 1,567.00	\$ 9,402.00
					\$1,800.00				
40.	Furnish Equipment and Materials to Make Water Service Tap	37	EA	\$ 800.00	\$ 29,600.00	\$ 617.20	\$ 22,836.40	\$ 887.00	\$ 32,819.00
41.	Furnish and Install Water Service Line and Tie-in to Existing Water Meter	755	LF	\$ 10.00	\$ 7,550.00	\$ 38.00	\$ 28,690.00	\$ 44.60	\$ 33,673.00
42.	Furnish and Install Fire Hydrant Assembly	3	EA	\$ 9,000.00	\$ 27,000.00	\$ 6,722.20	\$ 20,166.60	\$ 11,768.00	\$ 35,304.00
43.	Furnish and Install 6-IN Gate Valve and Valve Box	13	EA	\$ 2,000.00	\$ 26,000.00	\$ 1,387.20	\$ 18,033.60	\$ 2,607.00	\$ 33,891.00
44.	Furnish and Install 2-IN Gate Valve and Valve Box	1	EA	\$ 1,500.00	\$ 1,500.00	\$ 803.80	\$ 803.80	\$ 1,573.00	\$ 1,573.00
45.	Provide Dewatering Equipment	3,000	LF	\$ 20.00	\$ 60,000.00	\$ 37.00	\$ 111,000.00	\$ 31.30	\$ 93,900.00
Street Activities									
46.	Furnish and Install All Materials and Equipment to Perform Asphalt Pavement Repair Associated W/ Sanitary Sewer Replacement, INCL Base	1,420	LF	\$ 90.00	\$ 127,800.00	\$ 73.80	\$ 104,796.00	\$ 483.90	\$ 687,138.00
47.	Furnish and Install All Materials and Equipment to Mill and Overlay 2-IN Hot Mix Asphalt Concrete	610	T	\$ 200.00	\$ 122,000.00	\$ 304.90	\$ 185,989.00	\$ 326.20	\$ 198,982.00
48.	Furnish and Install All Materials and Equipment to Perform Concrete Pavement Repair Associated W/ Sanitary Sewer Replacement	55	LF	\$ 450.00	\$ 24,750.00	\$ 173.10	\$ 9,520.50	\$ 312.60	\$ 17,193.00

				Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539		Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566		Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355	
No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
49.	Seeding and Sodding Associated W/ Utility Installation and Pavement Repair	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 20,577.00	\$ 20,577.00	\$ 3,125.00	\$ 3,125.00
50.	Install and Maintain Trench Safety, 0- to 10-FT	7,350	LF	\$ 1.00	\$ 7,350.00	\$ 1.00	\$ 7,350.00	\$ 1.30	\$ 9,555.00
51.	Install and Maintain Trench Safety, Greater Than 10-FT	2,730	LF	\$ 10.00	\$ 27,300.00	\$ 5.20	\$ 14,196.00	\$ 1.30	\$ 3,549.00
52.	Traffic Control	1	LS	\$ 30,000.00	\$ 30,000.00	\$ 20,000.00	\$ 20,000.00	\$ 31,250.00	\$ 31,250.00
ENGINEER'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 52					\$ 3,974,865.00		\$ 3,994,185.06		\$ 4,985,188.00
CONTRACTOR'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 52						*\$3,934,365.00		\$ 3,944,185.06	*\$4,995,448.00

* CONTRACTOR'S COMPUTED TOTAL

Reviewed by 



Bids Received: 2 P.M., February 22, 2024

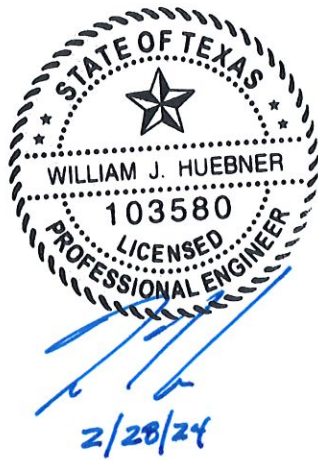
STRAND ASSOCIATES, INC.*
 TBPE No. F-8405
 TBPLS No. 10030000
 1906 Niebuhr Street
 Brenham, TX 77833

CITY OF SWEENEY
 SWEENEY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023
 BID ALTERNATIVE NO. 1

Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539	Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566	Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355
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No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Lift Station									
1.	Farm-to-Market 1459 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 120,000.00	\$ 120,000.00	\$ 147,954.80	\$ 147,954.80	\$ 236,687.00	\$ 236,687.00
2.	Farm-to-Market 524 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 180,000.00	\$ 180,000.00	\$ 127,897.60	\$ 127,897.60	\$ 253,250.00	\$ 253,250.00
3.	Fence Temporary Removal, Repair, and Reinstallation Related to Lift Station Generators	20	LF	\$ 100.00	\$ 2,000.00	\$ 75.00	\$ 1,500.00	\$ 57.50	\$ 1,150.00
4.	Furnish and Install New Fencing at Farm-to-Market 524 Lift Station, Relation to Lift Station Generator	36	LF	\$ 400.00	\$ 14,400.00	\$ 75.00	\$ 2,700.00	\$ 118.75	\$ 4,275.00
ENGINEER'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 4					\$ 316,400.00		\$ 280,052.40		\$ 495,362.00
CONTRACTOR'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 4					\$ 316,400.00		\$ 280,052.40		\$ 495,362.00

Reviewed by 





Strand Associates, Inc.
1906 Niebuhr Street
Brenham, TX 77833
(P) 979.836.7937
www.strand.com

February 28, 2024

Ms. Lindsay Koskiniemi, City Manager
City of Sweeny
102 West Ashley Wilson Road
Sweeny, TX 77480

Re: GLO-MIT Sanitary Sewer Improvements
GLO Contract No. 22-082-007-D205
Contract 1-2023
City of Sweeny, Texas

Dear Ms. Koskiniemi:

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If you determine that both contractors are responsible Bidders after your evaluation of their qualifications, we recommend determining if Bid Alternative No. 1 will be awarded. Based on that decision, you should proceed with award of the Contract to the apparent low Bidder in accordance with Article 14 of the Instructions to Bidders for Construction.

Sincerely,

STRAND ASSOCIATES, INC.®

William J. Huebner, P.E.

Enclosure

Bids Received: 2 P.M.
February 22, 2024


STRAND ASSOCIATES, INC.®
TBPE No. F-8405
TBPLS No. 10030000
1906 Niebuhr Street
Brenham, TX 77833

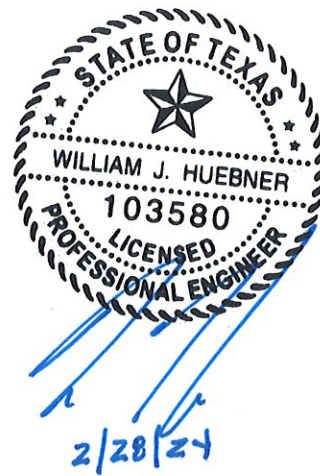
CITY OF SWEENEY
SWEENEY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

BID TABULATION SUMMARY

Bidder and Address	Bid Bond or Guarantee	Addenda Acknowledged	Computed Total Base Bid	Bid Alternative No. 1
Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539	5%	Yes	\$3,974,865.00 *\$3,934,365.00	\$316,400.00
Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566	5%	Yes	\$3,994,185.06	\$280,052.40
Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355	5%	Yes	\$4,985,188.00 *\$4,995,448.00	\$495,362.00

*CONTRACTOR'S COMPUTED TOTAL

Reviewed by: 



Bids Received: 2 P.M., February 22, 2024

STRAND ASSOCIATES, INC.*
 TBPE No. F-8405
 TBPLS No. 10030000
 1906 Niebuhr Street
 Brenham, TX 77833

CITY OF SWEENEY
 SWEENEY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023
 BID TABULATION BREAKDOWN

Branch Construction Group, LLC
 1621 FM 517 Road East, Suite D
 Dickinson, TX 77539

Matula & Matula Construction, Inc.
 122 West Way, Suite 325
 Lake Jackson, TX 77566

Tejas Underground Utilities, LLC
 30355 Old Hockley Road
 Magnolia, TX 77355

No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Utility Activities									
1.	Remove and Replace Existing Sanitary Sewer W/ 6-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	45	LF	\$ 30.00	\$ 1,350.00	\$ 107.50	\$ 4,837.50	\$ 164.80	\$ 7,416.00
2.	Remove and Replace Existing Sanitary Sewer W/ 8-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	65	LF	\$ 40.00	\$ 2,600.00	\$ 87.40	\$ 5,681.00	\$ 179.80	\$ 11,687.00
3.	Remove and Replace Existing Sanitary Sewer W/ 10-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	10	LF	\$ 90.00	\$ 900.00	\$ 441.80	\$ 4,418.00	\$ 822.40	\$ 8,224.00
4.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	20	LF	\$ 110.00	\$ 2,200.00	\$ 215.70	\$ 4,314.00	\$ 431.10	\$ 8,622.00
5.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 5- to 10-FT Depth	660	LF	\$ 75.00	\$ 49,500.00	\$ 95.40	\$ 62,964.00	\$ 98.90	\$ 65,274.00
6.	Remove and Replace Existing Sanitary Sewer W/12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 10- to 15-FT Depth	550	LF	\$ 85.00	\$ 46,750.00	\$ 130.20	\$ 71,610.00	\$ 80.80	\$ 44,440.00
7.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Bore	160	LF	\$ 150.00	\$ 24,000.00	\$ 211.20	\$ 33,792.00	\$ 135.10	\$ 21,616.00
8.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line Inside a 24-IN Welded Steel Casing, by Bore	45	LF	\$ 300.00	\$ 13,500.00	\$ 392.60	\$ 17,667.00	\$ 1,028.80	\$ 46,296.00
9.	Remove and Replace Existing Sanitary Sewer W/ 18-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut	15	LF	\$ 200.00	\$ 3,000.00	\$ 400.90	\$ 6,013.50	\$ 771.20	\$ 11,568.00
10.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	160	LF	\$ 275.00	\$ 44,000.00	\$ 351.90	\$ 56,304.00	\$ 657.60	\$ 105,216.00
11.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, 5-to 10-FT Depth	4,790	LF	\$ 252.00	\$ 1,207,080.00	\$ 226.70	\$ 1,085,893.00	\$ 255.60	\$ 1,224,324.00
12.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, Greater than 10-FT Depth	3,610	LF	\$ 300.00	\$ 1,083,000.00	\$ 269.60	\$ 973,256.00	\$ 241.90	\$ 873,259.00
13.	Remove and Replace Existing Service Lateral W/ 24- by 4-IN Service Wye, 4-IN Service Cleanout Inside the Meter Box, Connect to Existing Service Line at Right of Way	57	EA	\$ 5,000.00	\$ 285,000.00	\$ 5,576.90	\$ 317,883.30	\$ 3,683.00	\$ 209,931.00
									*\$220,191.00

				Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539		Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566		Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355	
No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
14.	Remove and Replace Existing Sanitary Sewer Service Line W/4-IN Schedule 40 PVC.	1,975	LF	\$ 30.00	\$ 59,250.00	\$ 44.40	\$ 87,690.00	\$ 37.20	\$ 73,470.00
15.	Tie-in New 18-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 1,200.00	\$ 2,400.00	\$ 1,404.40	\$ 2,808.80	\$ 4,256.00	\$ 8,512.00
16.	Tie-in New 12-IN ASTM F679 PS 115 PVC to Existing Piping	3	EA	\$ 1,000.00	\$ 3,000.00	\$ 620.50	\$ 1,861.50	\$ 3,512.00	\$ 10,536.00
17.	Tie-in New 10-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 900.00	\$ 1,800.00	\$ 548.80	\$ 1,097.60	\$ 3,431.50	\$ 6,863.00
18.	Tie-in New 8-IN ASTM F679 PS 115 PVC to Existing Piping	9	EA	\$ 800.00	\$ 7,200.00	\$ 493.90	\$ 4,445.10	\$ 3,370.00	\$ 30,330.00
19.	Tie-in New 6-IN ASTM F679 PS 115 PVC to Existing Piping	6	EA	\$ 600.00	\$ 3,600.00	\$ 453.30	\$ 2,719.80	\$ 3,324.50	\$ 19,947.00
20.	Furnish all Materials to Install a 6-IN Drop Connections, All Depths	7	EA	\$ 600.00	\$ 4,200.00	\$ 2,156.30	\$ 15,094.10	\$ 1,763.00	\$ 12,341.00
21.	Furnish all Materials to Install a 8-IN Drop Connections, All Depths	1	EA	\$ 1,200.00	\$ 1,200.00	\$ 2,627.00	\$ 2,627.00	\$ 4,101.00	\$ 4,101.00
22.	Tie New 24-IN ASTM F679 PS 115 PVC to Existing MH	1	EA	\$ 2,000.00	\$ 2,000.00	\$ 7,500.40	\$ 7,500.40	\$ 6,840.00	\$ 6,840.00
23.	Remove and Dispose of the Existing MH	28	EA	\$ 500.00	\$ 14,000.00	\$ 780.40	\$ 21,851.20	\$ 4,246.00	\$ 118,888.00
24.	Install a 4-FT Precast Concrete MH, Standard Cone	13	EA	\$ 4,000.00	\$ 52,000.00	\$ 3,809.20	\$ 49,519.60	\$ 8,122.00	\$ 105,586.00
25.	Install 4-FT Precast Concrete MH, Flat Top W/ Vent Pipe	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 8,503.80	\$ 8,503.80	\$ 13,586.00	\$ 13,586.00
26.	Provide Additional Depth for 4-FT-DIA Concrete MH	36.4	VF	\$ 400.00	\$ 14,560.00	\$ 248.90	\$ 9,059.96	\$ 212.50	\$ 7,735.00
27.	Install a 5-FT Precast Concrete MH, Flat Top W/ Vent Pipe	2	EA	\$ 5,000.00	\$ 10,000.00	\$ 9,673.30	\$ 19,346.60	\$ 14,487.00	\$ 28,974.00
28.	Install a 5-FT Precase Concrete MH, Standard Cone	18	EA	\$ 5,000.00	\$ 90,000.00	\$ 5,570.90	\$ 100,276.20	\$ 10,119.00	\$ 182,142.00
29.	Provide Additional Depth for 5-FT-DIA Concrete MH	81	VF	\$ 500.00	\$ 40,500.00	\$ 338.90	\$ 27,450.90	\$ 300.00	\$ 24,300.00
30.	Install a 6-FT Precast Concrete MH, Standard Cone	1	EA	\$ 8,000.00	\$ 8,000.00	\$ 9,971.40	\$ 9,971.40	\$ 16,030.00	\$ 16,030.00
31.	Provide Additional Depth for 6-FT-DIA Concrete MH	7	VF	\$ 800.00	\$ 5,600.00	\$ 521.90	\$ 3,653.30	\$ 444.00	\$ 3,108.00

				Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539		Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566		Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355	
No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
32.	Perform Closed-Circuit Television on Existing Parallel Sewer Line to Determine Existing Service Location	2,165	LF	\$ 3.00	\$ 6,495.00	\$ 5.30	\$ 11,474.50	\$ 5.60	\$ 12,124.00
33.	Remove and Dispose of Existing Concrete Collar and Install New Cast-In-Place Concrete Collars Around MHs	6	EA	\$ 500.00	\$ 3,000.00	\$ 1,373.80	\$ 8,242.80	\$ 23,203.50	\$ 139,221.00
34.	Furnish All Equipment to Perform Bypass Pumping	1	LS	\$ 100,000.00	\$ 100,000.00	\$ 147,530.10	\$ 147,530.10	\$ 183,750.00	\$ 183,750.00
35.	Furnish Equipment to Perform Pot Holing or Hydro Excavation to Determine the Depth of Existing Gas Mains at the Locations Indicated on the Drawings	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 39,018.30	\$ 39,018.30	\$ 9,125.00	\$ 9,125.00
36.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line by Open Cut	2,085	LF	\$ 98.00	\$ 204,330.00	\$ 75.30	\$ 157,000.50	\$ 44.80	\$ 93,408.00
37.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line W/ Restrained Joints	400	LF	\$ 75.00	\$ 30,000.00	\$ 78.10	\$ 31,240.00	\$ 102.50	\$ 41,000.00
38.	Make 2-IN Connection to Existing Water Main	2	EA	\$ 2,500.00	\$ 5,000.00	\$ 1,964.00	\$ 3,928.00	\$ 2,022.00	\$ 4,044.00
39.	Make 6-IN Connection to Existing Water Main	6	EA	\$ 3,000.00	\$ 18,000.00	\$ 1,946.90	\$ 11,681.40	\$ 1,567.00	\$ 9,402.00
					\$1,800.00				
40.	Furnish Equipment and Materials to Make Water Service Tap	37	EA	\$ 800.00	\$ 29,600.00	\$ 617.20	\$ 22,836.40	\$ 887.00	\$ 32,819.00
41.	Furnish and Install Water Service Line and Tie-in to Existing Water Meter	755	LF	\$ 10.00	\$ 7,550.00	\$ 38.00	\$ 28,690.00	\$ 44.60	\$ 33,673.00
42.	Furnish and Install Fire Hydrant Assembly	3	EA	\$ 9,000.00	\$ 27,000.00	\$ 6,722.20	\$ 20,166.60	\$ 11,768.00	\$ 35,304.00
43.	Furnish and Install 6-IN Gate Valve and Valve Box	13	EA	\$ 2,000.00	\$ 26,000.00	\$ 1,387.20	\$ 18,033.60	\$ 2,607.00	\$ 33,891.00
44.	Furnish and Install 2-IN Gate Valve and Valve Box	1	EA	\$ 1,500.00	\$ 1,500.00	\$ 803.80	\$ 803.80	\$ 1,573.00	\$ 1,573.00
45.	Provide Dewatering Equipment	3,000	LF	\$ 20.00	\$ 60,000.00	\$ 37.00	\$ 111,000.00	\$ 31.30	\$ 93,900.00
Street Activities									
46.	Furnish and Install All Materials and Equipment to Perform Asphalt Pavement Repair Associated W/ Sanitary Sewer Replacement, INCL Base	1,420	LF	\$ 90.00	\$ 127,800.00	\$ 73.80	\$ 104,796.00	\$ 483.90	\$ 687,138.00
47.	Furnish and Install All Materials and Equipment to Mill and Overlay 2-IN Hot Mix Asphalt Concrete	610	T	\$ 200.00	\$ 122,000.00	\$ 304.90	\$ 185,989.00	\$ 326.20	\$ 198,982.00
48.	Furnish and Install All Materials and Equipment to Perform Concrete Pavement Repair Associated W/ Sanitary Sewer Replacement	55	LF	\$ 450.00	\$ 24,750.00	\$ 173.10	\$ 9,520.50	\$ 312.60	\$ 17,193.00

				Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539		Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566		Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355	
No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
49.	Seeding and Sodding Associated W/ Utility Installation and Pavement Repair	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 20,577.00	\$ 20,577.00	\$ 3,125.00	\$ 3,125.00
50.	Install and Maintain Trench Safety, 0- to 10-FT	7,350	LF	\$ 1.00	\$ 7,350.00	\$ 1.00	\$ 7,350.00	\$ 1.30	\$ 9,555.00
51.	Install and Maintain Trench Safety, Greater Than 10-FT	2,730	LF	\$ 10.00	\$ 27,300.00	\$ 5.20	\$ 14,196.00	\$ 1.30	\$ 3,549.00
52.	Traffic Control	1	LS	\$ 30,000.00	\$ 30,000.00	\$ 20,000.00	\$ 20,000.00	\$ 31,250.00	\$ 31,250.00
ENGINEER'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 52					\$ 3,974,865.00		\$ 3,994,185.06		\$ 4,985,188.00
CONTRACTOR'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 52					*\$3,934,365.00		\$ 3,944,185.06		*\$4,995,448.00

* CONTRACTOR'S COMPUTED TOTAL

Reviewed by 



Bids Received: 2 P.M., February 22, 2024

STRAND ASSOCIATES, INC.*
 TBPE No. F-8405
 TBPLS No. 10030000
 1906 Niebuhr Street
 Brenham, TX 77833

CITY OF SWEENEY
 SWEENEY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023
 BID ALTERNATIVE NO. 1

Branch Construction Group, LLC 1621 FM 517 Road East, Suite D Dickinson, TX 77539	Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566	Tejas Underground Utilities, LLC 30355 Old Hockley Road Magnolia, TX 77355
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No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Lift Station									
1.	Farm-to-Market 1459 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 120,000.00	\$ 120,000.00	\$ 147,954.80	\$ 147,954.80	\$ 236,687.00	\$ 236,687.00
2.	Farm-to-Market 524 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 180,000.00	\$ 180,000.00	\$ 127,897.60	\$ 127,897.60	\$ 253,250.00	\$ 253,250.00
3.	Fence Temporary Removal, Repair, and Reinstallation Related to Lift Station Generators	20	LF	\$ 100.00	\$ 2,000.00	\$ 75.00	\$ 1,500.00	\$ 57.50	\$ 1,150.00
4.	Furnish and Install New Fencing at Farm-to-Market 524 Lift Station, Relation to Lift Station Generator	36	LF	\$ 400.00	\$ 14,400.00	\$ 75.00	\$ 2,700.00	\$ 118.75	\$ 4,275.00
ENGINEER'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 4					\$ 316,400.00		\$ 280,052.40		\$ 495,362.00
CONTRACTOR'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 4					\$ 316,400.00		\$ 280,052.40		\$ 495,362.00

Reviewed by 



THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310 Bid Bond

KNOW ALL MEN BY THESE PRESENTS, THAT WE Branch Construction Group LLC
1621 FM 517 Road East, Suite D, Dickinson, TX 77539

as Principal, hereinafter called the Principal, and The Gray Casualty & Surety Company
P.O. Box 6202, Metairie, LA 70009-6202

a corporation duly organized under the laws of the State of LA
as Surety, hereinafter called the Surety, are held and firmly bound unto City of Sweeny

TX

as Obligee, hereinafter called the Obligee, in the sum of FIVE Percent of the Greatest Amount Bid
Dollars (\$ 5% G.A.B.),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for City of Sweeny GLO-MIT Sanitary Sewer Improvements, Project No.
22-082-007-D205

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and materials furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 22nd day of February, 2024

William Wells
William Wells Project Manager (Witness)

Branch Construction Group LLC
(Principal) (Seal)
By: Joe W. Gordin III
Joe W. Gordin CFO (Title)

Montezuma
(Witness)

The Gray Casualty & Surety Company
(Surety) (Seal)
By: Jillian O'Neal
Attorney-in-Fact Jillian O'Neal (Title)
Surety Phone No.



THE GRAY INSURANCE COMPANY
THE GRAY CASUALTY & SURETY COMPANY

GENERAL POWER OF ATTORNEY

Bond Number: Bid Bond
Principal: Branch Construction Group LLC
Obligee: City of Sweeny

KNOW ALL BY THESE PRESENTS, THAT The Gray Insurance Company and The Gray Casualty & Surety Company, corporations duly organized and existing under the laws of Louisiana, and having their principal offices in Metairie, Louisiana, do hereby make, constitute, and appoint: Jillian O'Neal

on behalf of each of the Companies named above its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its deed, bonds, or other writings obligatory in the nature of a bond, as surety, contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed the amount of \$25,000,000.00.

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both The Gray Insurance Company and The Gray Casualty & Surety Company at meetings duly called and held on the 26th day of June, 2003.

“RESOLVED, that the President, Executive Vice President, any Vice President, or the Secretary be and each or any of them hereby is authorized to execute a power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings, and all contracts of surety, and that each or any of them is hereby authorized to attest to the execution of such Power of Attorney, and to attach the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be binding upon the Company now and in the future when so affixed with regard to any bond, undertaking or contract of surety to which it is attached.

IN WITNESS WHEREOF, The Gray Insurance Company and The Gray Casualty & Surety Company have caused their official seals to be hereinto affixed, and these presents to be signed by their authorized officers this 28th day of October, 2021.



By:

Michael T. Gray

Michael T. Gray
President
The Gray Insurance Company

Cullen S. Piske

Cullen S. Piske
President
The Gray Casualty & Surety Company



State of Louisiana

ss:

Parish of Jefferson

On this 28th day of October, 2021, before me, a Notary Public, personally appeared Michael T. Gray, President of The Gray Insurance Company, and Cullen S. Piske, President of The Gray Casualty & Surety Company, personally known to me, being duly sworn, acknowledged that they signed the above Power of Attorney and affixed the seals of the companies as officers of, and acknowledged said instrument to be the voluntary act and deed, of their companies.



Leigh Anne Henican
Notary Public
Notary ID No. 92653
Orleans Parish, Louisiana

Leigh Anne Henican

Leigh Anne Henican
Notary Public, Parish of Orleans State of Louisiana
My Commission is for Life

I, Mark S. Manguno, Secretary of The Gray Insurance Company, do hereby certify that the above and forgoing is a true and correct copy of a Power of Attorney given by the companies, which is still in full force and effect. IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Company this 22nd day of February, 2024.

Mark S. Manguno

I, Leigh Anne Henican, Secretary of The Gray Casualty & Surety Company, do hereby certify that the above and forgoing is a true and correct copy of a Power of Attorney given by the companies, which is still in full force and effect. IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Company this 22nd day of February, 2024.

Leigh Anne Henican





The Gray Insurance Company
The Gray Casualty & Surety Company

Statutory Complaint Notice

To obtain information or to make a complaint:

You may contact the Surety via telephone for information or to make a complaint at: 1-504-754-6711.

You may also write to the Surety at:

Gray Surety
P.O. Box 6202
Metairie, LA 70009-6202

You may also contact the Texas Department of Insurance to obtain information on companies, coverage, rights or complaints at 1-800-252-3439. You may write to the Texas Department of Insurance at:

P.O. Box 149104
Austin, TX 78714-9104
Fax: 512-475-1771

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for information only and does not become part of condition of the attached document. This notice is written under a complete reservation of rights. Nothing herein shall be deemed to be an estoppel, waiver or modification of any of Gray's rights or defenses, and Gray hereby reserves all of its rights and defenses under any general agreement of indemnity, contracts, agreements, bonds, or applicable law.

BID
 CITY OF SWEENY
 SWEENY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

Contract award will be made based on the Computed Total Base Bid plus any Alternatives selected. The price for all Base Bid items shall be included in the Computed Total Base Bid. Alternative Bids will be added to or deducted from the Computed Total Base Bid, if they are accepted, prior to Contract award being made.

OWNER reserves the right to accept or reject any alternatives to the Computed Total Base Bid. Should OWNER wish to consider alternatives listed, Bidder may be required to provide additional information prior to Notice of Award.

The following prices per item shall be for furnishing and installing the various items of material and work as specified and shown on the drawings. Bidder agrees to perform the Work as shown on the Drawings and described in the Specifications for the following listed prices. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

NOTE: A price must be bid for each item in the Bid, even though the estimated quantity is zero. Unbalanced or unreasonable unit prices may cause rejection of the Bid.

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Utility Activities					
1.	Remove and Replace Existing Sanitary Sewer W/ 6-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	45	LF	\$ 30.00	\$ 1,350.00
2.	Remove and Replace Existing Sanitary Sewer W/ 8-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	65	LF	\$ 40.00	\$ 2,600.00
3.	Remove and Replace Existing Sanitary Sewer W/ 10-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	10	LF	\$ 90.00	\$ 900.00
4.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	20	LF	\$ 110.00	\$ 2,200.00
5.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 5- to 10-FT Depth	660	LF	\$ 75.00	\$ 49,500.00
6.	Remove and Replace Existing Sanitary Sewer W/12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 10- to 15-FT Depth	550	LF	\$ 85.00	\$ 46,750.00

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
7.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Bore	160	LF	\$ 150.00	\$ 24,000.00
8.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line Inside a 24-IN Welded Steel Casing, by Bore	45	LF	\$ 300.00	\$ 13,500.00
9.	Remove and Replace Existing Sanitary Sewer W/ 18-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut	15	LF	\$ 200.00	\$ 3,000.00
10.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	160	LF	\$ 275.00	\$ 44,000.00
11.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, 5-to 10-FT Depth	4,790	LF	\$ 252.00	\$ 1,207,080.00
12.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, Greater than 10-FT Depth	3,610	LF	\$ 300.00	\$ 1,083,000.00
13.	Remove and Replace Existing Service Lateral W/ 24- by 4-IN Service Wye, 4-IN Service Cleanout Inside the Meter Box, Connect to Existing Service Line at Right of Way	57	EA	\$ 5,000.00	\$ 285,000.00
14.	Remove and Replace Existing Sanitary Sewer Service Line W/4-IN Schedule 40 PVC.	1,975	LF	\$ 30.00	\$ 59,250.00
15.	Tie-In New 18-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 1,200.00	\$ 2,400.00
16.	Tie-in New 12-IN ASTM F679 PS 115 PVC to Existing Piping	3	EA	\$ 1,000.00	\$ 3,000.00
17.	Tie-in New 10-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 900.00	\$ 1,800.00
18.	Tie-in New 8-IN ASTM F679 PS 115 PVC to Existing Piping	9	EA	\$ 800.00	\$ 7,200.00
19.	Tie-in New 6-IN ASTM F679 PS 115 PVC to Existing Piping	6	EA	\$ 600.00	\$ 3,600.00
20.	Furnish all Materials to Install a 6-IN Drop Connections, All Depths	7	EA	\$ 600.00	\$ 4,200.00
21.	Furnish all Materials to Install a 8-IN Drop Connections, All Depths	1	EA	\$ 1,200.00	\$ 1,200.00
22.	Tie New 24-IN ASTM F679 PS 115 PVC to Existing MH	1	EA	\$ 2,000.00	\$ 2,000.00
23.	Remove and Dispose of the Existing MH	28	EA	\$ 500.00	\$ 14,000.00
24.	Install a 4-FT Precast Concrete MH, Standard Cone	13	EA	\$ 4,000.00	\$ 52,000.00

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
25.	Install 4-FT Precast Concrete MH, Flat Top W/ Vent Pipe	1	EA	\$ 5,000.00	\$ 5,000.00
26.	Provide Additional Depth for 4-FT-DIA Concrete MH	36.4	VF	\$ 400.00	\$ 14,560.00
27.	Install a 5-FT Precast Concrete MH, Flat Top W/ Vent Pipe	2	EA	\$ 5,000.00	\$ 10,000.00
28.	Install a 5-FT Precase Concrete MH, Standard Cone	18	EA	\$ 5,000.00	\$ 90,000.00
29.	Provide Additional Depth for 5-FT-DIA Concrete MH	81	VF	\$ 500.00	\$ 40,500.00
30.	Install a 6-FT Precast Concrete MH, Standard Cone	1	EA	\$ 8,000.00	\$ 8,000.00
31.	Provide Additional Depth for 6-FT-DIA Concrete MH	7	VF	\$ 800.00	\$ 5,600.00
32.	Perform Closed-Circuit Television on Existing Parallel Sewer Line to Determine Existing Service Location	2,165	LF	\$ 3.00	\$ 6,495.00
33.	Remove and Dispose of Existing Concrete Collar and Install New Cast-In-Place Concrete Collars Around MHs	6	EA	\$ 500.00	\$ 3,000.00
34.	Furnish All Equipment to Perform Bypass Pumping	1	LS	\$ 100,000.00	\$ 100,000.00
35.	Furnish Equipment to Perform Pot Helling or Hydro Excavation to Determine the Depth of Existing Gas Mains at the Locations Indicated on the Drawings	1	LS	\$ 10,000.00	\$ 10,000.00
36.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line by Open Cut	2,085	LF	\$ 98.00	\$ 204,330.00
37.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line W/ Restrained Joints	400	LF	\$ 75.00	\$ 30,000.00
38.	Make 2-IN Connection to Existing Water Main	2	EA	\$ 2,500.00	\$ 5,000.00
39.	Make 6-IN Connection to Existing Water Main	6	EA	\$ 3,000.00	\$ 1,800.00
40.	Furnish Equipment and Materials to Make Water Service Tap	37	EA	\$ 800.00	\$ 29,600.00
41.	Furnish and Install Water Service Line and Tie-in to Existing Water Meter	755	LF	\$ 10.00	\$ 7,550.00
42.	Furnish and Install Fire Hydrant Assembly	3	EA	\$ 9,000.00	\$ 2,700.00
43.	Furnish and Install 6-IN Gate Valve and Valve Box	13	EA	\$ 2,000.00	\$ 26,000.00
44.	Furnish and Install 2-IN Gate Valve and Valve Box	1	EA	\$ 1,500.00	\$ 1,500.00
45.	Provide Dewatering Equipment	3,000	LF	\$ 20.00	\$ 60,000.00

BID ALTERNATIVE NO. 1
CITY OF SWEENY
SWEENY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Lift Station					
1.	Farm-to-Market 1459 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 120,000.00	\$ 120,000.00
2.	Farm-to-Market 524 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 180,000.00	\$ 180,000.00
3.	Fence Temporary Removal, Repair, and Reinstallation Related to Lift Station Generators	20	LF	\$ 100.00	\$ 2,000.00
4.	Furnish and Install New Fencing at Farm-to-Market 524 Lift Station, Related to Lift Station Generator	36	LF	\$ 400.00	\$ 14,400.00

COMPUTED TOTAL BID ALTERNATIVE NO. 1

Three hundred sixteen thousand four hundred dollars and no cents Dollars \$ 316,400.00
(Words) (Numbers)

BIDDER: Branch Construction Group, LLC

BID FORMS

CITY OF SWEENY
SWEENY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

Prepared by:

STRAND ASSOCIATES, INC.®
TBPE No. F-8405
TBPLS No. 10030000
1906 Niebuhr Street
Brenham, TX 77833
www.strand.com

Issued for Bid
February 7, 2024



SECTION 00 41 00

BID

CITY OF SWEENY
 SWEENY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

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 ARTICLE 7. ATTACHMENTS TO THIS BID
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 ARTICLE 10. BID SUBMITTAL

ARTICLE 1–BID RECIPIENT

1.01 Bids to be received until 2 P.M. local time, February 22, 2024.

1.02 This Bid is submitted to: City of Sweeny
 102 West Ashley Wilson Road
 Sweeny, TX 77480

1.03 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2–BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

2.01 Bid Acceptance Period

A. This Bid will remain subject to acceptance for 115 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of OWNER.

2.02 Instructions to Bidders

A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

2.03 In submitting this Bid, Bidder represents the following:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following addenda:

Date:	Addendum Number:
2/19/2024	1
_____	_____
_____	_____
_____	_____

2.04 Bidder will sign and deliver the required number of counterparts of the Agreement with the bonds, insurance certificates, and other documents required by the Bidding Requirements within 15 days after the date of OWNER's Notice of Award.

ARTICLE 3-BIDDER'S REPRESENTATIONS

3.01 Bidder's Representations

A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Special Conditions, with respect to the Technical Data in such reports and drawings.
5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Special Conditions, with respect to Technical Data in such reports and drawings.
6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Special Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as CONTRACTOR; and (c) Bidder's (CONTRACTOR's) safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.

9. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to CONTRACTOR.

10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4-BIDDER'S CERTIFICATIONS

4.01 Bidder certifies the following:

A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.

B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.

C. Bidder has not solicited or induced any individual or entity to refrain from Bidding.

D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:

1. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the Bidding process.

2. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the Bidding process to the detriment of OWNER, (b) to establish Bid prices at artificial non-competitive levels, or (c) to deprive OWNER of the benefits of free and open competition.

3. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of OWNER, a purpose of which is to establish Bid prices at artificial, non-competitive levels.

4. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the Bidding process or affect the execution of the Contract.

4.02 Prohibition on Boycotting Israel

In accordance with HB 89 and Texas Government Code Chapter 2270, OWNER may not enter into a Contract with a "company" for goods or services unless the Contract contains the following written verification:

A. For the purposes for this section only, the terms "company" and "boycott Israel" shall have the meaning assigned by Texas Government Code Chapter 2270.

B. If a Bidder qualifies as a "company" outside of the exclusions of HB 793, then Bidder hereby verifies that it:

1. Does not "boycott Israel"; and
2. Will not "boycott Israel" during the term of the Contract.

4.03 Iran, Sudan, and Foreign Terrorist Organization Verification

A. In accordance with SB 252 and Texas Government Code 2252, Bidder hereby certifies that it is not listed on the website of the Comptroller of the State of Texas concerning the list of companies that are identified under Section 806.051, Section 807.051, or Section 2252.153 of the Texas Government Code.

B. Bidder also further certifies that should it enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan, or any foreign terrorist organization, it will immediately notify the OWNER's purchasing department.

4.04 Critical Infrastructure Verification

In accordance with SB 2116 and Texas Government Code Chapter 2274, Bidder hereby certifies that if it has or will have remote or direct access to communication infrastructure systems, cybersecurity systems, the electric grid, hazardous waste treatment systems, or water treatment facilities as a result of entering into a Contract with the OWNER, that Bidder is not:

A. Owned by or the majority of stock or other ownership interest is not held or controlled by:

1. Individuals who are citizens of China, Iran, North Korea, Russia, or a country designated by the Governor; or

2. a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a country designated by the Governor; or

B. headquartered in China, Iran, North Korea, Russia, or a country designated by the Governor.

4.05 Prohibition on Boycotting Energy Companies

In accordance with SB 13 and Texas Government Code 2274, Bidder hereby certifies that if it is not a sole proprietorship, if it has 10 or more full-time employees, or if the Contract Price will be greater than \$100,000, that Bidder:

A. Will not boycott energy companies; and

B. Will not boycott energy companies during the term of the Contract.

4.06 Firearm Entity or Trade Association Discrimination

In accordance with SB 19 and Texas Government Code 2274, Bidder hereby certifies that if it is not a sole proprietorship, if it has 10 or more full-time employees, or if the Contract Price will be greater than \$100,000, that Bidder:

A. Does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade associations; and

B. Will not discriminate during the term Contract against a firearm entity or firearm trade association.

These requirements do not apply to an exempt contract under Section 2274.003 of the Texas Government Code.

4.07 Bidder also hereby acknowledges and agrees that all verifications and certifications located in Articles 4.02 through 4.06 will become material terms of the Contract and OWNER is expressly relying on these verification and certifications in agreeing to enter into a Contract.

ARTICLE 5-BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

The following abbreviations may be used in this Bid:

CIP	-	Complete in Place	LS	-	Lump Sum
CY	-	Cubic Yard	LT	-	Left
DI	-	Ductile Iron	MBF	-	Thousand Board Feet
DIA	-	Diameter	MFOB	-	Thousand Freight-On-Board
EA	-	Each	MH	-	Manhole
EST	-	Estimate(d)	PVC	-	Polyvinyl Chloride
EXCL	-	Excluding	RCP	-	Reinforced Concrete Pipe
FT	-	Feet	RT	-	Right
GAL	-	Gallon	SF	-	Square Foot
HERCP	-	Horizontal Elliptical RCP	STA	-	Station
HRS	-	Hours	SY	-	Square Yard
IN	-	Inch	T	-	Ton
INCL	-	Including	VLF	-	Vertical Linear Foot
LBS	-	Pounds	W/	-	With
LF	-	Linear Foot	W/O	-	Without

BIDDERS SHOULD NOT ADD ANY CONDITIONS OR QUALIFYING STATEMENTS TO THIS BID OR THE BID MAY BE DECLARED IRREGULAR AS NOT BEING RESPONSIVE TO THE INSTRUCTIONS TO BIDDERS.

BID
 CITY OF SWEENY
 SWEENY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

Contract award will be made based on the Computed Total Base Bid plus any Alternatives selected. The price for all Base Bid items shall be included in the Computed Total Base Bid. Alternative Bids will be added to or deducted from the Computed Total Base Bid, if they are accepted, prior to Contract award being made.

OWNER reserves the right to accept or reject any alternatives to the Computed Total Base Bid. Should OWNER wish to consider alternatives listed, Bidder may be required to provide additional information prior to Notice of Award.

The following prices per item shall be for furnishing and installing the various items of material and work as specified and shown on the drawings. Bidder agrees to perform the Work as shown on the Drawings and described in the Specifications for the following listed prices. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

NOTE: A price must be bid for each item in the Bid, even though the estimated quantity is zero. Unbalanced or unreasonable unit prices may cause rejection of the Bid.

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Utility Activities					
1.	Remove and Replace Existing Sanitary Sewer W/ 6-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	45	LF	\$ 30.00	\$ 1,350.00
2.	Remove and Replace Existing Sanitary Sewer W/ 8-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	65	LF	\$ 40.00	\$ 2,600.00
3.	Remove and Replace Existing Sanitary Sewer W/ 10-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	10	LF	\$ 90.00	\$ 900.00
4.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	20	LF	\$ 110.00	\$ 2,200.00
5.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 5- to 10-FT Depth	660	LF	\$ 75.00	\$ 49,500.00
6.	Remove and Replace Existing Sanitary Sewer W/12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 10- to 15-FT Depth	550	LF	\$ 85.00	\$ 46,750.00

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
7.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Bore	160	LF	\$ 150.00	\$ 24,000.00
8.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line Inside a 24-IN Welded Steel Casing, by Bore	45	LF	\$ 300.00	\$ 13,500.00
9.	Remove and Replace Existing Sanitary Sewer W/ 18-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut	15	LF	\$ 200.00	\$ 3,000.00
10.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	160	LF	\$ 275.00	\$ 44,000.00
11.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, 5-to 10-FT Depth	4,790	LF	\$ 252.00	\$ 1,207,080.00
12.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, Greater than 10-FT Depth	3,610	LF	\$ 300.00	\$ 1,083,000.00
13.	Remove and Replace Existing Service Lateral W/ 24- by 4-IN Service Wye, 4-IN Service Cleanout Inside the Meter Box, Connect to Existing Service Line at Right of Way	57	EA	\$ 5,000.00	\$ 285,000.00
14.	Remove and Replace Existing Sanitary Sewer Service Line W/4-IN Schedule 40 PVC.	1,975	LF	\$ 30.00	\$ 59,250.00
15.	Tie-in New 18-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 1,200.00	\$ 2,400.00
16.	Tie-in New 12-IN ASTM F679 PS 115 PVC to Existing Piping	3	EA	\$ 1,000.00	\$ 3,000.00
17.	Tie-in New 10-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 900.00	\$ 1,800.00
18.	Tie-in New 8-IN ASTM F679 PS 115 PVC to Existing Piping	9	EA	\$ 800.00	\$ 7,200.00
19.	Tie-in New 6-IN ASTM F679 PS 115 PVC to Existing Piping	6	EA	\$ 600.00	\$ 3,600.00
20.	Furnish all Materials to Install a 6-IN Drop Connections, All Depths	7	EA	\$ 600.00	\$ 4,200.00
21.	Furnish all Materials to Install a 8-IN Drop Connections, All Depths	1	EA	\$ 1,200.00	\$ 1,200.00
22.	Tie New 24-IN ASTM F679 PS 115 PVC to Existing MH	1	EA	\$ 2,000.00	\$ 2,000.00
23.	Remove and Dispose of the Existing MH	28	EA	\$ 500.00	\$ 14,000.00
24.	Install a 4-FT Precast Concrete MH, Standard Cone	13	EA	\$ 4,000.00	\$ 52,000.00

Item No.	Description	Estimated Quantity	Unit	Bld Unit Price	Bld Price
25.	Install 4-FT Precast Concrete MH, Flat Top W/ Vent Pipe	1	EA	\$ 5,000.00	\$ 5,000.00
26.	Provide Additional Depth for 4-FT-DIA Concrete MH	36.4	VF	\$ 400.00	\$ 14,560.00
27.	Install a 5-FT Precast Concrete MH, Flat Top W/ Vent Pipe	2	EA	\$ 5,000.00	\$ 10,000.00
28.	Install a 5-FT Precase Concrete MH, Standard Cone	18	EA	\$ 5,000.00	\$ 90,000.00
29.	Provide Additional Depth for 5-FT-DIA Concrete MH	81	VF	\$ 500.00	\$ 40,500.00
30.	Install a 6-FT Precast Concrete MH, Standard Cone	1	EA	\$ 8,000.00	\$ 8,000.00
31.	Provide Additional Depth for 6-FT-DIA Concrete MH	7	VF	\$ 800.00	\$ 5,600.00
32.	Perform Closed-Circuit Television on Existing Parallel Sewer Line to Determine Existing Service Location	2,165	LF	\$ 3.00	\$ 6,495.00
33.	Remove and Dispose of Existing Concrete Collar and Install New Cast-in-Place Concrete Collars Around MHs	6	EA	\$ 500.00	\$ 3,000.00
34.	Furnish All Equipment to Perform Bypass Pumping	1	LS	\$ 100,000.00	\$ 100,000.00
35.	Furnish Equipment to Perform Pot Holing or Hydro Excavation to Determine the Depth of Existing Gas Mains at the Locations Indicated on the Drawings	1	LS	\$ 10,000.00	\$ 10,000.00
36.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line by Open Cut	2,085	LF	\$ 98.00	\$ 204,330.00
37.	Furnish and install 6-IN AWWA C900 DR 18 Water Line W/ Restrained Joints	400	LF	\$ 75.00	\$ 30,000.00
38.	Make 2-IN Connection to Existing Water Main	2	EA	\$ 2,500.00	\$ 5,000.00
39.	Make 6-IN Connection to Existing Water Main	6	EA	\$ 3,000.00	\$ 1,800.00
40.	Furnish Equipment and Materials to Make Water Service Tap	37	EA	\$ 800.00	\$ 29,600.00
41.	Furnish and Install Water Service Line and Tie-in to Existing Water Meter	755	LF	\$ 10.00	\$ 7,550.00
42.	Furnish and Install Fire Hydrant Assembly	3	EA	\$ 9,000.00	\$ 2,700.00
43.	Furnish and Install 6-IN Gate Valve and Valve Box	13	EA	\$ 2,000.00	\$ 26,000.00
44.	Furnish and Install 2-IN Gate Valve and Valve Box	1	EA	\$ 1,500.00	\$ 1,500.00
45.	Provide Dewatering Equipment	3,000	LF	\$ 20.00	\$ 60,000.00

Revised Section 00 41 00-8

3920.054/1-2023 (Addendum No. 1)

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Street Activities					
46.	Furnish and Install All Materials and Equipment to Perform Asphalt Pavement Repair Associated W/ Sanitary Sewer Replacement, INCL Base	1,420	LF	\$ 90.00	\$ 127,800.00
47.	Furnish and Install All Materials and Equipment to Mill and Overlay 2-IN Hot Mix Asphalt Concrete	610	T	\$ 200.00	\$ 122,000.00
48.	Furnish and Install All Materials and Equipment to Perform Concrete Pavement Repair Associated W/ Sanitary Sewer Replacement	55	LF	\$ 450.00	\$ 24,750.00
49.	Seeding and Sodding Associated W/ Utility Installation and Pavement Repair	1	LS	\$ 20,000.00	\$ 20,000.00
50.	Install and Maintain Trench Safety, 0- to 10-FT	7,350	LF	\$ 1.00	\$ 7,350.00
51.	Install and Maintain Trench Safety, Greater Than 10-FT	2,730	LF	\$ 10.00	\$ 27,300.00
52.	Traffic Control	1	LS	\$ 30,000.00	\$ 30,000.00

COMPUTED TOTAL BASE BID CONTRACT 1-2023 (ITEMS 1 THROUGH 52)

Three million nine hundred thirty-four three hundred sixty-five dollars and no cents Dollars \$ 3,934,365.00
 (Words) (Numbers)

BID ALTERNATIVE NO. 1

CITY OF SWEENY
 SWEENY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Lift Station					
1.	Farm-to-Market 1459 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 120,000.000	\$ 120,000.00
2.	Farm-to-Market 524 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 180,000.00	\$ 180,000.00
3.	Fence Temporary Removal, Repair, and Reinstallation Related to Lift Station Generators	20	LF	\$ 100.00	\$ 2,000.00
4.	Furnish and Install New Fencing at Farm-to-Market 524 Lift Station, Related to Lift Station Generator	36	LF	\$ 400.00	\$ 14,400.00

COMPUTED TOTAL BID ALTERNATIVE NO. 1

Three hundred sixteen thousand four hundred dollars and no cents Dollars \$ 316,400.00
 (Words) (Numbers)

ARTICLE 6–TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete within 360 calendar days after the date when the Contract Time commences to run as provided in Paragraph 32 of the General Conditions and ready for final payment within 480 calendar days after the date when the Contract Time commences to run.

6.02 Bidder accepts the provisions of the General Conditions as to liquidated damages in the event of failure to complete the Work within the Contract Times.

ARTICLE 7–ATTACHMENTS TO THIS BID

7.01 The following documents are attached to and made a condition of this Bid:

- A. Required Bid security in the form of Bond 5%.
(Certified Check, Bank Money Order, or Bond)
- B. Form CIQ Conflict of Interest Questionnaire (if required).
- C. Certificate of Interested Parties (Form 1295).
- D. Noncollusion Affidavit of Prime Bidder.
- E. Certificate of Bidder Regarding Civil Rights Laws and Regulations.
- F. CONTRACTOR's Certificate of Recovered Materials.
- G. CONTRACTOR's Local Opportunity Plan.
- H. Proposed Contracts Breakdown and Estimated Project Workforce Breakdown.
- I. Certification for Business Concerns–Seeking Section 3 Preference in Contracting and Demonstration of Capability.
- J. Certification Regarding Lobbying.
- K. Disclosure of Lobbying Activities and Instructions.
- L. Statement of Bidder's Qualifications.
- M. Evidence that Bidder is active and cleared (not suspended or debarred) in System for Award Management (SAM).
- N. Section 504 Certification-Policy of Nondiscrimination on the Basis of Disability.
- O. Child Support Statement for Negotiated Contracts and Grants.
- P. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license, if applicable, within the time for acceptance of Bids.
- Q. Where applicable, Bidder shall provide CONTRACTOR's License Number for the state of the Project, where noted at end of Bid or Bidder shall provide evidence of Bidder's ability to obtain

a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids.

ARTICLE 8-DEFINED TERMS

8.01 The terms used in this Bid with initial or all capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Special Conditions.

ARTICLE 9-COMMUNICATIONS

9.01 Communications concerning this Bid shall be addressed to the address of Bidder indicated below:

Name: Branch Construction Group, LLC

Street: 1621 FM 517 RD E, STE D

City, State, Zip Code: Dickinson, TX 77539

Phone No.: 281-678-8248 Fax No.: 281-766-8781

E-mail address: bwells@branchconstructiongroup.com

ARTICLE 10-BID SUBMITTAL

Submitted on 2/22/2024

State Contractor License Number _____ (if applicable).

If Bidder is:

An Individual

By: _____
(Individual's signature)

Name (typed or printed): _____

Doing business as: _____
Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

A Partnership

Partnership Name: _____

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

A Corporation

Corporation Name: Branch Construction Group, LLC

State of Incorporation: Texas

Type (General Business, Professional, Service, Limited Liability): LLC

By: Joe Gordin III
(Signature -- attach evidence of authority to sign)

Name (typed or printed): Joe W Gordin III

Title: CFO

Attest _____
(Signature of Corporate Secretary)

Business address: 1621 FM 517 RD E, STE D, Dickinson, TX 77539

Phone No.: 281-678-8248 Fax No.: 281-766-8781

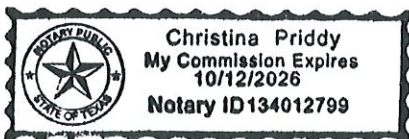
E-mail address: bwells@branchconstructiongroup.com

Date of Qualification to do business in (State where the Project is located) is 2021 Texas

Sworn and subscribed to before me this 20th day of February, 2024

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires: 10-12-2026

Christina Priddy

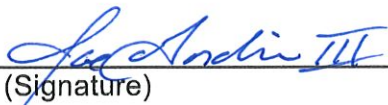


A *Limited Liability Company* (Note: If member-managed, an authorized member must sign; if manager-managed, the authorized manager must sign. Attach evidence of authority to sign on behalf of LLC).

Branch Construction Group, LLC

(Fill in complete name of LLC)

State of Formation: Texas_____

By: _____
(Signature)

Joe W Gordin III, CFO_____, [Member] [Manager]
(Print Name)

Business Address: 1621 FM 517 RD E, STE D, Dickinson, TX 77539_____

Telephone.: 281-678-8248_____

Email: bwells@branchconstructiongroup.com_____

Fax: 281-766-8781_____

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Second Joint Venturer Name: _____

By: _____
(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Phone No., Fax No., and postal and E-mail address for receipt of official communications:

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Sworn and subscribed to before me this
_____ day of _____, _____

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires: _____

END OF SECTION

STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered, and the data given must be clear and comprehensive. **This statement must be notarized.** If necessary, questions may be answered on separate attached sheets. The Bidder may submit any additional information it desires.

Date: 2/22/2024

Bidder (Legal Name of Firm): Branch Construction Group, LLC

Date Organized: 2/14/2021

Name of Owner(s): Joe W Gordin III and John Ashworth

Address: 1621 FM 517 RD E, STE D, Dickinson, TX 77539

Date Incorporated 2/14/2021

Federal ID Number: 861660198

Number of Years in contracting business under present name 2

List all other names under which your business has operated in the last 10 years:

Work Presently Under Contract:

Contract	Amount \$	Completion Date
See the attached.		

Type of work performed by your company: Underground Utility General Contractor

Total Staff employed by Firm (Break down by Managers and Trades on separate sheet):
See attached.

Have you ever failed to complete any work awarded to you? Yes No
(If yes, please attach summary of details on a separate sheet. Include brief explanation of cause and resolution)

Have you ever defaulted on a contract? Yes No
(If yes, please attach summary of details on a separate sheet.)

Has your organization had any disbarments or suspensions that have been imposed in the past five years or that was still in effect during the five-year period or is still in effect? Yes No

(If yes, list and explain; such list must include disbarments and suspensions of officers, principals, partners, members, and employees of your organization.)

List the projects most recently completed by your firm (include project of similar importance):

Project	Amount \$	Mo/Yr Completed
See the attached.		

Major equipment available for this contract: Any and all that is needed.

Are you in compliance with all applicable EEO requirements? Yes No
(If no, please attach summary of details on a separate sheet.)

(Optional) Minority Business Reporting Information:

Owner's Race: _____
Owner's Ethnicity: _____
Owner's Gender: _____

Are you a Section 3 business? (See below) Yes No

Section 3 Business Concerns:

- a) Businesses that are 51 percent or more owned by Section 3 residents;
- b) Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents;
- c) Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above; or
- d) Businesses located within the City's jurisdiction that identifies themselves as Section 3 Business Concerns because they provide economic opportunities for low- and very low-income persons.

Bank References

Address: See the attached. Contact Name: _____
City & State: _____ Zip: _____ Phone Number: _____
Credit available: \$ _____

Has the firm or predecessor firm been involved in a bankruptcy or reorganization? Yes No
(If yes, please attach summary of details on a separate sheet.)

List on a sheet attached hereto all judgements, claims, arbitration proceedings, or suits pending or outstanding against bidder over the last five (5) years with amount of claim and brief description.

List on a sheet attached hereto all lawsuits or requested arbitration with regard to construction contracts which bidder has initiated within the last five (5) years and brief explanation of claim and outcome.

Attach resume(s) for the principal member(s) of your organization, including the officers as well as the proposed superintendent for the project.

Signed this 22 day of February, 20 24.

Joe W Gordin III
Signature

Joe W Gordin III, CFO
Printed Name and Title

Branch Construction Group, LLC
Company Name

Notary Statement:

Joe W Gordin III being duly sworn, says that he/she is the CFO Position/Title of Branch Construction Group, LLC (Firm Name), and hereby swears that the answers to the foregoing questions and all statements therein contained are true and correct. He/she hereby authorizes and requests any person, firm, or corporation to furnish any information requested City of _____ in verification of the recitals comprising this Statement of Bidder's Qualifications.

Subscribed and sworn before me this 22 day of February, 20 24.

Notary Public

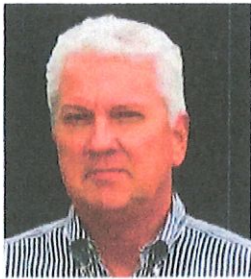
Signature

Printed Name

My Commission Expires: _____,

The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

**Insert System for Award Management (SAM)
record search for company name and company
principal**



John Ashworth
Chief of Commercial Operations

John has over 40 years of experience in mechanical piping solutions, testing, inspection, and certification space. A highly accomplished senior executive with domestic and international experience in operations, business development, sales and marketing, acquisition purchase and sales integration, technology development, geographical leveraging, and strategic market planning in developed and emerging geographies.

John is a results-oriented, decisive leader with proven success while holding high-level roles with recognized industry leaders in the industrial and TIC space in SGS, Intertek, Furmanite, Team Industrial Services, and T.D. Williamson. John has spent his entire career in the service and product industry providing solutions to at often time difficult problems within piping systems and processes. He understands the importance of the customers problems being our problems at Branch Construction Group and providing high quality solutions. John leads the commercial side of the business.



Joe Gordin III
Chief of Field Operations

JW has over 18 years of experience specific to the Underground Utilities and Commercial Plumbing. He has headed up the installation of numerous multi-million dollar water infrastructure projects for many municipalities including those located in Harris, Brazoria, Fort Bend, Galveston, Chambers, Liberty, and Montgomery counties in Texas. He has built out and restored water systems in the cities of Bellaire, Channelview, Richwood, Clute, Galveston, and Bay City to name a few.

He has also managed the installation of new piping systems for Petco, Academy, WalMart, CVS, Academy including the new construction of several shopping malls, restaurants, and movie theatres. JW is fully OSHA certified and holds an Underground Fire Protection License qualifying Branch Construction Group for fire water line installation. He has significant training in safety for all aspects of our field operations. JW is well recognized within the industry and has a strong network of advocates within the municipalities and new construction arena. JW leads the field operations side of the business.



Bill Wells, Project Manager/Estimator
Branch Construction Group

Bill Wells is the Project Manager/Estimator to Branch Construction Group. He comes to us with over 40 years' experience in Project Management and Estimations. Bill's extensive knowledge of the underground utilities business, including boring and tunneling, as well as his attention to detail and stellar reputation in the field, makes him a great addition to the Branch Construction Group family.

William P Wells

1210 Lear Road Houston TX 77015 Call: 281-221-0486

Formally Armadillo Underground Utilities, LLC., Now, R&A Road LLC., with same owners/staff
11450 Hirsch Road, Houston, Texas 77016 Contact: Mr. Celerino Sanchez 281-205-1439

Job Title: Estimator/Project Manager/Job Supervisor
For Underground Utility Projects Bid as General
Contractor. Date Employed: 2/16-Present

A Absolute Plumbing, Inc.
16195 S Hwy 288B Angleton, TX 77515
Contact: Mr. Joe Gordin Phone: 832-771-8449

Job Title: Estimator/Project Manager for Public Works
Utility Construction, Jobs \$200,000-\$4million

Dates Employed: 06/11 - 02/16

RWL Construction, INC.
P.O. Box 1209 Sealy, TX 77474 Contacts: Mr. Richard Lewis Phone: 979-827-7866

Job Title: Project Manager, EPA Superfund site involving a complex water main extension,
\$5.5million job

Dates Employed: 12/07-12/08

Reason for Leaving: Job Completed R.O.F.

C & H Contracting
1210 Lear St Houston, TX 77015
Contact: Mr. Charlie Honea Phone: 832-473-2905

Job Title: Estimator, General Manager, Underground Utilities.

Dates Employed: 07/01 11/07

Reason for Leaving: Owner retired and sold out.

Abyss Construction, INC.
12922 Pinto Circle Houston, TX 77045
Contact: Susan Stokes Unknown Contact Number

Job Title: founded company with Ms. Stokes, Estimator and General Manager of Company. City of Houston/ Harris County Water Mains& fixtures as General Contrator.

Dates Employed: 2/92- 7/01

Reason for Leaving: Owner sold company Due to Health Issues.

Listing of Company's employed by from 1980 to 1992

American Road Boring Spring, Tx (Estimator -- Supervisor) Owner Bill Squires

M & K Road Highlands, Tx (supervisor) Owner Kenneth Elliot

San -- Jacinto Boring & Tunneling (Boring Foreman & Troubleshooter) Benny Smith

Arrow Road Boring (Boring foreman & operator) owner Raymond Wolfe

REFERENCES

Courtland Peacock 832-473-2905

James Dowdell 832-401-3400

J.D. Sauer Owner Douglass properties 903-520-5851

Howard Hudson
 9 Cozumel Cir. Galveston, Texas 77554 – Cell: 409-502-4461
Dan8abug@gmail.com

For the last 8 years I have worked in the collections and distributions department at the City of Galveston in Texas. I played a key role in maintaining the City's infrastructure while sitting in on pre-construction meetings and providing feedback as to what the city would require in new construction. Including, but not limited to, working closely with contractors on the job site, examining plans, and inspecting all installations. I ensured that the as-built plans were accurate for turnover to the city as well as supervised all crews in the installation of valves, water mains, sewer mains, manholes, sewer and water taps which include ¾ inch through 24 inch taps. I am seeking out the opportunity to enhance my knowledge and use my skill sets to promote human health with the proper management of water systems.

EXPERIENCE

July 2021-Current
 Project Manager, Branch Construction Group

-
-
-
-
-

APRIL 2013 – JULY 2021

COLLECTIONS AND DISTRIBUTIONS SUPERVISOR, CITY OF GALVESTON

- Delegating duties and prioritizing daily assignments for all crews.
- Ensured that preventative maintenance was completed on all equipment daily.
- Formulated plans to repair broken water and sewer mains throughout the city.
- Addressed problems that would arise throughout the day and correct them.
- Ensured that all crews were properly equipped to complete daily tasks.
- Prepared schedules for all upper management proceeding upcoming work.
- Assisted residential and commercial customers in troubleshooting problems including low water pressures, sewer stoppages, and water leaks.

EDUCATION AND ACCOMPLISHMENTS

MAY 1984
 HIGH SCHOOL DIPLOMA, ATHERTON HIGH SCHOOL

OCTOBER 1984-1991
 U.S. ARMY

JULY 1985
 CLASS A CDL

JUNE 1990
 GRADUATED FROM PRIMARY LEADERSHIP DEVELOPMENT COURSE

NOVEMBER 2013
 BASIC WATER OPERATIONS CERTIFICATE, GALVESTON COLLEGE

MAY 2014
 WASTEWATER COLLECTIONS CERTIFICATE, GALVESTON COLLEGE

MARCH 2017
 WORK ZONE SAFETY CERTIFICATE, TEXAS MUNICIPAL INTERGOVERNMENTAL RISK POOL

AUGUST 2018
 TEXAS PUBLIC INFORMATION ACT CERTIFICATE, OLSON & OLSON LLP

SKILLS

- Ability to organize and implement plans
- Water and sewer pipe installation
- Water valve repairs and replacements
- Ordering necessary supplies and equipment
- Dewatering, trenching, and shoring

- Corrective repairs and preventive maintenance
- Safely operating heavy equipment
- Handling and operating hand tools
- Implementing safety protocols
- Hydro-excavation
- Sewer line cleaning/CCTV

- Advocate for teamwork
- Strong written and verbal communication skills
- Team oversight and organization
- Experience at creating and correcting infrastructure maps
- Experienced in afterhours emergency to include hurricane preparedness

<u>Name of Project</u>	<u>Amount</u>	<u>Type of Work</u>	<u>Percentage Contract Complete</u>	<u>Amount Subcontracted</u>	<u>Schedule Completion Date</u>	<u>Location City, County, State</u>
1. Dickinson Storm Rehab	\$ 493,263.00	Storm Piping Drainage & Paving	65%	0	In Progress	Dickinson, Texas
2. 2024 Waterline Improvement	\$ 304,563.00	Replacement of water main	60%	0	In Progress	Jamaica Beach, Texas
3. Water Plant Piping Rehab	\$ 28,509.00	Replace existing water line	95%	0	In Progress	Webster, Texas
4. Dickinson Library Rehab	\$ 125,000.00	Remodel library and structure	80%	0	In Progress	Dickinson, Texas
5. Dickinson Event Center & Park	\$ 2,000,000.00	Design, build and complete a new event center, stage and park	5%	0	In Progress	Dickinson, Texas
6. Bay City Pipebursting Rehab	\$ 73,635.00	Pipeburst & Replace existing pipe	95%	0	In Progress	Bay City, Texas
7. Bay City Water Leaks Repair	\$ 49,775.00	Ongoing repair of city water leaks	5%	0	In Progress	Bay City, Texas
8. Jamaica Beach Walkover Install	\$ 108,475.00	Install new beach access walkovers	5%	0	In Progress	Jamaica Beach, Texas
9. Water Plant New Construction	\$ 42,500.00	Install new underground piping	90%	0	In Progress	Pinehurst, Texas
10. 2920 West Project	\$ 25,000.00	Install new underground piping	5%	0	In Progress	Houston, Texas
11. Colonial Estates Pavement Rehab	\$ 40,286.00	Replace existing street segment	5%	0	In Progress	Dickinson, Texas
12. No. 24-02 Palm Street Water Plant Line Stop and Gate Valve Installation	\$ 265,000.00	Line stop and gate valve installation	0%	0	In Progress	Huntsville, Texas
13. Water Distribution System Improvements	\$ 288,660.00	Improve the water distribution system	0%	0	In Progress	Point Comfort, Texas

Project Contact Information

- Alexis Santiago, 2901 23rd St, Dickinson, TX 77539, (281)229-6600
- JD Mercer Engineering, 2200 Ave A, Bay City, TX 77414 (361) 782-7121
- Alexis Santiago, 2901 23rd St, Dickinson, TX 77539, (281)229-6600
- Alexis Santiago, 2901 23rd St, Dickinson, TX 77539 (281)229-6600
- Jessie Brantley, Dickinson City Hall, Dickinson TX 77539 (406)218-8170
- Krystal Mason, 1217 Ave J, Bay City, TX 77414 (979)943-6614
- Krystal Mason, 1217 Ave J, Bay City, TX 77414 (979)943-6614
- Robert Quintero, 16628 Termini San Luis Pass Road, Galveston TX 77554 (409)737-1142
- Jillian San Felepe, 21820 Mueschke Rd, Tomball, TX 77377 (281)351-9801
- Jillian San Felepe, 21820 Mueschke Rd, Tomball, TX 77377 (281)351-9801
- Alexis Santiago, 2901 23rd St, Dickinson, TX 77539 (281)229-6600
- Paul w/ City of Huntsville, 1220 11th ST., Huntsville, Texas 77320 (936) 355-8405
- Brian Kramer Lynn Engineering LLC F-324, 2200 Ave, A, Bay City, TX 77414 (361) 782-7121



Ongoing Projects

<u>Name of Project</u>	<u>Amount</u>	<u>Type of Work</u>	<u>Percentage Sub Contracted</u>	<u>Amount Subcontracted</u>	<u>Schedule Completion Date</u>	<u>Date Complete</u>	<u>Location City, County, State</u>
1. Accurate Meter and Supply	\$225,307.00	Meter Change out	0	0	Complete	Oct, 2022	Bay City, Matagorda, TX
2. Bussels and Sons	\$110,037.00	Water Plant Installation	0	0	Complete	Dec, 2022	Tomball, Harris, TX
3. Dickinson Storm Rehab	\$178,784.00	Large Diameter Storm Rehab	0	0	Complete	Nov, 2022	Dickinson, Galveston, Tx
4. Danbury ISD	\$257,476.76	Storm and Sewer Rehab	0	0	Complete	July, 2022	Danbury, Galveston, TX
5. Texas New Mexico Power	\$102,000.00	Water Line Relocation	0	0	Complete	May, 2022	Texas City, Galveston, TX
6. Bay City	\$210,860.00	Sewer Rehab Project	0	0	Complete	March, 2022	Bay City, Matagorda, TX
7. Bay City	\$135,762.00	Fire Hydrant Replacement	0	0	Complete	Aug, 2022	Bay City, Matagorda, TX
8. MDS	\$101,655.20	Water and Sewer Rehabilitation	0	0	Complete	Oct, 2022	Kemah, Galveston, TX
9. Hitchcock	\$151,172.00	Waterline Rehab Project	0	0	Complete	June, 2022	Hitchcock, Galveston, TX
10. WWTP Rehabilitation	\$301,106.00	WWTP Aeration Tank Rehabilitation	0	0	Complete	Oct, 2023	Jersey Village Texas
11. 30" Force Main Rehab	\$2,665,863.00	Rehabilitation of 30" Force Main	0	0	Complete	Oct, 2023	Gulf Coast Authority
12. Jamaica Beach	\$206,862.00	Water Line Rehabilitation	0	0	Complete	Oct, 2023	Jamaica Beach, Galveston, Tx
13. Pinecroft Lift Station Rehab	\$400,372.29	Lift Station & Piping Rehabilitation	0	0	Complete	Jan, 2024	City of Shenandoah
14. Bayside Liftstation Rehab	\$125,436.00	Lift Station & Piping Rehabilitation	0	0	Complete	Jan, 2024	Jamaica Beach, Galveston, Tx
15. Lot 29A Storm Sewer Reroute	\$97,000.00	18" Storm Sewer Reroute	0	0	Complete	Jan, 2024	Montgomery, Texas

Reference Information

1. Chance Budget Accurate Meter and Supply, 5445 Stockdick School Rd, Katy, TX 77449, (281) 391-8100
2. Jill San Fillepe, 21820 Mueschke Rd., Tomball TX 77377(281) 351-9801
3. Alexis Santiago, 2901 23rd St, Dickinson, TX 77539, (281) 229-6600
4. Disa, 5611 Panther Dr, Danbury, TX 77534, (979) 922-1226
5. David Millam, 1207 W. Parkwood Ave, Friendswood, TX (888) 866-7456
6. Louis Vera, Bay City, 1112 7th St., Baycity TX, (979) 245-8081
7. Louis Vera, Bay City, 1112 7th St., Baycity TX, (979) 245-8081
8. Johnny Bellamy, 16578 Telge Rd. Cypress TX, (281) 290-6503
9. Leroy Thomas, 7423 Highway 6 Hitchcock TX 77563, (409) 986-5591
10. Danielle Cordova, Jersey Village, 16327 Lakeview Dr, Jersey Village TX, (713) 466-2100
11. Shannon Miftari, 3902 W Bay Area Friendwood TX 77546, (281) 226-1090
12. John D. Mercer & Associates, 118 E Main St Edna TX 77957, (361) 782-7121
13. Rual Porras, 29955 Interstare 45, Sheneandoah TX 77381 (281) 298-5522
14. Robert Quintero, 16628 Termini San Luis Pass Rd, Galveston TX 77554 (409) 737-1142
15. Bleyl Engineering, 100 Nugent Conroe, TX 77301 (936) 441-7833



Completed Projects and References

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY
Date Received

1 Name of vendor who has a business relationship with local governmental entity.

Branch Construction Group, LLC

2 **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

N/A

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7


Joe W. Gordin CFO
2/22/2024
 Signature of vendor doing business with the governmental entity Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of Texas)

County of Galveston)

Joe W Gordin III, being first duly sworn, deposes and says that:

(1) He/She is Joe W Gordin III of Branch Construction Group, LLC, the Bidder that has submitted the attached Bid;

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with another Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix an overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Sweeny (Local Public Agency) or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) *Joe W Gordin III*

Joe W Gordin III CFO

Title


Subscribed and sworn to me this 20th day of February 2024

By: *Christina Priddy*
Notary Public

My commission expires 10-12-2026



CONTRACTOR CERTIFICATIONS

U.S. Department of Housing and Urban Development	
CERTIFICATION OF BIDDER REGARDING CIVIL RIGHTS LAWS AND REGULATIONS	
INSTRUCTIONS	
CERTIFICATION OF BIDDER REGARDING Executive Order 11246 and Federal Laws Requiring Federal Contractor to adopt and abide by equal employment opportunity and affirmative action in their hiring, firing, and promotion practices. This includes practices related to race, color, gender, religion, national origin, disability, and veterans' rights.	
NAME AND ADDRESS OF BIDDER (include ZIP Code) Branch Construction Group, LLC 1621 FM 517 RD E, STE D, Dickinson, TX 77539	
CERTIFICATION BY BIDDER	
Bidder has participated in a previous contract or subcontract subject to Civil Rights Laws and Regulations. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The undersigned hereby certifies that: <input type="checkbox"/> The Provision of <u>Local Training, Employment, and Business Opportunities</u> clause (Section 3 provision) is included in the Contract. A written Section 3 plan (Local Opportunity Plan) was prepared and submitted as part of the bid proceedings (if bid equals or exceeds \$100,000). <input checked="" type="checkbox"/> The <u>Equal Opportunity</u> clause is included in the Contract (if bid equals or exceeds \$10,000).	
Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
NAME AND TITLE OF SIGNER (Please type) Joe W Gordin III, CFO	
	
SIGNATURE	DATE
	2/22/2024

CONTRACTOR’S CERTIFICATION of RECOVERED MATERIAL

ACKNOWLEDGEMENT

I, Joe W Gordin III (Principal’s Name) of Branch Construction Group, LLC (Company Name), (hereinafter called “Contractor”), acknowledge the recovered material bidding requirements found in 2 CFR 200.322 that requires the Contractor to procure those items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

I also acknowledge that this requirement shall apply to items purchased (1) where the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) where during the preceding fiscal year, the value of the quantity acquired was in excess of \$10,000.

Finally, I acknowledge the attached list of recovered materials included in the bid documents.
(For up-to-date listing, please go to <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#directory>)

Joe W Gordin III, CFO
Printed Name and Title


Signature
2/22/2024
Date

USE OF RECOVERED MATERIAL

Please check one:

- Recovered materials are included in this bid:
Materials included _____
- Recovered materials are not reasonably available in a reasonable period of time.
- Recovered materials fail to meet reasonable performance standards, which are determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable.
- Recovered materials are only available at an unreasonable price.

Joe W Gordin III, CFO
Printed Name and Title


Signature
2/22/2024
Date

CONTRACTOR'S LOCAL OPPORTUNITY PLAN

Branch Construction Group, LLC (name of company) agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses within the City of Sweeny.

- A. To ascertain from the City's CDBG program official the exact boundaries of the project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the city the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within and servicing the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.
- C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insert this plan in all bid documents and to require all bidders on subcontracts to submit an affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- E. To ensure that subcontracts (greater than \$10,000), which are typically let on a negotiated rather than a bid basis in areas other than the covered project area, are also let on a negotiated basis, whenever feasible, in a covered project area.
- F. To formally contact unions, subcontractors, and trade associations to secure their cooperation in this effort.
- G. To ensure that all appropriate project area business concerns are notified of pending sub-contractual opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this plan.
- J. To maintain records concerning the amount and number of contracts, subcontracts, and purchases which contribute to objectives.
- K. To maintain records of all projected work force needs for all phases of the project by occupation, trade, skill level, and number of positions and to update these projections based on the extent to which hiring meets these Local Opportunity objectives.
- L. As officers and representatives of Branch Construction Group, LLC (name of company), we the undersigned have read and fully agree to this Plan and the City's

Section 3 Plan and become a party to the full implementation of the program and its provisions.


Signature

Joe W Gordin III
Printed Name

CFO
Title

2/22/2024
Date

Instructions for Proposed Contracts Breakdown and Estimated Project Workforce Breakdown

Proposed Contracts Breakdown

Type of Contracts – list all construction, materials, or other types of subcontracts (for example: electrical, plumbing, concrete, boring, etc.)

No. of Contracts – Number of contracts under this category

Approximate Total Dollar Amount – Total amount of each contract

Estimated No. to Local Business – Number of contracts awarded to local businesses and Section 3 businesses

Estimated \$ Amount to Local Business - How many dollars will be spent locally for each type of contract? For example: will you hire any local employees or subcontractors?

Estimated Project Workforce Breakdown

Work Classifications – Classification of project employees as defined on Wage Rate

Total Estimated Positions – List the number employees for each work classification will you need on this project

Number of Positions Currently Filled – List the number of estimated positions you currently have filled

Number of Positions Not Filled – List the number of estimated positions you currently do not have filled

Number of Positions to Fill with Low to Moderate Income (Section 3) Residents – List the number of local residents earning low to moderate incomes that you plan to employ to fill the estimated positions not filled

PROPOSED CONTRACTS BREAKDOWN

Type of Contracts	No. of Contracts	Approx. Total Dollar Amount	Estimated No. to local Business	Estimated \$ Amount Local Business
See the attached.				

ESTIMATED PROJECT WORKFORCE BREAKDOWN

Work Classifications	Total Estimated Positions	No. of Positions Currently Filled	No. of Positions not Filled	No. of Positions to fill with LMI Residents (Section 3)
Operator	1	1	0	0
Operator/ Foremen	1	1	0	0
Pipe Layer	2	2	0	0
Laborer	2	2	0	0
Totals	6	6	0	0



Texas General Land Office
Community Development Block Grant (CDBG)
Disaster Recovery Program

CERTIFICATION FOR BUSINESS CONCERNS
Seeking Section 3 Preference in Contracting and
Demonstration of Capability

Economic Opportunities for Low and Very Low-Income Persons

Grantee/Subrecipient:	Contract Number:	Date:
City of Sweeny	22-082-007-D205	2/22/2024

CONTRACTOR INFORMATION

Name of Business Branch Construction Group, LLC

Address of Business 1621 FM 517 RD E, STE D, Dickinson, TX 77539

Type of Business: Corporation Partnership Non-Profit Consortium
 Sole Proprietorship Joint Venture

Attach the following documentation as evidence of Section 3 eligible status:
(Definition of "Section 3 Business Concern" in 24 CFR 135 describes the three alternative qualifications.)

For Business claiming status as a Section 3 resident-owned enterprise:

- Copy of resident lease
- Copy of receipt of public assistance
- Copy of evidence of participation in a public assistance program
- Other evidence

For business entity as applicable:

- Copy of Articles of Incorporation
- Certificate of Good Standing
- Assumed Business Name Certificate
- Partnership Agreement
- List of owners/stockholders and % ownership of each appointed officers
- Corporation Annual Report
- Organization chart with names and titles and brief function statement
- Latest Board minutes
- Additional documentation

For business entity claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business(es):

- List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, by claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- List of all current full-time employees
- List of employees claiming Section 3 status
- PHA/IHA Residential lease less than 3 years from day of employment
- Other evidence of Section 3 status less than 3 years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

Joe W Gordin III, CFO
Authorized Name and Signature

2/22/2024
Date

(Corporate Seal)

Attested By: William Wells, Project Manager/ Estimator

CERTIFICATION REGARDING LOBBYING
COMPLIANT WITH APPENDIX A TO 24 C.F.R. PART 87*

(To be submitted with each bid or offer exceeding \$100,000)

Certification for Contracts, Grants, Loans, and Cooperative Agreements:

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance:

The undersigned states, to the best of his or her knowledge and belief, that: If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the duly authorized representative of the Contractor, I hereby certify that the applicant will comply with the above applicable certification.



Signature of Contractor's Authorized Official

Joe W Gordin III, CFO

Printed Name and Title of Contractor's Authorized Official

2/22/2024

Date

*24 C.F.R. 87 App. A, available at <https://www.gpo.gov/fdsys/granule/CFR-2011-title24-vol1/CFR-2011-title24-vol1-part87-appA>.
Published Apr. 1, 2011. Accessed Aug. 1, 2018.

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
 - a. Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
 - b. Enter the full names of the individual(s) performing services and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 4040-0013. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (4040-0013), Washington, DC 20503



Insert System for Award Management (SAM)

Cage # 9EQC2

SAM UEID# SXPWDJ5EKRE9

SECTION 504 CERTIFICATION

POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY

The Branch Construction Group, LLC does not discriminate on the basis of disability status in the admission or access to, or treatment or employment in, its federally assisted programs or activities.

(Name) Joe W Gordin III, CFO

(Address) 1621 FM 517 RD E, STE D

Dickinson, TX 77539

City State Zip

Telephone Number (281) 678 - 8248 Voice

() _____ - _____ TDD

Maria Plante, HR has been designated to coordinate compliance with the nondiscrimination requirements contained in the Department of Housing and Urban Development's (HUD) regulations implementing Section 504 (24 CFR Part 8. dated June 2, 1988).

CHILD SUPPORT STATEMENT FOR NEGOTIATED CONTRACTS AND GRANTS

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is eligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

Section 231.006, Family Code, specifies that a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under a contract to provide property, materials, or services; or receive a state-funded grant or loan.

List below the name and ownership percentage of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25% of the business entity submitting the bid or application.

NAME	OWNERSHIP BY %
Joe W Gordin III	50%
John Ashworth	50%

A child support obligor or business entity ineligible to receive payments described above remains ineligible until all arrearage have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

The undersigned proposer certifies that he or she, is the proposing individual, or the sole proprietor of the proposing business, and is eligible under Section 231.006 of the Texas Family Code, to receive the payments of State funds which may be disbursed in connection with a contract arising from this solicitation, The undersigned each further acknowledges that a contract resulting from this solicitation may be terminated and payment may be withheld if the certification provided herein is found to be inaccurate.



Signature – Company Official

Branch Construction Group, LLC

Printed/Type Firm Name

Joe W Gordin III, CFO

Printed/Typed Name and Title

2/22/2024

Date

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2024-1125364

Date Filed:
02/19/2024

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Branch Construction Group LLC.
Dickinson, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Sweeny

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

22-082-007-D205
Sanitary Sewer and Water Line Installation, Generators

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is Joe W Gordin III, and my date of birth is 12/1/1979.

My address is 1621 FM 517 Rd E, STE D, Dickinson, Texas, 77539, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Galveston County, State of Texas, on the 22 day of February, 2024.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)

CONTRACTOR ELIGIBILITY VERIFICATION FORM

TX CDBG Contract No. 22-082-007-D205 TX CDBG Locality: City of Sweeny

Company Name: Branch Construction Group, LLC

Address: 1621 FM 517 RD E, STE D

City: <u>Dickinson</u>	State: <u>Texas</u>	Zip Code: <u>77539</u>
EIN: <u>861660198</u>	DUNS #: <u>114336798</u>	CAGE Code: <u>9EQC2</u>

Email Address: bwells@branchconstructiongroup.com Telephone No: 281-678-8248

PRINCIPAL(S):	TITLE(S):	Gender (M/F)	Race/ Ethnicity
<u>Joe W Gordin III</u>	<u>CFO</u>	<u>M</u>	<u>White</u>
<u>John Ashworth</u>	<u>CCO</u>	<u>M</u>	<u>White</u>

Potential Additional Classifications to be Requested:	
List construction company names that may perform subcontractor or specialized services on this contract (confirmed or potential):	<u>N/A</u>

Section 3 Questionnaire

Are you a Section 3 business?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, provide <u>one</u> of the following: <input type="checkbox"/> HUD Section 3 Registration OR <input type="checkbox"/> Self Certification on (Form A1023)
Do you currently employ Section 3 workers?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Provide <u>one</u> of the following: <input type="checkbox"/> Employee Self Certification Form <input type="checkbox"/> Certification from a public housing authority (PHA) or Section 8-assisted housing that the worker is a participant in one of their programs; <input type="checkbox"/> Section 3 <i>Employer Certification Form (Form A1022 or equivalent)</i>
Will you have any new employees OR job vacancies for work on this project?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, proof of outreach is required: <input type="checkbox"/> HUD's Section 3 Opportunity Portal; <input type="checkbox"/> Texas Workforce Solutions WorkInTexas.com; <input type="checkbox"/> Local Workforce Solutions Office (WIOA One Stop Shop), if any

BID BOND

KNOW ALL BY THESE PRESENTS, That we, Matula & Matula Construction Inc

of 122 West Way, Suite 325, Lake Jackson, TX 77566
(hereinafter called the Principal), as Principal, and

SureTec Insurance Company (hereinafter called the Surety),

as Surety, are held and firmly bound unto City of Sweeny

(hereinafter called the Oblige) in the penal sum of Five Percent of Amount Bid

Dollars (\$ 5%)
for the payment of which the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, That WHEREAS, the Principal has submitted or is about to submit a proposal to the Oblige on a contract for
GLO-MIT Sanitary Sewer Improvements, GLO Contract No. 22-082-007-D205, Contract 1-2023

NOW, THEREFORE, If the said Contract be timely awarded to the Principal and the Principal shall, within such time as may be specified, enter into the Contract in writing, and give bond, if bond is required, with surety acceptable to the Oblige for the faithful performance of the said Contract, then this obligation shall be void; otherwise to remain in full force and effect.

Signed and sealed this 22nd day of February, 2024.

Matula & Matula Construction Inc

William J. Gonzales
Witness

By: *James Michael Murphy* Title

SureTec Insurance Company

By: *Kell*
Kevin McQuain, Attorney-In-Fact



SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

Kevin McQuain

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety for:

Principal: Matula & Matula Construction Inc
Obligee: City of Sweeny
Amounts: See Bond Form

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. (Adopted at a meeting held on 20th of April, 1999.)

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its President, and its corporate seal to be hereto affixed this 3rd day of February, A.D. 2023.

State of Texas ss:
County of Harris



SURETEC INSURANCE COMPANY

By: *Michael C. Keimig*
Michael C. Keimig, President

On this 3rd day of February, A.D. 2023 before me personally came Michael C. Keimig, to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is President of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.



Tanya Sneed
Tanya Sneed, Notary Public
My commission expires March 30, 2027

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 22nd day of February, 2024, A.D.

M. Brent Beaty
M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.
For verification of the authority of this power you may call (713) 812-0800 any business day between 8:30 am and 5:00 pm CST.

SureTec Insurance Company

IMPORTANT NOTICE **Statutory Complaint Notice/Filing of Claims**

To obtain information or make a complaint: You may call the Surety's toll free telephone number for information or to make a complaint or file a claim at: 1-866-732-0099. You may also write to the Surety at:

SureTec Insurance Company
9500 Arboretum Blvd., Suite 400
Austin, TX 78759

You may contact the Texas Department of Insurance to obtain information on companies, coverage, rights or complaints at 1-800-252-3439. You may write the Texas Department of Insurance at:

PO Box 149104
Austin, TX 78714-9104
Fax#: 512-490-1007
Web: <http://www.tdi.texas.gov>
Email: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIMS DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

BIDDER: Matula & Matula Construction, Inc.

BID FORMS

CITY OF SWEENY
SWEENY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

Prepared by:

STRAND ASSOCIATES, INC.®
TBPE No. F-8405
TBPLS No. 10030000
1906 Niebuhr Street
Brenham, TX 77833
www.strand.com

Issued for Bid
February 7, 2024



SECTION 00 41 00

BID

CITY OF SWEENY
SWEENY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

A. Table of Contents

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- ARTICLE 8. DEFINED TERMS
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- ARTICLE 10. BID SUBMITTAL

ARTICLE 1-BID RECIPIENT

1.01 Bids to be received until 2 P.M. local time, February 22, 2024.

1.02 This Bid is submitted to: City of Sweeny
102 West Ashley Wilson Road
Sweeny, TX 77480

1.03 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2-BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

2.01 Bid Acceptance Period

A. This Bid will remain subject to acceptance for 115 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of OWNER.

2.02 Instructions to Bidders

A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

9. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to CONTRACTOR.

10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4–BIDDER'S CERTIFICATIONS

4.01 Bidder certifies the following:

A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.

B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.

C. Bidder has not solicited or induced any individual or entity to refrain from Bidding.

D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:

1. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the Bidding process.

2. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the Bidding process to the detriment of OWNER, (b) to establish Bid prices at artificial non-competitive levels, or (c) to deprive OWNER of the benefits of free and open competition.

3. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of OWNER, a purpose of which is to establish Bid prices at artificial, non-competitive levels.

4. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the Bidding process or affect the execution of the Contract.

4.02 Prohibition on Boycotting Israel

In accordance with HB 89 and Texas Government Code Chapter 2270, OWNER may not enter into a Contract with a "company" for goods or services unless the Contract contains the following written verification:

A. For the purposes for this section only, the terms "company" and "boycott Israel" shall have the meaning assigned by Texas Government Code Chapter 2270.

B. If a Bidder qualifies as a "company" outside of the exclusions of HB 793, then Bidder hereby verifies that it:

1. Does not "boycott Israel"; and
2. Will not "boycott Israel" during the term of the Contract.

4.03 Iran, Sudan, and Foreign Terrorist Organization Verification

A. In accordance with SB 252 and Texas Government Code 2252, Bidder hereby certifies that it is not listed on the website of the Comptroller of the State of Texas concerning the list of companies that are identified under Section 806.051, Section 807.051, or Section 2252.153 of the Texas Government Code.

B. Bidder also further certifies that should it enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan, or any foreign terrorist organization, it will immediately notify the OWNER's purchasing department.

4.04 Critical Infrastructure Verification

In accordance with SB 2116 and Texas Government Code Chapter 2274, Bidder hereby certifies that if it has or will have remote or direct access to communication infrastructure systems, cybersecurity systems, the electric grid, hazardous waste treatment systems, or water treatment facilities as a result of entering into a Contract with the OWNER, that Bidder is not:

A. Owned by or the majority of stock or other ownership interest is not held or controlled by:

1. Individuals who are citizens of China, Iran, North Korea, Russia, or a country designated by the Governor; or
2. a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a country designated by the Governor; or

B. headquartered in China, Iran, North Korea, Russia, or a country designated by the Governor.

4.05 Prohibition on Boycotting Energy Companies

In accordance with SB 13 and Texas Government Code 2274, Bidder hereby certifies that if it is not a sole proprietorship, if it has 10 or more full-time employees, or if the Contract Price will be greater than \$100,000, that Bidder:

- A. Will not boycott energy companies; and
- B. Will not boycott energy companies during the term of the Contract.

4.06 Firearm Entity or Trade Association Discrimination

In accordance with SB 19 and Texas Government Code 2274, Bidder hereby certifies that if it is not a sole proprietorship, if it has 10 or more full-time employees, or if the Contract Price will be greater than \$100,000, that Bidder:

A. Does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade associations; and

B. Will not discriminate during the term Contract against a firearm entity or firearm trade association.

These requirements do not apply to an exempt contract under Section 2274.003 of the Texas Government Code.

4.07 Bidder also hereby acknowledges and agrees that all verifications and certifications located in Articles 4.02 through 4.06 will become material terms of the Contract and OWNER is expressly relying on these verification and certifications in agreeing to enter into a Contract.

ARTICLE 5-BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

The following abbreviations may be used in this Bid:

CIP	-	Complete in Place	LS	-	Lump Sum
CY	-	Cubic Yard	LT	-	Left
DI	-	Ductile Iron	MBF	-	Thousand Board Feet
DIA	-	Diameter	MFOB	-	Thousand Freight-On-Board
EA	-	Each	MH	-	Manhole
EST	-	Estimate(d)	PVC	-	Polyvinyl Chloride
EXCL	-	Excluding	RCP	-	Reinforced Concrete Pipe
FT	-	Feet	RT	-	Right
GAL	-	Gallon	SF	-	Square Foot
HERCP	-	Horizontal Elliptical RCP	STA	-	Station
HRS	-	Hours	SY	-	Square Yard
IN	-	Inch	T	-	Ton
INCL	-	Including	VLF	-	Vertical Linear Foot
LBS	-	Pounds	W/	-	With
LF	-	Linear Foot	W/O	-	Without

BIDDERS SHOULD NOT ADD ANY CONDITIONS OR QUALIFYING STATEMENTS TO THIS BID OR THE BID MAY BE DECLARED IRREGULAR AS NOT BEING RESPONSIVE TO THE INSTRUCTIONS TO BIDDERS.

BID
CITY OF SWEENY
SWEENY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

Contract award will be made based on the Computed Total Base Bid plus any Alternatives selected. The price for all Base Bid items shall be included in the Computed Total Base Bid. Alternative Bids will be added to or deducted from the Computed Total Base Bid, if they are accepted, prior to Contract award being made.

OWNER reserves the right to accept or reject any alternatives to the Computed Total Base Bid. Should OWNER wish to consider alternatives listed, Bidder may be required to provide additional information prior to Notice of Award.

The following prices per item shall be for furnishing and installing the various items of material and work as specified and shown on the drawings. Bidder agrees to perform the Work as shown on the Drawings and described in the Specifications for the following listed prices. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

NOTE: A price must be bid for each item in the Bid, even though the estimated quantity is zero. Unbalanced or unreasonable unit prices may cause rejection of the Bid.

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Utility Activities					
1.	Remove and Replace Existing Sanitary Sewer W/ 6-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	45	LF	\$ 107.50	\$ 4,837.50
2.	Remove and Replace Existing Sanitary Sewer W/ 8-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	65	LF	\$ 87.40	\$ 5,681.00
3.	Remove and Replace Existing Sanitary Sewer W/ 10-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	10	LF	\$ 441.80	\$ 4,418.00
4.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	20	LF	\$ 215.70	\$ 4,314.00
5.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 5- to 10-FT Depth	660	LF	\$ 95.40	\$ 62,964.00
6.	Remove and Replace Existing Sanitary Sewer W/12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 10- to 15-FT Depth	550	LF	\$ 130.20	\$ 71,610.00

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
7.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Bore	160	LF	\$ 211.20	\$ 33,792.00
8.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line Inside a 24-IN Welded Steel Casing, by Bore	45	LF	\$ 392.60	\$ 17,667.00
9.	Remove and Replace Existing Sanitary Sewer W/ 18-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut	15	LF	\$ 400.90	\$ 6,013.50
10.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	160	LF	\$ 351.90	\$ 56,304.00
11.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, 5-to 10-FT Depth	4,790	LF	\$ 226.70	\$ 1,085,893.00
12.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, Greater than 10-FT Depth	3,610	LF	\$ 269.60	\$ 973,256.00
13.	Remove and Replace Existing Service Lateral W/ 24- by 4-IN Service Wye, 4-IN Service Cleanout Inside the Meter Box, Connect to Existing Service Line at Right of Way	57	EA	\$ 5,576.90	\$ 317,883.30
14.	Remove and Replace Existing Sanitary Sewer Service Line W/4-IN Schedule 40 PVC.	1,975	LF	\$ 44.40	\$ 87,690.00
15.	Tie-In New 18-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 1,404.40	\$ 2,808.80
16.	Tie-in New 12-IN ASTM F679 PS 115 PVC to Existing Piping	3	EA	\$ 620.50	\$ 1,861.50
17.	Tie-in New 10-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 548.80	\$ 1,097.60
18.	Tie-in New 8-IN ASTM F679 PS 115 PVC to Existing Piping	9	EA	\$ 493.90	\$ 4,445.10
19.	Tie-in New 6-IN ASTM F679 PS 115 PVC to Existing Piping	6	EA	\$ 453.30	\$ 2,719.80
20.	Furnish all Materials to Install a 6-IN Drop Connections, All Depths	7	EA	\$ 2,156.30	\$ 15,094.10
21.	Furnish all Materials to Install a 8-IN Drop Connections, All Depths	1	EA	\$ 2,627.00	\$ 2,627.00
22.	Tie New 24-IN ASTM F679 PS 115 PVC to Existing MH	1	EA	\$ 7,500.40	\$ 7,500.40
23.	Remove and Dispose of the Existing MH	28	EA	\$ 780.40	\$ 21,851.20
24.	Install a 4-FT Precast Concrete MH, Standard Cone	13	EA	\$ 3,809.20	\$ 49,519.60

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
25.	Install 4-FT Precast Concrete MH, Flat Top W/ Vent Pipe	1	EA	\$ 8,503.80	\$ 8,503.80
26.	Provide Additional Depth for 4-FT-DIA Concrete MH	36.4	VF	\$248.90	\$9,059.96
27.	Install a 5-FT Precast Concrete MH, Flat Top W/ Vent Pipe	2	EA	\$9,673.30	\$ 19,346.60
28.	Install a 5-FT Precase Concrete MH, Standard Cone	18	EA	\$5,570.90	\$ 100,276.20
29.	Provide Additional Depth for 5-FT-DIA Concrete MH	81	VF	\$338.90	\$27,450.90
30.	Install a 6-FT Precast Concrete MH, Standard Cone	1	EA	\$ 9,971.40	\$ 9,971.40
31.	Provide Additional Depth for 6-FT-DIA Concrete MH	7	VF	\$ 521.90	\$ 3,653.30
32.	Perform Closed-Circuit Television on Existing Parallel Sewer Line to Determine Existing Service Location	2,165	LF	\$ 5.30	\$ 11,474.50
33.	Remove and Dispose of Existing Concrete Collar and Install New Cast-In-Place Concrete Collars Around MHs	6	EA	\$ 1,373.80	\$ 8,242.80
34.	Furnish All Equipment to Perform Bypass Pumping	1	LS	\$ 147,530.10	\$ 147,530.10
35.	Furnish Equipment to Perform Pot Holing or Hydro Excavation to Determine the Depth of Existing Gas Mains at the Locations Indicated on the Drawings	1	LS	\$ 39,018.30	\$ 39,018.30
36.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line by Open Cut	2,085	LF	\$ 75.30	\$ 157,000.50
37.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line W/ Restrained Joints	400	LF	\$ 78.10	\$ 31,240.00
38.	Make 2-IN Connection to Existing Water Main	2	EA	\$ 1,964.00	\$ 3,928.00
39.	Make 6-IN Connection to Existing Water Main	6	EA	\$ 1,946.90	\$ 11,681.40
40.	Furnish Equipment and Materials to Make Water Service Tap	37	EA	\$ 617.20	\$ 22,836.40
41.	Furnish and Install Water Service Line and Tie-in to Existing Water Meter	755	LF	\$38.00	\$ 28,690.00
42.	Furnish and Install Fire Hydrant Assembly	3	EA	\$6,722.20	\$ 20,166.60
43.	Furnish and Install 6-IN Gate Valve and Valve Box	13	EA	\$ 1,387.20	\$ 18,033.60
44.	Furnish and Install 2-IN Gate Valve and Valve Box	1	EA	\$803.80	\$ 803.80
45.	Provide Dewatering Equipment	3,000	LF	\$37.00	\$ 111,000.00

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Street Activities					
46.	Furnish and Install All Materials and Equipment to Perform Asphalt Pavement Repair Associated W/ Sanitary Sewer Replacement, INCL Base	1,420	LF	\$ 73.80	\$ 104,796.00
47.	Furnish and Install All Materials and Equipment to Mill and Overlay 2-IN Hot Mix Asphalt Concrete	610	T	\$ 304.90	\$ 185,989.00
48.	Furnish and Install All Materials and Equipment to Perform Concrete Pavement Repair Associated W/ Sanitary Sewer Replacement	55	LF	\$ 173.10	\$ 9,520.50
49.	Seeding and Sodding Associated W/ Utility Installation and Pavement Repair	1	LS	\$ 20,577.00	\$ 20,577.00
50.	Install and Maintain Trench Safety, 0- to 10-FT	7,350	LF	\$ 1.00	\$ 7,350.00
51.	Install and Maintain Trench Safety, Greater Than 10-FT	2,730	LF	\$ 5.20	\$ 14,196.00
52.	Traffic Control	1	LS	\$ 20,000.00	\$ 20,000.00

COMPUTED TOTAL BASE BID CONTRACT 1-2023 (ITEMS 1 THROUGH 52)

Three million nine hundred ninety four thousand one hundred eighty five and six cents (Words)	Dollars \$ 3,994,185.06 (Numbers)
---	--------------------------------------

BID ALTERNATIVE NO. 1

CITY OF SWEENY
 SWEENY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Lift Station					
1.	Farm-to-Market 1459 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 147,954.80	\$ 147,954.80
2.	Farm-to-Market 524 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 127,897.60	\$ 127,897.60
3.	Fence Temporary Removal, Repair, and Reinstallation Related to Lift Station Generators	20	LF	\$ 75.00	\$ 1,500.00
4.	Furnish and Install New Fencing at Farm-to-Market 524 Lift Station, Related to Lift Station Generator	36	LF	\$ 75.00	\$ 2,700.00

COMPUTED TOTAL BID ALTERNATIVE NO. 1

Two hundred eighty thousand fifty two dollars and forty cents Dollars \$ 280,052.40
 (Words) (Numbers)

ARTICLE 6--TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete within 360 calendar days after the date when the Contract Time commences to run as provided in Paragraph 32 of the General Conditions and ready for final payment within 480 calendar days after the date when the Contract Time commences to run.

6.02 Bidder accepts the provisions of the General Conditions as to liquidated damages in the event of failure to complete the Work within the Contract Times.

ARTICLE 7--ATTACHMENTS TO THIS BID

7.01 The following documents are attached to and made a condition of this Bid:

- A. Required Bid security in the form of 5% of GAB Bond
(Certified Check, Bank Money Order, or Bond)
- B. Form CIQ Conflict of Interest Questionnaire (if required).
- C. Certificate of Interested Parties (Form 1295).
- D. Noncollusion Affidavit of Prime Bidder.
- E. Certificate of Bidder Regarding Civil Rights Laws and Regulations.
- F. CONTRACTOR's Certificate of Recovered Materials.
- G. CONTRACTOR's Local Opportunity Plan.
- H. Proposed Contracts Breakdown and Estimated Project Workforce Breakdown.
- I. Certification for Business Concerns--Seeking Section 3 Preference in Contracting and Demonstration of Capability.
- J. Certification Regarding Lobbying.
- K. Disclosure of Lobbying Activities and Instructions.
- L. Statement of Bidder's Qualifications.
- M. Evidence that Bidder is active and cleared (not suspended or debarred) in System for Award Management (SAM).
- N. Section 504 Certification--Policy of Nondiscrimination on the Basis of Disability.
- O. Child Support Statement for Negotiated Contracts and Grants.
- P. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license, if applicable, within the time for acceptance of Bids.
- Q. Where applicable, Bidder shall provide CONTRACTOR's License Number for the state of the Project, where noted at end of Bid or Bidder shall provide evidence of Bidder's ability to obtain

a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids.

ARTICLE 8-DEFINED TERMS

8.01 The terms used in this Bid with initial or all capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Special Conditions.

ARTICLE 9-COMMUNICATIONS

9.01 Communications concerning this Bid shall be addressed to the address of Bidder indicated below:

Name: Matula & Matula Construction, Inc.

Street: 122 West Way, Suite 325

City, State, Zip Code: Lake Jackson, TX 77566

Phone No.: 979-480-0030 Fax No.: 979-480-0060

E-mail address: jmmurphy@matulainc.com

ARTICLE 10-BID SUBMITTAL

Submitted on February 22, 2024

State Contractor License Number _____ (if applicable).

If Bidder is:

An Individual

By: _____
(Individual's signature)

Name (typed or printed): _____

Doing business as: _____
Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

A Partnership

Partnership Name: _____
By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____
Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

A Corporation

Corporation Name: Matula & Matula Construction, Inc.
State of Incorporation: Texas
Type (General Business, Professional, Service, Limited Liability): General Business
By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): James Michael Murphy

Title: Vice President

Attest [Signature] _____
(Signature of Corporate Secretary)



Business address: 122 West Way, Suite 325, Lake Jackson, TX 77566

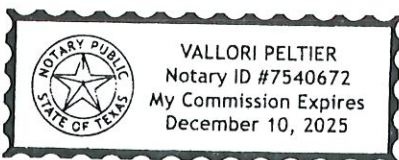
Phone No.: 979-480-0030 Fax No.: 979-480-0060

E-mail address: jmmurphy@matulainc.com

Date of Qualification to do business in (State where the Project is located) is January 2000

Sworn and subscribed to before me this
22nd day of February, 2024
[Signature]

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires: 2-10-25



Section 00 41 00-13
3920.054/1-2023

A Limited Liability Company (Note: If member-managed, an authorized member must sign; if manager-managed, the authorized manager must sign. Attach evidence of authority to sign on behalf of LLC).

(Fill in complete name of LLC)

State of Formation: _____

By: _____
(Signature)

_____, [Member] [Manager]
(Print Name)

Business Address: _____

Telephone.: _____

Email: _____

Fax: _____

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Second Joint Venturer Name: _____

By: _____
(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Phone No., Fax No., and postal and E-mail address for receipt of official communications:

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Sworn and subscribed to before me this _____ day of _____, _____

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires: _____

END OF SECTION

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY	
Date Received	

1 Name of vendor who has a business relationship with local governmental entity.

Matula & Matula Construction, Inc.

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

N/A

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 James Michael Murphy
Signature of vendor doing business with the governmental entity

02/22/2024
Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

ADDITIONAL CONDITION OF AWARD —

DISCLOSURE OF INTERESTED PARTY FORM:

NEW OBLIGATION OF THE CITY TO RECEIVE INFORMATION FROM WINNING BIDDER

Effective January 1, 2016, pursuant to Texas Government Code, Section 2252.908 (the "Interested Party Disclosure Act"), the City may not award a contract to a bidder unless the bidder submits a Certificate of Interested Parties Form 1295 (the "Disclosure Form") to the City as prescribed by the Texas Ethics Commission ("TEC"). In the event that the bidder's bid for the City is the best bid received, the City or its consultant, will promptly notify the bidder. That notification will serve as the conditional verbal acceptance of the bid. Upon this acceptance, the winning bidder must promptly, not later than the effective date of the Agreement, file the materials described below.

PROCESS FOR COMPLETING THE DISCLOSURE FORM¹

The Disclosure Form can be found at <https://www.ethics.state.tx.us/forms/1295.pdf>, and reference should be made to the following information in order to complete it:

- (a) item 2 – Name of City ("City, Texas")
- (b) item 3 – the identification number ("CDBG-MIT City"), and
- (c) item 3 – description of the goods or services assigned to this contract by the City ("Construction Services for City")

You must:

- 1) complete the Disclosure Form electronically at the TEC's "electronic portal", and
- 2) print, sign and deliver a copy (scanned and emailed is fine) of the disclosure Form and Certification of Filing that is generated by the TEC's "electronic portal."

The following link will take you to the electronic portal for filing:

<https://www.ethics.state.tx.us/TECCertInt/pages/login/certLogin.jsf>

Also, a detailed instruction video may be found here:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

Neither the City nor its consultants have the ability to verify the information included in a Disclosure Form, and neither have an obligation nor undertake responsibility for advising any business entity with respect to the proper completion of the Disclosure Form.

¹ A completed Form 1295 is not required for:

- a sponsored research contract of an institution of higher education;
- an interagency contract of a state agency or an institution of higher education;
- a contract related to health and human services if:
 - the value of the contract cannot be determined at the time the contract is executed; and
 - any qualified vendor is eligible for the contract;
- a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;
- a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code; or
- a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2024-1126625

Date Filed:
02/21/2024

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Matula & Matula Construction, Inc.
Lake Jackson, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Sweeny, Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

1-2023
GLO-MIT Sanitary Sewer Improvements GLO Contract No. 22-082-007-D205

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Matula, Jonathan	Lake Jackson , TX United States	X	
Murphy, James	Lake Jackson , TX United States	X	
Gonzalez, Delia	Lake Jackson, TX United States	X	

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is James Michael Murphy, and my date of birth is 10/21/1964.

My address is 122 West Way, Suite 325, Lake Jackson, TX, 77566, US.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Brazoria County, State of Texas, on the 22 day of February, 2024.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of Texas)

County of Brazoria)

James Michael Murphy, being first duly sworn, deposes and says that:

(1) He/She is Vice President of Matula & Matula Construction, Inc., the Bidder that has submitted the attached Bid;

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

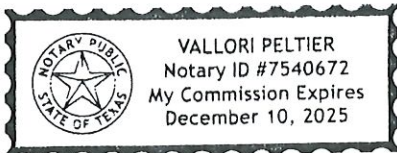
(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with another Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix an overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Sweeny (Local Public Agency) or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) James Michael Murphy
Vice President
Title


Subscribed and sworn to me this 22nd day of February 2024.



By: Vallori Peltier
Notary Public

My commission expires 12-10-25

CONTRACTOR CERTIFICATIONS

U.S. Department of Housing and Urban Development	
CERTIFICATION OF BIDDER REGARDING CIVIL RIGHTS LAWS AND REGULATIONS	
INSTRUCTIONS	
CERTIFICATION OF BIDDER REGARDING Executive Order 11246 and Federal Laws Requiring Federal Contractor to adopt and abide by equal employment opportunity and affirmative action in their hiring, firing, and promotion practices. This includes practices related to race, color, gender, religion, national origin, disability, and veterans' rights.	
NAME AND ADDRESS OF BIDDER (include ZIP Code) Matula & Matula Construction, Inc. 122 West Way, Suite 325 Lake Jackson, TX 77566	
CERTIFICATION BY BIDDER	
Bidder has participated in a previous contract or subcontract subject to Civil Rights Laws and Regulations.	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The undersigned hereby certifies that:	
<input checked="" type="checkbox"/> The Provision of <u>Local Training, Employment, and Business Opportunities</u> clause (Section 3 provision) is included in the Contract. A written Section 3 plan (Local Opportunity Plan) was prepared and submitted as part of the bid proceedings (if bid equals or exceeds \$100,000).	
<input checked="" type="checkbox"/> The <u>Equal Opportunity</u> clause is included in the Contract (if bid equals or exceeds \$10,000).	
Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
James Michael Murphy, Vice President	
NAME AND TITLE OF SIGNER (Please type)	
	<i>2/22/2024</i>
SIGNATURE	DATE

CONTRACTOR'S CERTIFICATION of RECOVERED MATERIAL

ACKNOWLEDGEMENT

I, James Michael Murphy (Principal's Name) of Matula & Matula Construction, Inc. (Company Name), (hereinafter called "Contractor"), acknowledge the recovered material bidding requirements found in 2 CFR 200.322 that requires the Contractor to procure those items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

I also acknowledge that this requirement shall apply to items purchased (1) where the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) where during the preceding fiscal year, the value of the quantity acquired was in excess of \$10,000.

Finally, I acknowledge the attached list of recovered materials included in the bid documents.
(For up-to-date listing, please go to <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#directory>)

James Michael Murphy, Vice President

Printed Name and Title

James Michael Murphy

Signature

02/22/2024

Date

USE OF RECOVERED MATERIAL

Please check one:

- Recovered materials are included in this bid:
Materials included _____
- Recovered materials are not reasonably available in a reasonable period of time.
- Recovered materials fail to meet reasonable performance standards, which are determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable.
- Recovered materials are only available at an unreasonable price.

James Michael Murphy, Vice President

Printed Name and Title

James Michael Murphy

Signature

02/22/2024

Date

Mat

CONTRACTOR'S LOCAL OPPORTUNITY PLAN

Matula & Matula Construction, Inc. (name of company) agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses within the City of Sweeny.

- A. To ascertain from the City's CDBG program official the exact boundaries of the project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the city the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within and servicing the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.
- C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insert this plan in all bid documents and to require all bidders on subcontracts to submit an affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- E. To ensure that subcontracts (greater than \$10,000), which are typically let on a negotiated rather than a bid basis in areas other than the covered project area, are also let on a negotiated basis, whenever feasible, in a covered project area.
- F. To formally contact unions, subcontractors, and trade associations to secure their cooperation in this effort.
- G. To ensure that all appropriate project area business concerns are notified of pending sub-contractual opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this plan.
- J. To maintain records concerning the amount and number of contracts, subcontracts, and purchases which contribute to objectives.
- K. To maintain records of all projected work force needs for all phases of the project by occupation, trade, skill level, and number of positions and to update these projections based on the extent to which hiring meets these Local Opportunity objectives.
- L. As officers and representatives of Matula & Matula Construction, Inc. (name of company), we the undersigned have read and fully agree to this Plan and the City's

Section 3 Plan and become a party to the full implementation of the program and its provisions.

James Michael Murphy
Signature

James Michael Murphy
Printed Name

Vice President
Title

02/22/2024
Date

Instructions for Proposed Contracts Breakdown and Estimated Project Workforce Breakdown

Proposed Contracts Breakdown

Type of Contracts – list all construction, materials, or other types of subcontracts (for example: electrical, plumbing, concrete, boring, etc.)

No. of Contracts – Number of contracts under this category

Approximate Total Dollar Amount – Total amount of each contract

Estimated No. to Local Business – Number of contracts awarded to local businesses and Section 3 businesses

Estimated \$ Amount to Local Business - How many dollars will be spent locally for each type of contract? For example: will you hire any local employees or subcontractors?

Estimated Project Workforce Breakdown

Work Classifications – Classification of project employees as defined on Wage Rate

Total Estimated Positions – List the number employees for each work classification will you need on this project

Number of Positions Currently Filled – List the number of estimated positions you currently have filled

Number of Positions Not Filled – List the number of estimated positions you currently do not have filled

Number of Positions to Fill with Low to Moderate Income (Section 3) Residents – List the number of local residents earning low to moderate incomes that you plan to employ to fill the estimated positions not filled

PROPOSED CONTRACTS BREAKDOWN

Type of Contracts	No. of Contracts	Approx. Total Dollar Amount	Estimated No. to local Business	Estimated \$ Amount Local Business
Asphalt + Work	1			
Bores	1			

ESTIMATED PROJECT WORKFORCE BREAKDOWN

Work Classifications	Total Estimated Positions	No. of Positions Currently Filled	No. of Positions not Filled	No. of Positions to fill with LMI Residents (Section 3)
Supervisor	1	1		
Operators	3	3		
Pipe layers	2	2		
Laborers	2	2		
Pipe layer helpers	1	1		
Totals	9	9		

**CERTIFICATION REGARDING LOBBYING
COMPLIANT WITH APPENDIX A TO 24 C.F.R. PART 87***

(To be submitted with each bid or offer exceeding \$100,000)

Certification for Contracts, Grants, Loans, and Cooperative Agreements:

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

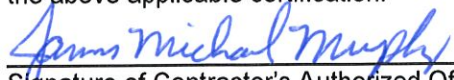
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance:

The undersigned states, to the best of his or her knowledge and belief, that: If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the duly authorized representative of the Contractor, I hereby certify that the applicant will comply with the above applicable certification.



Signature of Contractor's Authorized Official

James Michael Murphy, Vice President

Printed Name and Title of Contractor's Authorized Official

02/22/2024

Date

*24 C.F.R. 87 App. A, available at <https://www.gpo.gov/fdsys/granule/CFR-2011-title24-vol1/CFR-2011-title24-vol1-part87-appA>.
Published Apr. 1, 2011. Accessed Aug. 1, 2018.

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
 - a. Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
 - b. Enter the full names of the individual(s) performing services and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 4040-0013. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (4040-0013), Washington, DC 20503

STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered, and the data given must be clear and comprehensive. **This statement must be notarized.** If necessary, questions may be answered on separate attached sheets. The Bidder may submit any additional information it desires.

Date: 02/22/2024

Bidder (Legal Name of Firm): Matula & Matula Construction, Inc.

Date Organized: August 1994

Name of Owner(s): Jonathan Matula

Address: 122 West Way, Suite 325, Lake Jackson, TX 77566

Date Incorporated January 2000

Federal ID Number: 75-2848842

Number of Years in contracting business under present name 30 Years

List all other names under which your business has operated in the last 10 years:

Work Presently Under Contract: Please see attached

Contract	Amount \$	Completion Date

Type of work performed by your company: Site work, Demo, Paving, Foundations, Tilt Walls, Underground Utilities, Generators, Lift Stations

Total Staff employed by Firm (Break down by Managers and Trades on separate sheet):

Please see attached

Have you ever failed to complete any work awarded to you? Yes No

(If yes, please attach summary of details on a separate sheet. Include brief explanation of cause and resolution)

Have you ever defaulted on a contract? Yes No

(If yes, please attach summary of details on a separate sheet.)

Has your organization had any disbarments or suspensions that have been imposed in the past five years or that was still in effect during the five-year period or is still in effect? Yes No

(If yes, list and explain; such list must include disbarments and suspensions of officers, principals, partners, members, and employees of your organization.)

List the projects most recently completed by your firm (include project of similar importance):

Project	Amount \$	Mo/Yr Completed
Please see attached		

Major equipment available for **this** contract: Please see attached

Are you in compliance with all applicable EEO requirements? Yes No
(If no, please attach summary of details on a separate sheet.)

(Optional) Minority Business Reporting Information:

Owner's Race: _____
Owner's Ethnicity: _____
Owner's Gender: _____

Are you a Section 3 business? (See below) Yes No

Section 3 Business Concerns:

- a) Businesses that are 51 percent or more owned by Section 3 residents;
- b) Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents;
- c) Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above; or
- d) Businesses located within the City's jurisdiction that identifies themselves as Section 3 Business Concerns because they provide economic opportunities for low- and very low-income persons.

Bank References Please see attachedAA

Address: _____ Contact Name: _____
City & State: _____ Zip: _____ Phone Number: _____
Credit available: \$ _____

Has the firm or predecessor firm been involved in a bankruptcy or reorganization? Yes No
(If yes, please attach summary of details on a separate sheet.)

List on a sheet attached hereto all judgements, claims, arbitration proceedings, or suits pending or outstanding against bidder over the last five (5) years with amount of claim and brief description.

List on a sheet attached hereto all lawsuits or requested arbitration with regard to construction contracts which bidder has initiated within the last five (5) years and brief explanation of claim and outcome.

Attach resume(s) for the principal member(s) of your organization, including the officers as well as the proposed superintendent for the project.

Signed this 22nd day of February, 2024.

James Michael Murphy

Signature

James Michael Murphy, Vice President

Printed Name and Title

Matula & Matula Construction, Inc.

Company Name

Notary Statement:

James Michael Murphy, being duly sworn, says that he/she is the Vice President Position/Title of Matula & Matula Construction, Inc. (Firm Name), and hereby swears that the answers to the foregoing questions and all statements therein contained are true and correct. He/she hereby authorizes and requests any person, firm, or corporation to furnish any information requested City of Sweeny in verification of the recitals comprising this Statement of Bidder's Qualifications.

Subscribed and sworn before me this 22nd day of February, 2024.

Notary Public

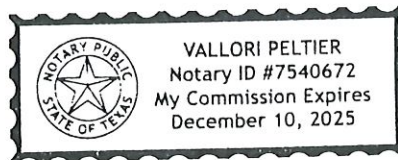
Vallori Peltier

Signature

Vallori Peltier

Printed Name

My Commission Expires: 12-10-25



The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

**Work in Progress
Contracts on Hand
2/22/2024**

	Project	Owner	Architect / Engineer	Phone No.	Contract Amount	Percent Complete	Scheduled Completion
1	Glen Cove Lift Station Rehabilitation	League City, City of	Sander Engineer	713-784-4830	\$ 2,151,857.00	100%	02/19/24
2	Regional Lift Station Project	Missouri City, City of	Arkk Engineers	713-400-2755	\$ 1,581,830.00	85%	04/11/24
3	Lift Station Rehabilitation for Elkins (No.24) and Terrace View (No.507)	Sugar Land, City of	Sander Engineer	713-784-4830	\$ 1,347,715.00	34%	05/03/24
4	Mustang Bayou Regional Lift Station Force Main & Highway 6 Water Line Extension	Missouri City, City of	Arkk Engineers	713-400-2755	\$ 1,899,873.00	85%	03/29/24
5	Paving, Drainage & Utility Improvements on Azalea Street from Circle Way to Center Way	Lake Jackson, City of	City of Lake Jackson	979-415-2400	\$ 458,733.50	99%	02/29/24
6	Concrete Pavement Repairs 2023 - Bar X	Brazoria County	R.G. Miller	281-921-8753	\$ 1,061,889.40	77%	03/15/24
7	ARPA South Water Plant Improvements	Richwood, City of	Strand Assoc.	979-836-7937	\$ 593,000.00	18%	07/12/24
					<u>\$ 9,094,897.90</u>		

*Matula & Matula Construction, Inc.***PRINCIPAL INDIVIDUALS****CONSTRUCTION EXPERIENCE****2024**

Name: Jon Matula
 Position: President (Officer)
 Years of Experience: 36
 Description of Experience: Jon has been President of Matula & Matula Construction, Inc. since the Company's inception in 1994 and has a vast knowledge of the Civil Construction industry. He works closely with his key employees and customers ensuring projects are completed satisfactorily. He is knowledgeable in paving, foundations, sidewalks, demo, site work and elevated concrete projects such as decking.

Name: Mike Murphy
 Position: Vice President (Officer)
 Years of Experience: 41
 Description of Experience: Mike has 41 years of experience in office, administrative, estimating, and project managing of civil construction in municipality and private development. This experience includes but not limited to water, sanitary and storm sewer and concrete paving. He has gained his knowledge and experience working for TxDot, Brown & Root, Inc., Uticon, Ltd., and now Matula & Matula Construction, Inc.

Name: Delia Y. Gonzalez
 Positions: Secretary/Treasurer (Officer)
 Years of Experience: 17
 Description of Experience: Delia has 17 years of experience in accounting, office, and administrative of civil construction in municipality and private development. She holds a Bachelor's Degree in Accounting from the University of Houston – Clear Lake.

Name: Chris Blessing
 Position: Estimator/Project Manager
 Years of Experience: 24
 Description of Experience: Chris has 24 years in estimating and project managing in the Civil Construction industry. He is knowledgeable in underground utilities, earthwork and paving. He has a Bachelor's Degree in Construction Management from Sam Houston State University. He has gained his knowledge and experience working for Texas Sterling Construction and Slack & Company Contracting, Inc.

Name: Glenn Byrd
 Position: Superintendent/Estimator/Project Manager
 Years of Experience: 43
 Description of Experience: Glenn has 32 years supervisory experience in the Civil Construction industry. He is knowledgeable in the areas of lift stations, water / waste water installation, concrete construction, water treatment plants and underground utilities.

Building on a Foundation of Trust Since 1994

Name: Raul Hernandez
Position: Superintendent
Years of Experience: 33
Description of Experience: Raul has 23 years supervisory experience in the Civil Construction industry. He is knowledgeable in paving, foundations, sidewalks, demo, site work and elevated concrete projects such as decking.

Name: Jose Garza
Position: Superintendent
Years of Experience: 31
Description of Experience: Jose has 26 years supervisory experience in the Civil Construction industry. He is knowledgeable in underground work, storm sewer, street and utilities, water mains and water plants.

Name: Isaac Olguin
Position: Safety Director
Years of Experience: 31
Description of Experience: Field level, site manager and company director experience in petro-chemical construction, maintenance, manufacturing and turnaround operations. Training and education accomplishments include Safety and Health Degree, OSHA Course 500, OSHA Course 521, NUCA, Scaffold Competent Person/Trainer, 40 Hour HAZWOPER Course, CPR/Medic-First Aid, Master Trainer Course, High Performance Leadership and a Member of ASSE.

Name: Justin Earle
Position: Estimator/Project Manager
Years of Experience: 3
Description of Experience: Justin has 3 years of experience as an estimator and project manager, focusing on civil construction, specifically water/wastewater treatment plants and lift stations.

Name: Blake Matzke
Position: Project Manager
Years of Experience: 5
Description of Experience: Blake has several years of field experience including roadway construction, slope paving, site work, underground utilities, and carpentry, with one year of experience in estimating and project management. He has a Bachelor's Degree in Agricultural Economics from Texas Tech University, and past experience in commercial construction through an internship with Balfour Beatty.

Sanitary Sewer & Lift Stations
Projects Completed

Project	Owner	Architect / Engineer	Engineer Phone No.	Contract Amount	Date of Completion
Campus Drive Regional Lift Station	Angleton, City of	Angleton, City of	979-849-4364	\$ 455,790.00	04/30/15
Lift Stations Rehabilitation for Hwy 6 (No. 101), Planters Row (No. 102) & Grant Lakes (No. 117)	Sugar Land, City of	Sanders Engineering, Inc	713-784-4830	\$ 627,142.50	06/30/15
Lift Station Improvements	West Columbia, City of	John D. Mercer & Associates	361-782-7121	\$ 148,735.00	07/27/15
Emergency Power Pumps at City Lift Stations - Phase II	Sugar Land, City of	Sanders Engineering, Inc	713-784-4830	\$ 514,139.00	10/31/15
Lift Station Improvements - #16	Lake Jackson, City of	Lake Jackson, City of	979-415-2415	\$ 40,733.72	06/16/16
SH 288 Eastside Improvements	Angleton, City of	HDR Engineering, Inc.	713-622-9264	\$ 1,772,750.00	07/27/16
Proposed Water, Sanitary Sewer, Storm Sewer and Paving for Creekside Subdivision, Section 2 (Oyster Bend Sub)	Brazosport Creekside, LLC	Randy L Stoud, P.E.	979-849-3141	\$ 785,458.48	11/08/16
CR 220 LS & Sanitary Improvements	Angleton, City of	HDR Engineering, Inc.	713-622-9264	\$ 1,855,582.00	12/31/16
Riverside Lift Station Upgrade	Freeport, City of	John D Mercer & Associates, Inc.	361-782-7121	\$ 396,830.00	01/27/17
Phase 1 Construction for Grading, Paving, Drainage, Water and Sanitary Sewer	Angleton 1st Baptist Church	Baker & Lawson	979-849-6681	\$ 528,752.10	01/31/17
Colonial Lakes & Thompson Ferry Lift Station Rehabilitation Project	Missouri City, City of	5Engineering	832-800-3483	\$ 778,435.00	07/31/17
Rehab of Elm Street LS	Oyster Creek, City of	John D Mercer & Associates, Inc.	361-782-7121	\$ 137,485.00	08/15/17
Water, Sanitary Sewer, Drainage Facilities and Paving to Serve Creekside Subdivision, Section Three and Four	Brazosport Creekside LLC	Randy L Stoud, P.E.	979-849-3141	\$ 1,740,258.39	08/31/17
North Sanitary Sewer System Extension from North Water Plant to Existing Wastewater Treatment Plant and Lift Station No. 25 Force Main Pipe Replacement Installation to WWTP	Lake Jackson, City of	Lake Jackson, City of	979-415-2415	\$ 4,017,044.22	9/25/2017
Water, Sanitary Sewer, Drainage Facilities and Paving to Serve Rosewood Subdivision , Section Two	Chris Peltier	Randy L Stoud, P.E.	979-849-3141	\$ 248,488.87	09/30/17
Reclaimed Water Sytem to BASF	Clute, City of	KSA Engineers	281-494-3252	\$ 1,715,588.14	12/31/2017
Freeport Sanitary Sewer Collection	Veolia Water	Veolia Water	979-2334281	\$ 250,023.10	01/23/18
Lift Station Rehab	Palacios, City of	John D Mercer & Associates, Inc	361-782-7121	\$ 241,361.00	04/13/18
Downtown Revitalization South Parking Place Phase (Carriage Square)	Lake Jackson, City of	City of Lake Jackson	979-415-2415	\$ 1,710,034.20	4/30/2018
Sanitary Sewer Lift Station Modifications	First Baptist Church of Angleton	Baker & Lawson	979-849-6681	\$ 87,478.00	8/31/2018
Lift Station & Sewer Rehabilitation Project	Matagorda County/City of Palacios	John D. Mercer & Associates, Inc.	361-782-7121	\$ 261,794.00	7/30/2019
2018 CDGB Sewer Replacement	Brazoria, City of	Strand Associates, Inc.	979-836-7937	\$ 152,098.10	9/30/2019
WWTP Main Lift Station Mechanical Bar Screen Project	Matagorda County	John D. Mercer & Associates, Inc.	361-782-7121	\$ 1,025,668.00	12/31/2019
Smith Lane Lift Station Rehabilitation	League City, City of	Sanders Engineering, Inc	713-784-4830	\$ 570,498.40	3/31/2020
Vacuum Sewer Wastewater Collection System Improvement Project	Beach Road Municipal Utility District	Fulcrum Consulting Services	956-797-3411	\$ 2,016,383.59	5/5/2020
2019 Community Development Rehabilitation of City Hall Lift Station	Oyster Creek, City of	John D. Mercer & Associates, Inc.	361-782-7121	\$ 210,720.00	6/30/2020
First Baptist Church Water, Sanitary Sewer and Storm	First Baptist Church of Angleton	Teal Construction Co	713-465-8306	\$ 194,455.00	7/31/2020
League City Waterford Lift Stations 1 and 2	League City, City of	Arrk Engineers	713-400-2755	\$ 682,665.00	5/13/2021
Windrose Green Lift Station No. 1	Emptor Angleton LLC	Costello, Inc.	713-783-7788	\$ 537,798.00	9/15/2021
Lift Station Rehabilitation for Auburn Trails, Baybridge, and Commonwealth	Sugar Land, City of	Sanders Engineering, Inc	713-784-4830	\$ 1,257,970.00	4/30/2022
Rehabilitation of Duncan Dr. Lift	Oyster Creek, City of	John D. Mercer & Associates	361-782-7121	\$ 178,918.68	8/31/2021
Rehabilitation of Blackbeard Lift Station	Jamaica Beach, City of	John D. Mercer & Associates	361-782-7121	\$ 116,592.00	6/30/2022
18" Sewer Replacement	Brazoria, City of	Strand Associates, Inc.	979-836-7937	\$ 1,738,171.85	3/2/2023
ARPA Sanitary Sewer Improvements	Sealy, City of	Strand Associates, Inc.	979-836-7937	\$ 313,827.46	6/8/2023
South Shore #1 and #2 Lift Stations	League City, City of	Arrk Engineers	713-400-2755	\$ 901,373.00	6/28/2023

*Matula & Matula Construction, Inc.***EQUIPMENT LIST – MACHINERY****TRUCKS**

Equipment No.	Year	Make	Model
006	2007	Chevy	3500
007	2007	Chevy	K3500 Flatbed
011	2013	Chevy	3500
013	2001	Chevy	Silverado 1500
015	2015	Ford	F250
019	2019	GMC	Sierra

BACK HOES

Equipment No.	Year	Make	Model
105	2005	John Deere	310G 4x4 Loader Backhoe
106	2007	John Deere	110 Compact Loader Backhoe
107	2007	Case	580M
109	2006	Case	580 Super M
108	2007	Case	580M
111	2011	Case	580N 4 Wheel Drive
112	2011	Case	580N 4 Wheel Drive
113	2010	Case	580N 2 Wheel Drive
114	2016	Case	580N Rubber Tire

TRACK HOES

Equipment No.	Year	Make	Model
205	2007	Caterpillar	314
220	2007	Caterpillar	315CL
221	2007	Caterpillar	312CL
224	2013	Linkbelt	210 X2 Tier III
225	2013	Linkbelt	210 X2 Tier III
228	2012	Linkbelt	135 Spin Ace Tier III
229	2011	Linkbelt	350X2
230	2008	Linkbelt	330 LX
231	2015	Linkbelt	205X4 Excavator
232	2015	Linkbelt	145X3
233	2015	Linkbelt	210X3
235	2015	Linkbelt	300X4
236	2017	Linkbelt	210X3
237	2017	Linkbelt	145X3
238	2017	Linkbelt	145X3
239	2017	Kobelco	SK210
240	2018	Kobelco	SK300-LC10
241	2020	Linkbelt	250x4

February 21, 2024

MINI'S

Equipment No.	Year	Make	Model
211	2007	Bobcat	425ZTS
212	2013	Bobcat	E35ZTS
213	2013	Bobcat	E35ZTS
214	2019	Bobcat	E35
215	2019	Bobcat	E35
216	2021	Bobcat	E35

BULL DOZERS

Equipment No.	Year	Make	Model
303	2006	Caterpillar	D3G
304	2007	Caterpillar	D3G
305	2006	Caterpillar	D4GLGP
306	2007	Komatsu	D61PX-15EO
307	2006	Komatsu	D65PX-15
308	2015	John Deere	700K Crawler Dozer
309	2015	John Deere	700K Crawler Dozer
310		Komatsu	D61PX-15

FRONT END LOADERS

Equipment No.	Year	Make	Model
350	2006	Komatsu	WA200 PT-5
351	2003	Kawasaki	652-4TM
352	2017	Caterpillar	926M

MIXER

Equipment No.	Year	Make	Model
402	2003	Caterpillar	RM-250C Mixer

ROLLER

Equipment No.	Year	Make	Model
502	2000	Dynapac	CC102 Smooth
504	2004	Ingersoll-Rand	SD45D-TF
505	2006	Caterpillar	CP323C
506	2008	Caterpillar	CB24 Smooth Drum Roller
507	2019	Dynapac	CA362PD Sheepsfoot Roller
508	2019	Hamm	HD12VV Roller

February 21, 2024

BOBCAT SKID STEER

Equipment No.	Year	Make	Model
602	2006	Bobcat	S175
605	2004	Caterpillar	226 B Skid Steer
606	2015	Bobcat	T590 Track Loader
607	2017	Bobcat	T590 Track Loader

MISC EQUIPMENT

Equipment No.	Year	Make	Model
610	1998	Amida	AL400 Light Tower
620			Arrowboard
701	2004	Noram	65E Motor Grader
702	2009	Komatsu	GD655 Motor Grader
710		Hurco	Hydrostatic Test Pump
720			7-Vibratory Screed
730		A&G	Boring Machine & Unit
731	2014	Prairie Dog	Boring Machine
750	2004		Lay-Mor 8HC Broom
760			Compound Spray Trailer
770	1997	Mack	CH813 4000 Gal Water Truck
780	2013	John Deere	6115D Conventional Tractor
790	2017	Vermeer	BC1000XL-31 Tractor
802			16' Lowboy Trailer
803	2007		18' Lowboy Trailer
804	2007		16' Trailer
805			WT540 Water Trailer 500 Gal
807	2005	Deckover	Trailer
808	2017	Trail	20' Black Flat Trailer
809	2020	Trailer	20' Brake System
810	2019	Trailer	16' Axle

EQUIPMENT LIST - TRUCKING

Equipment No.	Year	Make	Model
907	1999	Sterling	9500 Haul Truck
910	2007	Mack	CV 713 Granite
911	2005	Mack	CV713 Granite
913	2006	Mack	CV7
952	2008	Pitts	Haul Trailer

**Insert System for Award Management (SAM)
record search for company name and company
principal**



MATULA & MATULA CONSTRUCTION INC

Unique Entity ID CG4EYTM79J5	CAGE / NCAGE 9CYA2	Purpose of Registration Federal Assistance Awards Only
Registration Status Active Registration	Expiration Date Sep 12, 2024	
Physical Address 122 W WAY ST STE 325 Lake Jackson, Texas 77566-5251 United States	Mailing Address 122 W WAY ST STE 325 Lake Jackson, Texas 77566-5251 United States	

Business Information

Doing Business as (blank)	Division Name (blank)	Division Number (blank)
Congressional District Texas 14	State / Country of Incorporation Texas / United States	URL (blank)

Registration Dates

Activation Date Sep 15, 2023	Submission Date Sep 13, 2023	Initial Registration Date Jun 22, 2022
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Entity Dates

Entity Start Date Aug 1, 1994	Fiscal Year End Close Date Dec 31
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Immediate Owner

CAGE (blank)	Legal Business Name (blank)
------------------------	---------------------------------------

Highest Level Owner

CAGE (blank)	Legal Business Name (blank)
------------------------	---------------------------------------

Executive Compensation

In your business or organization's preceding completed fiscal year, did your business or organization (the legal entity to which this specific SAM record, represented by a Unique Entity ID, belongs) receive both of the following: 1. 80 percent or more of your annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements and 2. \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

No

Does the public have access to information about the compensation of the senior executives in your business or organization (the legal entity to which this specific SAM record, represented by a Unique Entity ID, belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

Not Selected

Proceedings Questions

Is your business or organization, as represented by the Unique Entity ID on this entity registration, responding to a Federal procurement opportunity that contains the provision at FAR 52.209-7, subject to the clause in FAR 52.209-9 in a current Federal contract, or applying for a Federal grant opportunity which contains the award term and condition described in 2 C.F.R. 200 Appendix XII?

No

Does your business or organization, as represented by the Unique Entity ID on this specific SAM record, have current active Federal contracts and/or grants with total value (including any exercised/unexercised options) greater than \$10,000,000?

Not Selected

Within the last five years, had the business or organization (represented by the Unique Entity ID on this specific SAM record) and/or any of its principals, in connection with the award to or performance by the business or organization of a Federal contract or grant, been the subject of a Federal or State (1) criminal proceeding resulting in a conviction or other acknowledgment of fault; (2) civil proceeding resulting in a finding of fault with a monetary fine, penalty, reimbursement, restitution, and/or damages greater than \$5,000, or other acknowledgment of fault; and/or (3) administrative proceeding resulting in a finding of fault with either a monetary fine or penalty greater than \$5,000 or reimbursement, restitution, or damages greater than \$100,000, or other acknowledgment of fault?

Not Selected

Exclusion Summary

Active Exclusions Records?

No

SAM Search Authorization

I authorize my entity's non-sensitive information to be displayed in SAM public search results:

Yes

Entity Types

Business Types

Entity Structure Corporate Entity (Not Tax Exempt)	Entity Type Business or Organization	Organization Factors (blank)
Profit Structure For Profit Organization		

Socio-Economic Types

Check the registrant's Reps & Certs, if present, under FAR 52.212-3 or FAR 52.219-1 to determine if the entity is an SBA-certified HUBZone small business concern. Additional small business information may be found in the SBA's Dynamic Small Business Search if the entity completed the SBA supplemental pages during registration.

Financial Information

Accepts Credit Card Payments No	Debt Subject To Offset No
------------------------------------	------------------------------

EFT Indicator 0000	CAGE Code 9CYA2
-----------------------	--------------------

Electronic Funds Transfer

Account Type Checking	Routing Number *****85	Lock Box Number (blank)
Financial Institution SOUTHSTAR BANK, S.S.B..	Account Number *****11	

Automated Clearing House

Phone (U.S.) 9792162404	Email (blank)	Phone (non-U.S.) (blank)
Fax (blank)		

Remittance Address

Matula & Matula Construction Inc
122 West WAY Suite 325
Lake Jackson, Texas 77566
United States

Taxpayer Information

EIN *****8842	Type of Tax Applicable Federal Tax	Taxpayer Name Matula & Matula Construction Inc
Tax Year (Most Recent Tax Year) 2021	Name/Title of Individual Executing Consent President	TIN Consent Date Sep 13, 2023
Address 122 W WAY ST Lake Jackson, Texas 77566	Signature Jon Matula	

Points of Contact

Accounts Receivable POC

DeHa Gonzalez
ygonzalez@matulainc.com
9794800030

Electronic Business

♀
Delia Gonzalez
ygonzalez@matulainc.com
9794800030

122 West WAY, Suite 325
Lake Jackson, Texas 77566
United States

Government Business

♀
Delia Gonzalez
ygonzalez@matulainc.com
9794800030

122 West WAY, Suite 325
Lake Jackson, Texas 77566
United States

Service Classifications

NAICS Codes

Primary	NAICS Codes	NAICS Title

Size Metrics

IGT Size Metrics

Annual Revenue (from all IGTs)
(blank)

Worldwide

Annual Receipts (in accordance with 13 CFR 121)	Number of Employees (in accordance with 13 CFR 121)
(blank)	(blank)

Location

Annual Receipts (in accordance with 13 CFR 121)	Number of Employees (in accordance with 13 CFR 121)
(blank)	(blank)

Industry-Specific

Barrels Capacity	Megawatt Hours	Total Assets
(blank)	(blank)	(blank)

Electronic Data Interchange (EDI) Information

This entity did not enter the EDI information

Disaster Response

This entity does not appear in the disaster response registry.

SECTION 504 CERTIFICATION

POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY

The Corporation does not discriminate on the basis of disability status in the admission or access to, or treatment or employment in, its federally assisted programs or activities.

(Name) Matula & Matula Construction, Inc.

(Address) 122 West Way, Suite 325

Lake Jackson, TX 77566

City State Zip

Telephone Number (979) 480 - 0030 Voice

() _____ - _____ TDD

James Michael Murphy has been designated to coordinate compliance with the nondiscrimination requirements contained in the Department of Housing and Urban Development's (HUD) regulations implementing Section 504 (24 CFR Part 8, dated June 2, 1988).

CHILD SUPPORT STATEMENT FOR NEGOTIATED CONTRACTS AND GRANTS

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is eligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

Section 231.006, Family Code, specifies that a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under a contract to provide property, materials, or services; or receive a state-funded grant or loan.

List below the name and ownership percentage of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25% of the business entity submitting the bid or application.

NAME	OWNERSHIP BY %
Jonathan Matula	100%

A child support obligor or business entity ineligible to receive payments described above remains ineligible until all arrearage have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

The undersigned proposer certifies that he or she, is the proposing individual, or the sole proprietor of the proposing business, and is eligible under Section 231.006 of the Texas Family Code, to receive the payments of State funds which may be disbursed in connection with a contract arising from this solicitation, The undersigned each further acknowledges that a contract resulting from this solicitation may be terminated and payment may be withheld if the certification provided herein is found to be inaccurate.


Signature – Company Official

Matula & Matula Construction, Inc.
Printed/Type Firm Name

James Michael Murphy
Printed/Typed Name and Title

02/22/2024
Date

BIDDER: Matula & Matula Construction, Inc.

BID FORMS

CITY OF SWEENY
SWEENY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

Prepared by:

STRAND ASSOCIATES, INC.®
TBPE No. F-8405
TBPLS No. 10030000
1906 Niebuhr Street
Brenham, TX 77833
www.strand.com

Issued for Bid
February 7, 2024



SECTION 00 41 00

BID

CITY OF SWEENEY
SWEENEY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

A. Table of Contents

- ARTICLE 1. BID RECIPIENT
- ARTICLE 2. BIDDER'S ACKNOWLEDGEMENTS
- ARTICLE 3. BIDDER'S REPRESENTATIONS
- ARTICLE 4. BIDDER'S CERTIFICATIONS
- ARTICLE 5. BASIS OF BID
- ARTICLE 6. TIME OF COMPLETION
- ARTICLE 7. ATTACHMENTS TO THIS BID
- ARTICLE 8. DEFINED TERMS
- ARTICLE 9. COMMUNICATIONS
- ARTICLE 10. BID SUBMITTAL

ARTICLE 1–BID RECIPIENT

1.01 Bids to be received until 2 P.M. local time, February 22, 2024.

1.02 This Bid is submitted to: City of Sweeny
102 West Ashley Wilson Road
Sweeny, TX 77480

1.03 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2–BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

2.01 Bid Acceptance Period

A. This Bid will remain subject to acceptance for 115 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of OWNER.

2.02 Instructions to Bidders

A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

2.03 In submitting this Bid, Bidder represents the following:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following addenda:

Date:	Addendum Number:
<u>02/19/2024</u>	<u>1</u>
_____	_____
_____	_____

2.04 Bidder will sign and deliver the required number of counterparts of the Agreement with the bonds, insurance certificates, and other documents required by the Bidding Requirements within 15 days after the date of OWNER's Notice of Award.

ARTICLE 3-BIDDER'S REPRESENTATIONS

3.01 Bidder's Representations

A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.

2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.

4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Special Conditions, with respect to the Technical Data in such reports and drawings.

5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Special Conditions, with respect to Technical Data in such reports and drawings.

6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Special Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as CONTRACTOR; and (c) Bidder's (CONTRACTOR's) safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

8. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.

9. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to CONTRACTOR.

10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4-BIDDER'S CERTIFICATIONS

4.01 Bidder certifies the following:

A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.

B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.

C. Bidder has not solicited or induced any individual or entity to refrain from Bidding.

D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:

1. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the Bidding process.

2. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the Bidding process to the detriment of OWNER, (b) to establish Bid prices at artificial non-competitive levels, or (c) to deprive OWNER of the benefits of free and open competition.

3. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of OWNER, a purpose of which is to establish Bid prices at artificial, non-competitive levels.

4. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the Bidding process or affect the execution of the Contract.

4.02 Prohibition on Boycotting Israel

In accordance with HB 89 and Texas Government Code Chapter 2270, OWNER may not enter into a Contract with a "company" for goods or services unless the Contract contains the following written verification:

A. For the purposes for this section only, the terms "company" and "boycott Israel" shall have the meaning assigned by Texas Government Code Chapter 2270.

B. If a Bidder qualifies as a "company" outside of the exclusions of HB 793, then Bidder hereby verifies that it:

1. Does not "boycott Israel"; and
2. Will not "boycott Israel" during the term of the Contract.

4.03 Iran, Sudan, and Foreign Terrorist Organization Verification

A. In accordance with SB 252 and Texas Government Code 2252, Bidder hereby certifies that it is not listed on the website of the Comptroller of the State of Texas concerning the list of companies that are identified under Section 806.051, Section 807.051, or Section 2252.153 of the Texas Government Code.

B. Bidder also further certifies that should it enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan, or any foreign terrorist organization, it will immediately notify the OWNER's purchasing department.

4.04 Critical Infrastructure Verification

In accordance with SB 2116 and Texas Government Code Chapter 2274, Bidder hereby certifies that if it has or will have remote or direct access to communication infrastructure systems, cybersecurity systems, the electric grid, hazardous waste treatment systems, or water treatment facilities as a result of entering into a Contract with the OWNER, that Bidder is not:

A. Owned by or the majority of stock or other ownership interest is not held or controlled by:

1. Individuals who are citizens of China, Iran, North Korea, Russia, or a country designated by the Governor; or
2. a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a country designated by the Governor; or

B. headquartered in China, Iran, North Korea, Russia, or a country designated by the Governor.

4.05 Prohibition on Boycotting Energy Companies

In accordance with SB 13 and Texas Government Code 2274, Bidder hereby certifies that if it is not a sole proprietorship, if it has 10 or more full-time employees, or if the Contract Price will be greater than \$100,000, that Bidder:

- A. Will not boycott energy companies; and
- B. Will not boycott energy companies during the term of the Contract.

4.06 Firearm Entity or Trade Association Discrimination

In accordance with SB 19 and Texas Government Code 2274, Bidder hereby certifies that if it is not a sole proprietorship, if it has 10 or more full-time employees, or if the Contract Price will be greater than \$100,000, that Bidder:

A. Does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade associations; and

B. Will not discriminate during the term Contract against a firearm entity or firearm trade association.

These requirements do not apply to an exempt contract under Section 2274.003 of the Texas Government Code.

4.07 Bidder also hereby acknowledges and agrees that all verifications and certifications located in Articles 4.02 through 4.06 will become material terms of the Contract and OWNER is expressly relying on these verification and certifications in agreeing to enter into a Contract.

ARTICLE 5-BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

The following abbreviations may be used in this Bid:

CIP	-	Complete in Place	LS	-	Lump Sum
CY	-	Cubic Yard	LT	-	Left
DI	-	Ductile Iron	MBF	-	Thousand Board Feet
DIA	-	Diameter	MFOB	-	Thousand Freight-On-Board
EA	-	Each	MH	-	Manhole
EST	-	Estimate(d)	PVC	-	Polyvinyl Chloride
EXCL	-	Excluding	RCP	-	Reinforced Concrete Pipe
FT	-	Feet	RT	-	Right
GAL	-	Gallon	SF	-	Square Foot
HERCP	-	Horizontal Elliptical RCP	STA	-	Station
HRS	-	Hours	SY	-	Square Yard
IN	-	Inch	T	-	Ton
INCL	-	Including	VLF	-	Vertical Linear Foot
LBS	-	Pounds	W/	-	With
LF	-	Linear Foot	W/O	-	Without

BIDDERS SHOULD NOT ADD ANY CONDITIONS OR QUALIFYING STATEMENTS TO THIS BID OR THE BID MAY BE DECLARED IRREGULAR AS NOT BEING RESPONSIVE TO THE INSTRUCTIONS TO BIDDERS.

BID
 CITY OF SWEENEY
 SWEENEY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

Contract award will be made based on the Computed Total Base Bid plus any Alternatives selected. The price for all Base Bid items shall be included in the Computed Total Base Bid. Alternative Bids will be added to or deducted from the Computed Total Base Bid, if they are accepted, prior to Contract award being made.

OWNER reserves the right to accept or reject any alternatives to the Computed Total Base Bid. Should OWNER wish to consider alternatives listed, Bidder may be required to provide additional information prior to Notice of Award.

The following prices per item shall be for furnishing and installing the various items of material and work as specified and shown on the drawings. Bidder agrees to perform the Work as shown on the Drawings and described in the Specifications for the following listed prices. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

NOTE: A price must be bid for each item in the Bid, even though the estimated quantity is zero. Unbalanced or unreasonable unit prices may cause rejection of the Bid.

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Utility Activities					
1.	Remove and Replace Existing Sanitary Sewer W/ 6-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	45	LF	\$ 107.50	\$ 4,837.50
2.	Remove and Replace Existing Sanitary Sewer W/ 8-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	65	LF	\$ 87.40	\$ 5,681.00
3.	Remove and Replace Existing Sanitary Sewer W/ 10-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	10	LF	\$ 441.80	\$ 4,418.00
4.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	20	LF	\$ 215.70	\$ 4,314.00
5.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 5- to 10-FT Depth	660	LF	\$ 95.40	\$ 62,964.00
6.	Remove and Replace Existing Sanitary Sewer W/12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 10- to 15-FT Depth	550	LF	\$ 130.20	\$ 71,610.00

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
7.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Bore	160	LF	\$ 211.20	\$ 33,792.00
8.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line Inside a 24-IN Welded Steel Casing, by Bore	45	LF	\$ 392.60	\$ 17,667.00
9.	Remove and Replace Existing Sanitary Sewer W/ 18-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut	15	LF	\$ 400.90	\$ 6,013.50
10.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	160	LF	\$ 351.90	\$ 56,304.00
11.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, 5-to 10-FT Depth	4,790	LF	\$ 226.70	\$ 1,085,893.00
12.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, Greater than 10-FT Depth	3,610	LF	\$ 269.60	\$ 973,256.00
13.	Remove and Replace Existing Service Lateral W/ 24- by 4-IN Service Wye, 4-IN Service Cleanout Inside the Meter Box, Connect to Existing Service Line at Right of Way	57	EA	\$ 5,576.90	\$ 317,883.30
14.	Remove and Replace Existing Sanitary Sewer Service Line W/4-IN Schedule 40 PVC.	1,975	LF	\$ 44.40	\$ 87,690.00
15.	Tie-In New 18-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 1,404.40	\$ 2,808.80
16.	Tie-in New 12-IN ASTM F679 PS 115 PVC to Existing Piping	3	EA	\$ 620.50	\$ 1,861.50
17.	Tie-in New 10-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 548.80	\$ 1,097.60
18.	Tie-in New 8-IN ASTM F679 PS 115 PVC to Existing Piping	9	EA	\$ 493.90	\$ 4,445.10
19.	Tie-in New 6-IN ASTM F679 PS 115 PVC to Existing Piping	6	EA	\$ 453.30	\$ 2,719.80
20.	Furnish all Materials to install a 6-IN Drop Connections, All Depths	7	EA	\$ 2,156.30	\$ 15,094.10
21.	Furnish all Materials to install a 8-IN Drop Connections, All Depths	1	EA	\$ 2,627.00	\$ 2,627.00
22.	Tie New 24-IN ASTM F679 PS 115 PVC to Existing MH	1	EA	\$ 7,500.40	\$ 7,500.40
23.	Remove and Dispose of the Existing MH	28	EA	\$ 780.40	\$ 21,851.20
24.	Install a 4-FT Precast Concrete MH, Standard Cone	13	EA	\$ 3,809.20	\$ 49,519.60

Item No.	Description	Estimated Quantity	Unit	Bld Unit Price	Bld Price
25.	Install 4-FT Precast Concrete MH, Flat Top W/ Vent Pipe	1	EA	\$ 8,503.80	\$ 8,503.80
26.	Provide Additional Depth for 4-FT-DIA Concrete MH	36.4	VF	\$248.90	\$9,059.96
27.	Install a 5-FT Precast Concrete MH, Flat Top W/ Vent Pipe	2	EA	\$9,673.30	\$ 19,346.60
28.	Install a 5-FT Precase Concrete MH, Standard Cone	18	EA	\$5,570.90	\$ 100,276.20
29.	Provide Additional Depth for 5-FT-DIA Concrete MH	81	VF	\$338.90	\$27,450.90
30.	Install a 6-FT Precast Concrete MH, Standard Cone	1	EA	\$ 9,971.40	\$ 9,971.40
31.	Provide Additional Depth for 6-FT-DIA Concrete MH	7	VF	\$ 521.90	\$ 3,653.30
32.	Perform Closed-Circuit Television on Existing Parallel Sewer Line to Determine Existing Service Location	2,165	LF	\$ 5.30	\$ 11,474.50
33.	Remove and Dispose of Existing Concrete Collar and Install New Cast-In-Place Concrete Collars Around MHs	6	EA	\$ 1,373.80	\$ 8,242.80
34.	Furnish All Equipment to Perform Bypass Pumping	1	LS	\$ 147,530.10	\$ 147,530.10
35.	Furnish Equipment to Perform Pot Holing or Hydro Excavation to Determine the Depth of Existing Gas Mains at the Locations Indicated on the Drawings	1	LS	\$ 39,018.30	\$ 39,018.30
36.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line by Open Cut	2,085	LF	\$75.30	\$ 157,000.50
37.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line W/ Restrained Joints	400	LF	\$ 78.10	\$31,240.00
38.	Make 2-IN Connection to Existing Water Main	2	EA	\$ 1,964.00	\$ 3,928.00
39.	Make 6-IN Connection to Existing Water Main	6	EA	\$ 1,946.90	\$ 11,681.40
40.	Furnish Equipment and Materials to Make Water Service Tap	37	EA	\$ 617.20	\$ 22,836.40
41.	Furnish and Install Water Service Line and Tie-in to Existing Water Meter	755	LF	\$ 38.00	\$ 28,690.00
42.	Furnish and Install Fire Hydrant Assembly	3	EA	\$ 6,722.20	\$ 20,166.60
43.	Furnish and Install 6-IN Gate Valve and Valve Box	13	EA	\$ 1,387.20	\$ 18,033.60
44.	Furnish and Install 2-IN Gate Valve and Valve Box	1	EA	\$803.80	\$ 803.80
45.	Provide Dewatering Equipment	3,000	LF	\$ 37.00	\$ 111,000.00

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Street Activities					
46.	Furnish and Install All Materials and Equipment to Perform Asphalt Pavement Repair Associated W/ Sanitary Sewer Replacement, INCL Base	1,420	LF	\$ 73.80	\$ 104,796.00
47.	Furnish and Install All Materials and Equipment to Mill and Overlay 2-IN Hot Mix Asphalt Concrete	610	T	\$ 304.90	\$ 185,989.00
48.	Furnish and Install All Materials and Equipment to Perform Concrete Pavement Repair Associated W/ Sanitary Sewer Replacement	55	LF	\$ 173.10	\$ 9,520.50
49.	Seeding and Sodding Associated W/ Utility Installation and Pavement Repair	1	LS	\$ 20,577.00	\$ 20,577.00
50.	Install and Maintain Trench Safety, 0- to 10-FT	7,350	LF	\$ 1.00	\$ 7,350.00
51.	Install and Maintain Trench Safety, Greater Than 10-FT	2,730	LF	\$ 5.20	\$ 14,196.00
52.	Traffic Control	1	LS	\$ 20,000.00	\$ 20,000.00

COMPUTED TOTAL BASE BID CONTRACT 1-2023 (ITEMS 1 THROUGH 52)

Three million nine hundred ninety four thousand one hundred eighty five and six cents (Words)	Dollars \$ <u>3,994,185.06</u> (Numbers)
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BID ALTERNATIVE NO. 1

CITY OF SWEENY
 SWEENY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Lift Station					
1.	Farm-to-Market 1469 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 147,954.80	\$ 147,954.80
2.	Farm-to-Market 524 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 127,897.60	\$ 127,897.60
3.	Fence Temporary Removal, Repair, and Reinstallation Related to Lift Station Generators	20	LF	\$ 75.00	\$ 1,500.00
4.	Furnish and Install New Fencing at Farm-to-Market 524 Lift Station, Related to Lift Station Generator	36	LF	\$ 75.00	\$ 2,700.00

COMPUTED TOTAL BID ALTERNATIVE NO. 1

Two hundred eighty thousand fifty two dollars and forty cents Dollars \$ 280,052.40
 (Words) (Numbers)

ARTICLE 6--TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete within 360 calendar days after the date when the Contract Time commences to run as provided in Paragraph 32 of the General Conditions and ready for final payment within 480 calendar days after the date when the Contract Time commences to run.

6.02 Bidder accepts the provisions of the General Conditions as to liquidated damages in the event of failure to complete the Work within the Contract Times.

ARTICLE 7--ATTACHMENTS TO THIS BID

7.01 The following documents are attached to and made a condition of this Bid:

- A. Required Bid security in the form of 5% of GAB Bond
(Certified Check, Bank Money Order, or Bond)
- B. Form CIQ Conflict of Interest Questionnaire (if required).
- C. Certificate of Interested Parties (Form 1295).
- D. Noncollusion Affidavit of Prime Bidder.
- E. Certificate of Bidder Regarding Civil Rights Laws and Regulations.
- F. CONTRACTOR's Certificate of Recovered Materials.
- G. CONTRACTOR's Local Opportunity Plan.
- H. Proposed Contracts Breakdown and Estimated Project Workforce Breakdown.
- I. Certification for Business Concerns--Seeking Section 3 Preference in Contracting and Demonstration of Capability.
- J. Certification Regarding Lobbying.
- K. Disclosure of Lobbying Activities and Instructions.
- L. Statement of Bidder's Qualifications.
- M. Evidence that Bidder is active and cleared (not suspended or debarred) in System for Award Management (SAM).
- N. Section 504 Certification-Policy of Nondiscrimination on the Basis of Disability.
- O. Child Support Statement for Negotiated Contracts and Grants.
- P. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license, if applicable, within the time for acceptance of Bids.
- Q. Where applicable, Bidder shall provide CONTRACTOR's License Number for the state of the Project, where noted at end of Bid or Bidder shall provide evidence of Bidder's ability to obtain

a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids.

ARTICLE 8-DEFINED TERMS

8.01 The terms used in this Bid with initial or all capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Special Conditions.

ARTICLE 9-COMMUNICATIONS

9.01 Communications concerning this Bid shall be addressed to the address of Bidder indicated below:

Name: Matula & Matula Construction, Inc.
Street: 122 West Way, Suite 325
City, State, Zip Code: Lake Jackson, TX 77566
Phone No.: 979-480-0030 Fax No.: 979-480-0060
E-mail address: jmmurphy@matulainc.com

ARTICLE 10-BID SUBMITTAL

Submitted on February 22, 2024

State Contractor License Number _____ (if applicable).

If Bidder is:

An Individual

By: _____
(Individual's signature)

Name (typed or printed): _____

Doing business as: _____
Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

A Partnership

Partnership Name: _____
By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____
Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

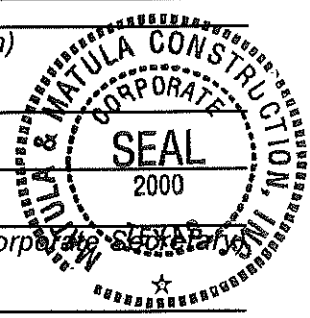
A Corporation

Corporation Name: Matula & Matula Construction, Inc.
State of Incorporation: Texas
Type (General Business, Professional, Service, Limited Liability): General Business
By: James Michael Murphy
(Signature -- attach evidence of authority to sign)

Name (typed or printed): James Michael Murphy

Title: Vice President

Attest Olivia J. Kernaly
(Signature of Corporate Secretary)



Business address: 122 West Way, Suite 325, Lake Jackson, TX 77566

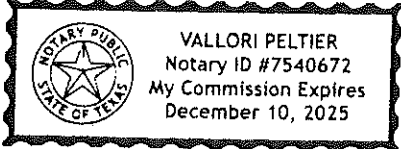
Phone No.: 979-480-0030 Fax No.: 979-480-0060

E-mail address: jmmurphy@matulainc.com

Date of Qualification to do business in (State where the Project is located) is January 2000

Sworn and subscribed to before me this
22nd day of February, 2024
Vallori Peltier

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires 2-10-25



Section 00 41 00-13
3920.054/1-2023

A Limited Liability Company (Note: If member-managed, an authorized member must sign; if manager-managed, the authorized manager must sign. Attach evidence of authority to sign on behalf of LLC).

(Fill in complete name of LLC)

State of Formation: _____

By: _____
(Signature)

_____, [Member] [Manager]
(Print Name)

Business Address: _____

Telephone.: _____

Email: _____

Fax: _____

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Second Joint Venturer Name: _____

By: _____
(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Phone No., Fax No., and postal and E-mail address for receipt of official communications:

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Sworn and subscribed to before me this
_____ day of _____, _____

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires: _____

END OF SECTION

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310 Bid Bond

KNOW ALL MEN BY THESE PRESENTS, THAT WE Tejas Underground Utilities, L.L.C.

P. O. Box 1419, Magnolia, TX 77353-1419

as Principal, hereinafter called the Principal, and Harco National Insurance Company

4200 Six Forks Road, Suite 1400, Raleigh, NC 27609

a corporation duly organized under the laws of the State of IL

as Surety, hereinafter called the Surety, are held and firmly bound unto CITY OF SWEENY

as Obligee, hereinafter called the Obligee, in the sum of FIVE Percent of the Greatest Amount Bid

Dollars (\$ 5% G.A.B.),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for CITY OF SWEENY GLO-MIT SANITARY SEWER IMPROVEMENTS,
GLO CONTRACT NO. 22-082-007-D205, CONTRACT 1-2023

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and materials furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 22nd day of February, 2024

Caleb Bell III

(Witness)

Tejas Underground Utilities, L.L.C.

(Principal)

(Seal)

By: *[Signature]*

(Title)

[Signature]

(Witness)

Harco National Insurance Company

(Surety)

By: *[Signature]*

Attorney-in-Fact Jillian O'Neal

Surety Phone No.



**POWER OF ATTORNEY
HARCO NATIONAL INSURANCE COMPANY
INTERNATIONAL FIDELITY INSURANCE COMPANY**

Member companies of IAT Insurance Group, Headquartered: 4200 Six Forks Rd, Suite 1400, Raleigh, NC 27609

Bond # Bid Bond
Principal Tejas Underground Utilities, L.L.C.
Obligee CITY OF SWEENY

KNOW ALL MEN BY THESE PRESENTS: That HARCO NATIONAL INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

Jillian O'Neal

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY and is granted under and by authority of the following resolution adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of HARCO NATIONAL INSURANCE COMPANY at a meeting held on the 13th day of December, 2018.

"RESOLVED, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY have each executed and attested these presents on this 31st day of December, 2022.



STATE OF NEW JERSEY
County of Essex

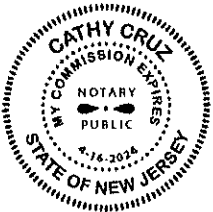
Kenneth Chapman

Executive Vice President, Harco National Insurance Company
and International Fidelity Insurance Company

STATE OF ILLINOIS
County of Cook



On this 31st day of December, 2022, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Cathy Cruz a Notary Public of New Jersey
My Commission Expires April 16, 2024

CERTIFICATION

I, the undersigned officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 22nd day of February, 2024

Irene Martins, Assistant Secretary

IMPORTANT NOTICE

To obtain information or make a complaint:

You may contact Harco National Insurance Company at:

1-800-333-4167

You may also write to: Harco National Insurance Company c/o IAT Surety at:

Attn: Claims Department
One Newark Center, 20th Floor
Newark, NJ 07102

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-mail: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact the agent or the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND:

This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener información o para presentar una queja:

Usted puede comunicarse con su Harco National Insurance Company al:

1-800-333-4167

Usted también puede escribir a Harco National Insurance Company c/o IAT Surety at:

Attn: Claims Department
One Newark Center, 20th Floor
Newark, NJ 07102

Puede comunicarse con el Departamento de Seguros de Texas para obtener información acerca de compañías, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-mail: ConsumerProtection@tdi.texas.gov

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente o la compañía primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU FIANZA DE GARANTIA:

Este aviso es solo para propósito de información y no se convierte en parte o condición del documento adjunto.

BIDDER:

Texas Underground Utilities LLC

BID FORMS

CITY OF SWEENY
SWEENY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

Prepared by:

STRAND ASSOCIATES, INC.®

TBPE No. F-8405

TBPLS No. 10030000

1906 Niebuhr Street

Brenham, TX 77833

www.strand.com

Issued for Bid
February 7, 2024



2.03 In submitting this Bid, Bidder represents the following:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following addenda:

Date:	Addendum Number:
<u>2/19/2024</u>	<u>1</u>
_____	_____
_____	_____
_____	_____

2.04 Bidder will sign and deliver the required number of counterparts of the Agreement with the bonds, insurance certificates, and other documents required by the Bidding Requirements within 15 days after the date of OWNER's Notice of Award.

ARTICLE 3-BIDDER'S REPRESENTATIONS

3.01 Bidder's Representations

A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.

2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.

4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Special Conditions, with respect to the Technical Data in such reports and drawings.

5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Special Conditions, with respect to Technical Data in such reports and drawings.

6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Special Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as CONTRACTOR; and (c) Bidder's (CONTRACTOR's) safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

8. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.

BID

CITY OF SWEENY
SWEENY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

Contract award will be made based on the Computed Total Base Bid plus any Alternatives selected. The price for all Base Bid items shall be included in the Computed Total Base Bid. Alternative Bids will be added to or deducted from the Computed Total Base Bid, if they are accepted, prior to Contract award being made.

OWNER reserves the right to accept or reject any alternatives to the Computed Total Base Bid. Should OWNER wish to consider alternatives listed, Bidder may be required to provide additional information prior to Notice of Award.

The following prices per item shall be for furnishing and installing the various items of material and work as specified and shown on the drawings. Bidder agrees to perform the Work as shown on the Drawings and described in the Specifications for the following listed prices. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

NOTE: A price must be bid for each item in the Bid, even though the estimated quantity is zero. Unbalanced or unreasonable unit prices may cause rejection of the Bid.

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Utility Activities					
1.	Remove and Replace Existing Sanitary Sewer W/ 6-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	45	LF	\$ 164 ⁸⁰	\$ 7,416 ⁰⁰
2.	Remove and Replace Existing Sanitary Sewer W/ 8-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	65	LF	\$ 179 ⁸⁰	\$ 11,687 ⁰⁰
3.	Remove and Replace Existing Sanitary Sewer W/ 10-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	10	LF	\$ 822 ⁴⁰	\$ 8,224 ⁰⁰
4.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	20	LF	\$ 431 ¹⁰	\$ 8,622 ⁰⁰
5.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 5- to 10-FT Depth	660	LF	\$ 98 ⁹⁰	\$ 65,274 ⁰⁰
6.	Remove and Replace Existing Sanitary Sewer W/12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 10- to 15-FT Depth	550	LF	\$ 80 ⁸⁰	\$ 44,440 ⁰⁰

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
7.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Bore	160	LF	\$ 135 ¹⁰	\$ 21,616 ⁰⁰
8.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line Inside a 24-IN Welded Steel Casing, by Bore	45	LF	\$ 1,028 ⁸⁰	\$ 46,296 ⁰⁰
9.	Remove and Replace Existing Sanitary Sewer W/ 18-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut	15	LF	\$ 771 ²⁰	\$ 11,568 ⁰⁰
10.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	160	LF	\$ 657 ⁶⁰	\$ 105,216 ⁰⁰
11.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, 5-to 10-FT Depth	4,790	LF	\$ 255 ⁶⁰	\$ 1,224,324 ⁰⁰
12.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, Greater than 10-FT Depth	3,610	LF	\$ 241 ⁹⁰	\$ 873,259 ⁰⁰
13.	Remove and Replace Existing Service Lateral W/ 24- by 4-IN Service Wye, 4-IN Service Cleanout Inside the Meter Box, Connect to Existing Service Line at Right of Way	57	EA	\$ 3,683 ⁰⁰	\$ 229,191 ⁰⁰
14.	Remove and Replace Existing Sanitary Sewer Service Line W/4-IN Schedule 40 PVC.	1,975	LF	\$ 37 ²⁰	\$ 73,470 ⁰⁰
15.	Tie-In New 18-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 4,256 ⁰⁰	\$ 8,512 ⁰⁰
16.	Tie-in New 12-IN ASTM F679 PS 115 PVC to Existing Piping	3	EA	\$ 3,512 ⁰⁰	\$ 10,536 ⁰⁰
17.	Tie-in New 10-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 3,431 ⁵⁰	\$ 6,863 ⁰⁰
18.	Tie-in New 8-IN ASTM F679 PS 115 PVC to Existing Piping	9	EA	\$ 3,370 ⁰⁰	\$ 30,330 ⁰⁰
19.	Tie-in New 6-IN ASTM F679 PS 115 PVC to Existing Piping	6	EA	\$ 3,324 ⁵⁰	\$ 19,947 ⁰⁰
20.	Furnish all Materials to Install a 6-IN Drop Connections, All Depths	7	EA	\$ 1,763 ⁰⁰	\$ 12,341 ⁰⁰
21.	Furnish all Materials to Install a 8-IN Drop Connections, All Depths	1	EA	\$ 4,101 ⁰⁰	\$ 4,101 ⁰⁰
22.	Tie New 24-IN ASTM F679 PS 115 PVC to Existing MH	1	EA	\$ 6,840 ⁰⁰	\$ 6,840 ⁰⁰
23.	Remove and Dispose of the Existing MH	28	EA	\$ 4,246 ⁰⁰	\$ 118,888 ⁰⁰
24.	Install a 4-FT Precast Concrete MH, Standard Cone	13	EA	\$ 8,122 ⁰⁰	\$ 105,586 ⁰⁰

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
25.	Install 4-FT Precast Concrete MH, Flat Top W/ Vent Pipe	1	EA	\$ 13,586 ⁰⁰	\$ 13,586 ⁰⁰
26.	Provide Additional Depth for 4-FT-DIA Concrete MH	36.4	VF	\$ 212 ⁵⁰	\$ 7,736 ⁰⁰
27.	Install a 5-FT Precast Concrete MH, Flat Top W/ Vent Pipe	2	EA	\$ 14,487 ⁰⁰	\$ 28,974 ⁰⁰
28.	Install a 5-FT Precase Concrete MH, Standard Cone	18	EA	\$ 10,119 ⁰⁵	\$ 182,142 ⁰⁰
29.	Provide Additional Depth for 5-FT-DIA Concrete MH	81	VF	\$ 300 ⁰⁰	\$ 24,300
30.	Install a 6-FT Precast Concrete MH, Standard Cone	1	EA	\$ 16,030 ⁰⁰	\$ 16,030 ⁰⁰
31.	Provide Additional Depth for 6-FT-DIA Concrete MH	7	VF	\$ 444 ⁰⁰	\$ 3,108 ⁰⁰
32.	Perform Closed-Circuit Television on Existing Parallel Sewer Line to Determine Existing Service Location	2,165	LF	\$ 5 ⁰⁰	\$ 12,124
33.	Remove and Dispose of Existing Concrete Collar and Install New Cast-In-Place Concrete Collars Around MHs	6	EA	\$ 23,203 ⁵⁰	\$ 139,221 ⁰⁰
34.	Furnish All Equipment to Perform Bypass Pumping	1	LS	\$ 183,750 ⁰⁰	\$ 183,750 ⁰⁰
35.	Furnish Equipment to Perform Pot Holing or Hydro Excavation to Determine the Depth of Existing Gas Mains at the Locations Indicated on the Drawings	1	LS	\$ 9,125 ⁰⁰	\$ 9,125 ⁰⁰
36.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line by Open Cut	2,085	LF	\$ 44 ⁸⁰	\$ 93,408 ⁰⁰
37.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line W/ Restrained Joints	400	LF	\$ 102 ⁵⁰	\$ 41,000 ⁰⁰
38.	Make 2-IN Connection to Existing Water Main	2	EA	\$ 2,022 ⁰⁰	\$ 4,044 ⁰⁰
39.	Make 6-IN Connection to Existing Water Main	6	EA	\$ 1,567 ⁰⁰	\$ 9,402 ⁰⁰
40.	Furnish Equipment and Materials to Make Water Service Tap	37	EA	\$ 887 ⁰⁰	\$ 32,819 ⁰⁰
41.	Furnish and Install Water Service Line and Tie-in to Existing Water Meter	755	LF	\$ 44 ⁰⁰	\$ 33,673 ⁰⁰
42.	Furnish and Install Fire Hydrant Assembly	3	EA	\$ 11,768 ⁰⁰	\$ 35,304 ⁰⁰
43.	Furnish and Install 6-IN Gate Valve and Valve Box	13	EA	\$ 2,607 ⁰⁰	\$ 33,891 ⁰⁰
44.	Furnish and Install 2-IN Gate Valve and Valve Box	1	EA	\$ 1,573 ⁰⁰	\$ 1,573 ⁰⁰
45.	Provide Dewatering Equipment	3,000	LF	\$ 31 ³⁰	\$ 93,900 ⁰⁰

Revised Section 00 41 00-8

3920.054/1-2023 (Addendum No. 1)

BID ALTERNATIVE NO. 1

CITY OF SWEENY
 SWEENY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Lift Station					
1.	Farm-to-Market 1459 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 236,687 ⁰⁰	\$ 236,687 ⁰⁰
2.	Farm-to-Market 524 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 253,250 ⁰⁰	\$ 253,250 ⁰⁰
3.	Fence Temporary Removal, Repair, and Reinstallation Related to Lift Station Generators	20	LF	\$ 57 ⁵⁰	\$ 1,150 ⁰⁰
4.	Furnish and Install New Fencing at Farm-to-Market 524 Lift Station, Related to Lift Station Generator	36	LF	\$ 118 ⁷⁵	\$ 4,275 ⁰⁰

COMPUTED TOTAL BID ALTERNATIVE NO. 1

Four hundred ninety five thousand three hundred sixty two Dollars \$ 495,362⁰⁰
 (Words) (Numbers)
 Zero cents

ARTICLE 6--TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete within 360 calendar days after the date when the Contract Time commences to run as provided in Paragraph 32 of the General Conditions and ready for final payment within 480 calendar days after the date when the Contract Time commences to run.

6.02 Bidder accepts the provisions of the General Conditions as to liquidated damages in the event of failure to complete the Work within the Contract Times.

ARTICLE 7--ATTACHMENTS TO THIS BID

7.01 The following documents are attached to and made a condition of this Bid:

- A. Required Bid security in the form of Bid Bond
(Certified Check, Bank Money Order, or Bond)
- B. Form CIQ Conflict of Interest Questionnaire (if required).
- C. Certificate of Interested Parties (Form 1295).
- D. Noncollusion Affidavit of Prime Bidder.
- E. Certificate of Bidder Regarding Civil Rights Laws and Regulations.
- F. CONTRACTOR's Certificate of Recovered Materials.
- G. CONTRACTOR's Local Opportunity Plan.
- H. Proposed Contracts Breakdown and Estimated Project Workforce Breakdown.
- I. Certification for Business Concerns--Seeking Section 3 Preference in Contracting and Demonstration of Capability.
- J. Certification Regarding Lobbying.
- K. Disclosure of Lobbying Activities and Instructions.
- L. Statement of Bidder's Qualifications.
- M. Evidence that Bidder is active and cleared (not suspended or debarred) in System for Award Management (SAM).
- N. Section 504 Certification-Policy of Nondiscrimination on the Basis of Disability.
- O. Child Support Statement for Negotiated Contracts and Grants.
- P. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license, if applicable, within the time for acceptance of Bids.
- Q. Where applicable, Bidder shall provide CONTRACTOR's License Number for the state of the Project, where noted at end of Bid or Bidder shall provide evidence of Bidder's ability to obtain

a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids.

ARTICLE 8-DEFINED TERMS

8.01 The terms used in this Bid with initial or all capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Special Conditions.

ARTICLE 9-COMMUNICATIONS

9.01 Communications concerning this Bid shall be addressed to the address of Bidder indicated below:

Name: Charlie Bell

Street: 30355 Old Hockley Rd

City, State, Zip Code: Magnolia TX 77355

Phone No.: 281-356-6960 Fax No.: _____

E-mail address: Charlie.bell@tejasunderground.com

ARTICLE 10-BID SUBMITTAL

Submitted on 2/22/2024

State Contractor License Number _____ (if applicable).

If Bidder is:

An Individual

By: _____
(Individual's signature)

Name (typed or printed): _____

Doing business as: _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

A Partnership

Partnership Name: _____

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

A Corporation

Corporation Name: _____

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Attest _____
(Signature of Corporate Secretary)

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Date of Qualification to do business in (State where the Project is located) is _____


Sworn and subscribed to before me this _____ day of _____, _____

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires: _____

A *Limited Liability Company* (Note: If member-managed, an authorized member must sign; if manager-managed, the authorized manager must sign. Attach evidence of authority to sign on behalf of LLC).

Texas Underground Utilities LLC
(Fill in complete name of LLC)

State of Formation: Texas

By: 
(Signature)

Charlie Bell, [Member] [Manager]
(Print Name)

Business Address: 30355 Old Hockley Rd Magnolia TX 77355

Telephone.: 281-356-6960

Email: Charlie.bell@texasunderground.com

Fax: _____

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Second Joint Venturer Name: _____

By: _____
(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

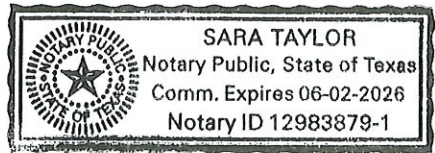
E-mail address: _____

Phone No., Fax No., and postal and E-mail address for receipt of official communications:

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Sworn and subscribed to before me this
22 day of February, 2024
Sara Taylor

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires: June 2, 2026



END OF SECTION

Section 00 41 00-15
3920.054/1-2023

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

Tejas Underground Utilities LLC

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Cecil Bellje. State Rep. HD3
Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

N/A

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

N/A

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 Cecil Bellje.
Signature of vendor doing business with the governmental entity

2/22/2024
Date

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2024-1126878

Date Filed:
02/22/2024

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
TEJAS UNDERGROUND UTILITIES L.L.C
MAGNOLIA, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
CITY OF SWEENY

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
CDBG-MIT CITY
CONSTRUCTION SERVICES FOR CITY

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	BELL JR., CECIL	Magnolia, TX United States	X	

5 Check only if there is NO Interested Party.

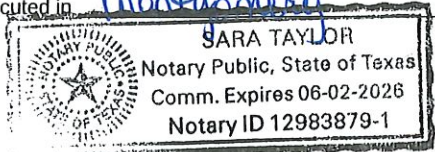
6 UNSWORN DECLARATION

My name is Charlie Bell, and my date of birth is 5/11/1994.

My address is 30355 Old Hockley Rd, Magnolia, TX, 77355.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Montgomery County, State of Texas, on the 22 day of February, 2024.



Sara Taylor
Signature of authorized agent of contracting business entity (Declarant)

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of Texas)

County of Montgomery)

Charlie Bell, being first duly sworn, deposes and says that:

(1) He/She is VP of Finance of Texas Underground Utilities, the Bidder that has submitted the attached Bid;

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with another Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix an overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Sibley (Local Public Agency) or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

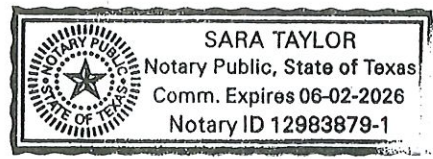
(Signed) [Signature]

VP of Finance
Title

Subscribed and sworn to me this 22 day of February 2024

By: Sara Taylor
Notary Public

My commission expires June 2, 2026



CONTRACTOR CERTIFICATIONS

U.S. Department of Housing and Urban Development

CERTIFICATION OF BIDDER REGARDING CIVIL RIGHTS LAWS AND REGULATIONS

INSTRUCTIONS

CERTIFICATION OF BIDDER REGARDING Executive Order 11246 and Federal Laws Requiring Federal Contractor to adopt and abide by equal employment opportunity and affirmative action in their hiring, firing, and promotion practices. This includes practices related to race, color, gender, religion, national origin, disability, and veterans' rights.

NAME AND ADDRESS OF BIDDER (include ZIP Code)

Tejas Underground Utilities LLC
P.O. Box 1419
Magnolia TX 77353

CERTIFICATION BY BIDDER

Bidder has participated in a previous contract or subcontract subject to Civil Rights Laws and Regulations.

Yes No

The undersigned hereby certifies that:

- The Provision of Local Training, Employment, and Business Opportunities clause (Section 3 provision) is included in the Contract. A written Section 3 plan (Local Opportunity Plan) was prepared and submitted as part of the bid proceedings (if bid equals or exceeds \$100,000).
- The Equal Opportunity clause is included in the Contract (if bid equals or exceeds \$10,000).

Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

Yes No

NAME AND TITLE OF SIGNER (Please type)

Charlie Bell
VP of Finance

2/22/2024

SIGNATURE



DATE

CONTRACTOR'S CERTIFICATION of RECOVERED MATERIAL

ACKNOWLEDGEMENT

I, Charlie Bell (Principal's Name) of Texas Underground Utilities LLC (Company Name), (hereinafter called "Contractor"), acknowledge the recovered material bidding requirements found in 2 CFR 200.322 that requires the Contractor to procure those items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

I also acknowledge that this requirement shall apply to items purchased (1) where the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) where during the preceding fiscal year, the value of the quantity acquired was in excess of \$10,000.

Finally, I acknowledge the attached list of recovered materials included in the bid documents.

(For up-to-date listing, please go to <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#directory>)

Charlie Bell VP of finance
Printed Name and Title

[Signature]
Signature

2/22/2024
Date

USE OF RECOVERED MATERIAL

Please check one:

- Recovered materials are included in this bid:
Materials included Crushed concrete
- Recovered materials are not reasonably available in a reasonable period of time.
- Recovered materials fail to meet reasonable performance standards, which are determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable.
- Recovered materials are only available at an unreasonable price.

Charlie Bell VP of finance
Printed Name and Title

[Signature]
Signature

2/22/2024
Date

CONTRACTOR'S LOCAL OPPORTUNITY PLAN

Texas Underground Utilities (name of company) agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses within the City of Sweeny.

- A. To ascertain from the City's CDBG program official the exact boundaries of the project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the city the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within and servicing the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.
- C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insert this plan in all bid documents and to require all bidders on subcontracts to submit an affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- E. To ensure that subcontracts (greater than \$10,000), which are typically let on a negotiated rather than a bid basis in areas other than the covered project area, are also let on a negotiated basis, whenever feasible, in a covered project area.
- F. To formally contact unions, subcontractors, and trade associations to secure their cooperation in this effort.
- G. To ensure that all appropriate project area business concerns are notified of pending sub-contractual opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this plan.
- J. To maintain records concerning the amount and number of contracts, subcontracts, and purchases which contribute to objectives.
- K. To maintain records of all projected work force needs for all phases of the project by occupation, trade, skill level, and number of positions and to update these projections based on the extent to which hiring meets these Local Opportunity objectives.
- L. As officers and representatives of Texas Underground Utilities (name of company), we the undersigned have read and fully agree to this Plan and the City's

Section 3 Plan and become a party to the full implementation of the program and its provisions.



Signature

Charlie Bell

Printed Name

VP of finance

Title

2/22/2024

Date

PROPOSED CONTRACTS BREAKDOWN *will provide if low bidder*

Type of Contracts	No. of Contracts	Approx. Total Dollar Amount	Estimated No. to local Business	Estimated \$ Amount Local Business

ESTIMATED PROJECT WORKFORCE BREAKDOWN *will provide if low bidder*

Work Classifications	Total Estimated Positions	No. of Positions Currently Filled	No. of Positions not Filled	No. of Positions to fill with LMI Residents (Section 3)
Totals				



Texas General Land Office
Community Development Block Grant (CDBG)
Disaster Recovery Program

CERTIFICATION FOR BUSINESS CONCERNS
Seeking Section 3 Preference in Contracting and
Demonstration of Capability

Economic Opportunities for Low and Very Low-Income Persons

Grantee/Subrecipient: _____ Contract Number: _____ Date: _____
[] [] []

CONTRACTOR INFORMATION

Name of Business []

Address of Business []

- Type of Business: Corporation Partnership Non-Profit Consortium
 Sole Proprietorship Joint Venture

Attach the following documentation as evidence of Section 3 eligible status:
(Definition of "Section 3 Business Concern" in 24 CFR 135 describes the three alternative qualifications.)

For Business claiming status as a Section 3 resident-owned enterprise:

- Copy of resident lease Copy of receipt of public assistance
 Copy of evidence of participation in a public assistance program Other evidence

For business entity as applicable:

- Copy of Articles of Incorporation Certificate of Good Standing
 Assumed Business Name Certificate Partnership Agreement
 List of owners/stockholders and % ownership of each appointed officers Corporation Annual Report
 Organization chart with names and titles and brief function statement Latest Board minutes
 Additional documentation

For business entity claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business(es):

- List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, by claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- List of all current full-time employees List of employees claiming Section 3 status
 PHA/IHA Residential lease less than 3 years from day of employment Other evidence of Section 3 status less than 3 years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement Statement of ability to comply with public policy
 List of owned equipment
 List of all contracts for the past two years

Authorized Name and Signature _____

Date _____

(Corporate Seal)

Attested By: _____

CERTIFICATION REGARDING LOBBYING
COMPLIANT WITH APPENDIX A TO 24 C.F.R. PART 87*

(To be submitted with each bid or offer exceeding \$100,000)

Certification for Contracts, Grants, Loans, and Cooperative Agreements:

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.


(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance:

The undersigned states, to the best of his or her knowledge and belief, that: If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the duly authorized representative of the Contractor, I hereby certify that the applicant will comply with the above applicable certification.



Signature of Contractor's Authorized Official

Charlie Bell VP of Finance

Printed Name and Title of Contractor's Authorized Official

2/22/2024

Date

*24 C.F.R. 87 App. A, available at <https://www.gpo.gov/fdsys/granule/CFR-2011-title24-vol1/CFR-2011-title24-vol1-part87-appA>.
Published Apr. 1, 2011. Accessed Aug. 1, 2018.

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: <u>A</u> a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: <u>A</u> a. bid/offer/application b. initial award c. post-award	3. Report Type: <u>A</u> a. initial filing b. material change For material change only: Year _____ quarter _____ Date of last report _____
4. Name and Address of Reporting Entity: <input checked="" type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if Known: Texas Underground Utilities LLC 30355 Old Hockley Rd Magnolia, TX 77355 Congressional District, if known: <u>CP8</u>	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: <u>N/A</u> Congressional District, if known: <u>CO8</u>	
6. Federal Department/Agency: <u>HUD</u>	7. Federal Program Name/Description: <u>CPBG</u> CFDA Number, if applicable: _____	
8. Federal Action Number, if known: <u>IFB</u>	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i> <u>Bell, Charlie</u>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i> <u>N/A</u>	
<p>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>	Signature: <u>[Signature]</u> Print Name: <u>Charlie Bell</u> Title: <u>VP of Finance</u> Telephone No. <u>281-356-6910</u> Date: <u>2/22/2024</u>	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)	

STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered, and the data given must be clear and comprehensive. **This statement must be notarized.** If necessary, questions may be answered on separate attached sheets. The Bidder may submit any additional information it desires.

Date: 2/22/2024
Bidder (Legal Name of Firm): Tyas Underground Utilities LLC.
Date Organized: 4/27/1997
Name of Owner(s): Cecil Bell JR
Address: 30355 Old Hockley Rd
Magnolia TX 77355
Date Incorporated: 4/27/1997
Federal ID Number: 76-0539727
Number of Years in contracting business under present name 27

List all other names under which your business has operated in the last 10 years:

Work Presently Under Contract:

Contract	Amount \$	Completion Date
<u>Everstead @ Windsor</u>	<u>2,392,192</u>	<u>Complete</u>
<u>Allora Cinco Ranch</u>	<u>2,252,053</u>	<u>Complete</u>
<u>Allora Bear Creek</u>	<u>2,025,408</u>	<u>Complete</u>

Type of work performed by your company: Underground Utility work

Total Staff employed by Firm (Break down by Managers and Trades on separate sheet): 600 Employees
Estimator/Pm (5) operators
Clerical/bookkeeping (2) Skilled labors
Supervisors Common labors

Have you ever failed to complete any work awarded to you? Yes No
(If yes, please attach summary of details on a separate sheet. Include brief explanation of cause and resolution)

Have you ever defaulted on a contract? Yes No
(If yes, please attach summary of details on a separate sheet.)

Has your organization had any disbarments or suspensions that have been imposed in the past five years or that was still in effect during the five-year period or is still in effect? Yes No

(If yes, list and explain; such list must include disbarments and suspensions of officers, principals, partners, members, and employees of your organization.)

List the projects most recently completed by your firm (include project of similar importance):

Project	Amount \$	Mo/Yr Completed

Major equipment available for this contract: Compactor, Dozer, Tractor, Loader, Backhoe.

Are you in compliance with all applicable EEO requirements? Yes No
(If no, please attach summary of details on a separate sheet.)

(Optional) Minority Business Reporting Information:

Owner's Race: Caucasian
Owner's Ethnicity: _____
Owner's Gender: Male

Are you a Section 3 business? (See below) Yes No

Section 3 Business Concerns:

- a) Businesses that are 51 percent or more owned by Section 3 residents;
- b) Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents;
- c) Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above; or
- d) Businesses located within the City's jurisdiction that identifies themselves as Section 3 Business Concerns because they provide economic opportunities for low- and very low-income persons.

Bank References Texas First Bank

Address: _____ Contact Name: Alvin Johnson
City & State: _____ Zip: _____ Phone Number: 713-482-4102
Credit available: \$ _____

Has the firm or predecessor firm been involved in a bankruptcy or reorganization? Yes No
(If yes, please attach summary of details on a separate sheet.)

List on a sheet attached hereto all judgements, claims, arbitration proceedings, or suits pending or outstanding against bidder over the last five (5) years with amount of claim and brief description.

List on a sheet attached hereto all lawsuits or requested arbitration with regard to construction contracts which bidder has initiated within the last five (5) years and brief explanation of claim and outcome.

Attach resume(s) for the principal member(s) of your organization, including the officers as well as the proposed superintendent for the project.

Signed this 22 day of February, 2024.

[Handwritten Signature]

Signature

Charlie Bell VP of finance

Printed Name and Title

Texas Underground Utilities LLC.

Company Name

Notary Statement:

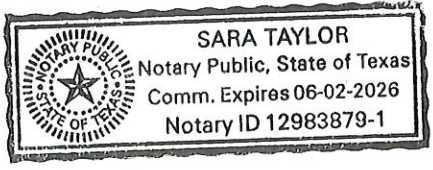
Charlie Bell being duly sworn, says that he/she is the VP Finance Position/Title of Texas Underground Utilities (Firm Name), and hereby swears that the answers to the foregoing questions and all statements therein contained are true and correct. He/she hereby authorizes and requests any person, firm, or corporation to furnish any information requested City of Sweeny in verification of the recitals comprising this Statement of Bidder's Qualifications.

Subscribed and sworn before me this 22 day of February 2024.

Notary Public

[Handwritten Signature]

Signature



Sara Taylor

Printed Name

My Commission Expires: June 2, 2026

The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

**Insert System for Award Management (SAM)
record search for company name and company
principal**

SECTION 504 CERTIFICATION

POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY

The Company does not discriminate on the basis of disability status in the admission or access to, or treatment or employment in, its federally assisted programs or activities.

(Name) Texas Underground Utilities LLC

(Address) 30355 Old Hockley Rd

magnolia TX 77355
City State Zip

Telephone Number (281) 354 - 6960 Voice
() _____ - _____ TDD

Charlie Bell has been designated to coordinate compliance with the nondiscrimination requirements contained in the Department of Housing and Urban Development's (HUD) regulations implementing Section 504 (24 CFR Part 8. dated June 2, 1988).

CHILD SUPPORT STATEMENT FOR NEGOTIATED CONTRACTS AND GRANTS

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is eligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

Section 231.006, Family Code, specifies that a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under a contract to provide property, materials, or services; or receive a state-funded grant or loan.

List below the name and ownership percentage of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25% of the business entity submitting the bid or application.

NAME	OWNERSHIP BY %

A child support obligor or business entity ineligible to receive payments described above remains ineligible until all arrearage have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

The undersigned proposer certifies that he or she, is the proposing individual, or the sole proprietor of the proposing business, and is eligible under Section 231.006 of the Texas Family Code, to receive the payments of State funds which may be disbursed in connection with a contract arising from this solicitation, The undersigned each further acknowledges that a contract resulting from this solicitation may be terminated and payment may be withheld if the certification provided herein is found to be inaccurate.



Signature – Company Official

Texas Underground Utilities LLC

Printed/Type Firm Name

Charlie Bell vp of finance

Printed/Typed Name and Title

2/22/2024

Date

BIDDER: Tejas Underground Utilities LLC

BID FORMS

CITY OF SWEENY
SWEENY, TEXAS
GLO-MIT SANITARY SEWER IMPROVEMENTS
GLO CONTRACT NO. 22-082-007-D205
CONTRACT 1-2023

Prepared by:

STRAND ASSOCIATES, INC.®
TBPE No. F-8405
TBPLS No. 10030000
1906 Niebuhr Street
Brenham, TX 77833
www.strand.com

Issued for Bid
February 7, 2024



2.03 In submitting this Bid, Bidder represents the following:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following addenda:

Date:	Addendum Number:
2/19/2024	1
_____	_____
_____	_____
_____	_____

2.04 Bidder will sign and deliver the required number of counterparts of the Agreement with the bonds, insurance certificates, and other documents required by the Bidding Requirements within 15 days after the date of OWNER's Notice of Award.

ARTICLE 3-BIDDER'S REPRESENTATIONS

3.01 Bidder's Representations

A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.

2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.

4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Special Conditions, with respect to the Technical Data in such reports and drawings.

5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Special Conditions, with respect to Technical Data in such reports and drawings.

6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Special Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as CONTRACTOR; and (c) Bidder's (CONTRACTOR's) safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

8. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.

BID

CITY OF SWEENY
 SWEENY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

Contract award will be made based on the Computed Total Base Bid plus any Alternatives selected. The price for all Base Bid items shall be included in the Computed Total Base Bid. Alternative Bids will be added to or deducted from the Computed Total Base Bid, if they are accepted, prior to Contract award being made.

OWNER reserves the right to accept or reject any alternatives to the Computed Total Base Bid. Should OWNER wish to consider alternatives listed, Bidder may be required to provide additional information prior to Notice of Award.

The following prices per item shall be for furnishing and installing the various items of material and work as specified and shown on the drawings. Bidder agrees to perform the Work as shown on the Drawings and described in the Specifications for the following listed prices. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

NOTE: A price must be bid for each item in the Bid, even though the estimated quantity is zero. Unbalanced or unreasonable unit prices may cause rejection of the Bid.

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Utility Activities					
1.	Remove and Replace Existing Sanitary Sewer W/ 6-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	45	LF	\$ 164 ⁸⁰ / _—	\$ 7,416 ⁰⁰
2.	Remove and Replace Existing Sanitary Sewer W/ 8-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	65	LF	\$ 179 ⁸⁰ / _—	\$ 11,687 ⁰⁰
3.	Remove and Replace Existing Sanitary Sewer W/ 10-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, All Depths	10	LF	\$ 822 ⁴⁰ / _—	\$ 8,224 ⁰⁰
4.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	20	LF	\$ 431 ¹⁰ / _—	\$ 8,622 ⁰⁰
5.	Remove and Replace Existing Sanitary Sewer W/ 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 5- to 10-FT Depth	660	LF	\$ 98 ⁹⁰ / _—	\$ 65,274 ⁰⁰
6.	Remove and Replace Existing Sanitary Sewer W/12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Open Cut, 10- to 15-FT Depth	550	LF	\$ 80 ⁸⁰ / _—	\$ 44,440 ⁰⁰

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
7.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line, by Bore	160	LF	\$ 135 ¹⁰	\$ 21,616 ⁰⁰
8.	Furnish All Equipment and Materials to Install 12-IN ASTM D-3034 SDR-26 PVC Sanitary Sewer Line Inside a 24-IN Welded Steel Casing, by Bore	45	LF	\$ 1,028 ⁸⁰	\$ 46,296 ⁰⁰
9.	Remove and Replace Existing Sanitary Sewer W/ 18-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut	15	LF	\$ 771 ³⁰	\$ 11,568 ⁰⁰
10.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM D-2241 SDR-21 PVC Sanitary Sewer Line at Water Main Crossing, by Open Cut, All Depths	160	LF	\$ 657 ⁶⁰	\$ 105,216 ⁰⁰
11.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, 5-to 10-FT Depth	4,790	LF	\$ 255 ⁶⁰	\$ 1,224,324 ⁰⁰
12.	Remove and Replace Existing Sanitary Sewer W/ 24-IN ASTM F679 PS 115 PVC Sanitary Sewer Line, by Open Cut, Greater than 10-FT Depth	3,610	LF	\$ 241 ⁹⁰	\$ 873,259 ⁰⁰
13.	Remove and Replace Existing Service Lateral W/ 24- by 4-IN Service Wye, 4-IN Service Cleanout Inside the Meter Box, Connect to Existing Service Line at Right of Way	57	EA	\$ 3,683 ⁰⁰	\$ 229,191 ⁰⁰
14.	Remove and Replace Existing Sanitary Sewer Service Line W/4-IN Schedule 40 PVC.	1,975	LF	\$ 37 ²⁰	\$ 73,470 ⁰⁰
15.	Tie-in New 18-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 4,256 ⁰⁰	\$ 8,512 ⁰⁰
16.	Tie-in New 12-IN ASTM F679 PS 115 PVC to Existing Piping	3	EA	\$ 3,512 ⁰⁰	\$ 10,536 ⁰⁰
17.	Tie-in New 10-IN ASTM F679 PS 115 PVC to Existing Piping	2	EA	\$ 3,431 ⁵⁰	\$ 6,863 ⁰⁰
18.	Tie-in New 8-IN ASTM F679 PS 115 PVC to Existing Piping	9	EA	\$ 3,370 ⁰⁰	\$ 30,330 ⁰⁰
19.	Tie-in New 6-IN ASTM F679 PS 115 PVC to Existing Piping	6	EA	\$ 3,324 ⁵⁰	\$ 19,947 ⁰⁰
20.	Furnish all Materials to Install a 6-IN Drop Connections, All Depths	7	EA	\$ 1,763 ⁰⁰	\$ 12,341 ⁰⁰
21.	Furnish all Materials to Install a 8-IN Drop Connections, All Depths	1	EA	\$ 4,101 ⁰⁰	\$ 4,101 ⁰⁰
22.	Tie New 24-IN ASTM F679 PS 115 PVC to Existing MH	1	EA	\$ 6,840 ⁰⁰	\$ 6,840 ⁰⁰
23.	Remove and Dispose of the Existing MH	28	EA	\$ 4,246 ⁰⁰	\$ 118,888 ⁰⁰
24.	Install a 4-FT Precast Concrete MH, Standard Cone	13	EA	\$ 8,122 ⁰⁰	\$ 105,586 ⁰⁰

Item No.	Description	Estimated Quantity	Unit	Bld Unit Price	Bid Price
25.	Install 4-FT Precast Concrete MH, Flat Top W/ Vent Pipe	1	EA	\$ 13,586 ⁰⁰	\$ 13,586 ⁰⁰
26.	Provide Additional Depth for 4-FT-DIA Concrete MH	36.4	VF	\$ 212 ⁵⁰	\$ 7,735 ⁰⁰
27.	Install a 5-FT Precast Concrete MH, Flat Top W/ Vent Pipe	2	EA	\$ 14,487 ⁰⁰	\$ 28,974 ⁰⁰
28.	Install a 5-FT Precase Concrete MH, Standard Cone	18	EA	\$ 10,119 ⁰⁰	\$ 182,142 ⁰⁰
29.	Provide Additional Depth for 5-FT-DIA Concrete MH	81	VF	\$ 300 ⁰⁰	\$ 24,300
30.	Install a 6-FT Precast Concrete MH, Standard Cone	1	EA	\$ 16,030 ⁰⁰	\$ 16,030 ⁰⁰
31.	Provide Additional Depth for 6-FT-DIA Concrete MH	7	VF	\$ 444 ⁰⁰	\$ 3,108 ⁰⁰
32.	Perform Closed-Circuit Television on Existing Parallel Sewer Line to Determine Existing Service Location	2,165	LF	\$ 5 ⁶⁰	\$ 12,124
33.	Remove and Dispose of Existing Concrete Collar and Install New Cast-In-Place Concrete Collars Around MHs	6	EA	\$ 23,203 ⁵⁰	\$ 139,221 ⁰⁰
34.	Furnish All Equipment to Perform Bypass Pumping	1	LS	\$ 183,750 ⁰⁰	\$ 183,750 ⁰⁰
35.	Furnish Equipment to Perform Pot Holing or Hydro Excavation to Determine the Depth of Existing Gas Mains at the Locations Indicated on the Drawings	1	LS	\$ 9,125 ⁰⁰	\$ 9,125 ⁰⁰
36.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line by Open Cut	2,085	LF	\$ 44 ⁸⁰	\$ 93,408 ⁰⁰
37.	Furnish and Install 6-IN AWWA C900 DR 18 Water Line W/ Restrained Joints	400	LF	\$ 102 ⁵⁰	\$ 41,000 ⁰⁰
38.	Make 2-IN Connection to Existing Water Main	2	EA	\$ 2,022 ⁰⁰	\$ 4,044 ⁰⁰
39.	Make 6-IN Connection to Existing Water Main	6	EA	\$ 1,567 ⁰⁰	\$ 9,402 ⁰⁰
40.	Furnish Equipment and Materials to Make Water Service Tap	37	EA	\$ 887 ⁰⁰	\$ 32,819 ⁰⁰
41.	Furnish and Install Water Service Line and Tie-in to Existing Water Meter	755	LF	\$ 44 ⁶⁰	\$ 33,673 ⁰⁰
42.	Furnish and Install Fire Hydrant Assembly	3	EA	\$ 11,768 ⁰⁰	\$ 35,304 ⁰⁰
43.	Furnish and Install 6-IN Gate Valve and Valve Box	13	EA	\$ 2,607 ⁰⁰	\$ 33,891 ⁰⁰
44.	Furnish and Install 2-IN Gate Valve and Valve Box	1	EA	\$ 1,573 ⁰⁰	\$ 1,573 ⁰⁰
45.	Provide Dewatering Equipment	3,000	LF	\$ 31 ³⁰	\$ 93,900 ⁰⁰

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Street Activities					
46.	Furnish and Install All Materials and Equipment to Perform Asphalt Pavement Repair Associated W/ Sanitary Sewer Replacement, INCL Base	1,420	LF	\$ 483 ⁹⁰	\$ 687,138 ⁰⁰
47.	Furnish and Install All Materials and Equipment to Mill and Overlay 2-IN Hot Mix Asphalt Concrete	610	T	\$ 326 ²⁰	\$ 198,982 ⁰⁰
48.	Furnish and Install All Materials and Equipment to Perform Concrete Pavement Repair Associated W/ Sanitary Sewer Replacement	55	LF	\$ 312 ⁶⁰	\$ 17,193 ⁰⁰
49.	Seeding and Sodding Associated W/ Utility Installation and Pavement Repair	1	LS	\$ 3,125 ⁰⁰	\$ 3,125 ⁰⁰
50.	Install and Maintain Trench Safety, 0- to 10-FT	7,350	LF	\$ 1 ³⁰	\$ 9,555 ⁰⁰
51.	Install and Maintain Trench Safety, Greater Than 10-FT	2,730	LF	\$ 1 ³⁰	\$ 3,549 ⁰⁰
52.	Traffic Control	1	LS	\$ 31,250 ⁰⁰	\$ 31,250 ⁰⁰

COMPUTED TOTAL BASE BID CONTRACT 1-2023 (ITEMS 1 THROUGH 52)

Four million nine hundred ninety five thousand (Words) Dollars \$ 4,995,448⁰⁰ (Numbers)
 Four hundred forty eight dollars no cents

BID ALTERNATIVE NO. 1

CITY OF SWEENY
 SWEENY, TEXAS
 GLO-MIT SANITARY SEWER IMPROVEMENTS
 GLO CONTRACT NO. 22-082-007-D205
 CONTRACT 1-2023

Item No.	Description	Estimated Quantity	Unit	Bid Unit Price	Bid Price
Lift Station					
1.	Farm-to-Market 1459 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 236,687 ⁰⁰	\$ 236,687 ⁰⁰
2.	Farm-to-Market 524 Lift Station Generator and Automatic Transfer Switch, INCL Generator Pad and Related Appurtenances	1	LS	\$ 253,250 ⁰⁰	\$ 253,250 ⁰⁰
3.	Fence Temporary Removal, Repair, and Reinstallation Related to Lift Station Generators	20	LF	\$ 57 ⁵⁰	\$ 1,150 ⁰⁰
4.	Furnish and Install New Fencing at Farm-to-Market 524 Lift Station, Related to Lift Station Generator	36	LF	\$ 118 ⁷⁵	\$ 4,275 ⁰⁰

COMPUTED TOTAL BID ALTERNATIVE NO. 1

Four hundred ninety five thousand three hundred sixty two Dollars \$ 495,362⁰⁰
 (Words) (Numbers)
 Zero cents

ARTICLE 6—TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete within 360 calendar days after the date when the Contract Time commences to run as provided in Paragraph 32 of the General Conditions and ready for final payment within 480 calendar days after the date when the Contract Time commences to run.

6.02 Bidder accepts the provisions of the General Conditions as to liquidated damages in the event of failure to complete the Work within the Contract Times.

ARTICLE 7—ATTACHMENTS TO THIS BID

7.01 The following documents are attached to and made a condition of this Bid:

- A. Required Bid security in the form of Bid Bond
(Certified Check, Bank Money Order, or Bond)
- B. Form CIQ Conflict of Interest Questionnaire (if required).
- C. Certificate of Interested Parties (Form 1295).
- D. Noncollusion Affidavit of Prime Bidder.
- E. Certificate of Bidder Regarding Civil Rights Laws and Regulations.
- F. CONTRACTOR's Certificate of Recovered Materials.
- G. CONTRACTOR's Local Opportunity Plan.
- H. Proposed Contracts Breakdown and Estimated Project Workforce Breakdown.
- I. Certification for Business Concerns—Seeking Section 3 Preference in Contracting and Demonstration of Capability.
- J. Certification Regarding Lobbying.
- K. Disclosure of Lobbying Activities and Instructions.
- L. Statement of Bidder's Qualifications.
- M. Evidence that Bidder is active and cleared (not suspended or debarred) in System for Award Management (SAM).
- N. Section 504 Certification-Policy of Nondiscrimination on the Basis of Disability.
- O. Child Support Statement for Negotiated Contracts and Grants.
- P. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license, if applicable, within the time for acceptance of Bids.
- Q. Where applicable, Bidder shall provide CONTRACTOR's License Number for the state of the Project, where noted at end of Bid or Bidder shall provide evidence of Bidder's ability to obtain

a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids.

ARTICLE 8-DEFINED TERMS

8.01 The terms used in this Bid with initial or all capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Special Conditions.

ARTICLE 9-COMMUNICATIONS

9.01 Communications concerning this Bid shall be addressed to the address of Bidder indicated below:

Name: Charlie Bell

Street: 30355 Old Hockley Rd

City, State, Zip Code: Magalia TX 77355

Phone No.: 281-356-6960 Fax No.: _____

E-mail address: Charlie.bell@tejasunderground.com

ARTICLE 10-BID SUBMITTAL

Submitted on 2/22/2024

State Contractor License Number _____ (if applicable).

If Bidder is:

An Individual

By: _____
(Individual's signature)

Name (typed or printed): _____

Doing business as: _____
Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

A Partnership

Partnership Name: _____

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

A Corporation

Corporation Name: _____

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Attest _____
(Signature of Corporate Secretary)

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Date of Qualification to do business in (State where the Project is located) is _____

Sworn and subscribed to before me this
_____ day of _____, _____

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires: _____

A *Limited Liability Company* (Note: If member-managed, an authorized member must sign; if manager-managed, the authorized manager must sign. Attach evidence of authority to sign on behalf of LLC).

Texas Underground Utilities LLC
(Fill in complete name of LLC)

State of Formation: Texas

By: 
(Signature)

Charlie Bell, [Member] [Manager]
(Print Name)

Business Address: 30355 Old Hockley Rd Magnolia TX 77355

Telephone.: 281-356-6960

Email: Charlie.bell@texasunderground.com

Fax: _____

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

E-mail address: _____

Second Joint Venturer Name: _____

By: _____
(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone No.: _____ Fax No.: _____

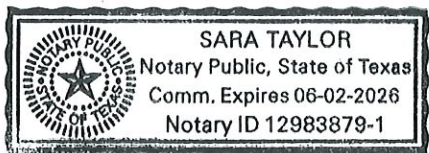
E-mail address: _____

Phone No., Fax No., and postal and E-mail address for receipt of official communications:

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Sworn and subscribed to before me this
22 day of February, 2024
Sara Taylor

Notary Public or Other Officer
Authorized to Administer Oaths.
My Commission expires: June 2, 2026



END OF SECTION

Section 00 41 00-15
3920.054/1-2023

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY
Date Received

1 Name of vendor who has a business relationship with local governmental entity.

Tejas Underground Utilities LLC

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Cecil Bell Jr. State Rep. HD3
Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

N/A

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

N/A

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Cecil Bell Jr. 2/22/2024
Signature of vendor doing business with the governmental entity Date

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2024-1126878

Date Filed:
02/22/2024

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

TEJAS UNDERGROUND UTILITIES L.L.C
MAGNOLIA, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

CITY OF SWEENY

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

CDBG-MIT CITY
CONSTRUCTION SERVICES FOR CITY

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	BELL JR., CECIL	Magnolia, TX United States	X	

5 Check only if there is NO Interested Party.

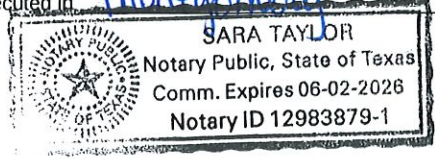
6 UNSWORN DECLARATION

My name is Charlie Bell, and my date of birth is 5/11/1994.

My address is 30355 Old Hockley Rd, magnolia, TX, 77355.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Montgomery County, State of Texas, on the 22 day of February 20 24.
(month) (year)



Sara Taylor
Signature of authorized agent of contracting business entity (Declarant)

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of Texas)

County of Montgomery)

Charlie Bell, being first duly sworn, deposes and says that:

(1) He/She is VP of Finance of Texas Underground Utilities, the Bidder that has submitted the attached Bid;

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with another Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix an overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Sweeney (Local Public Agency) or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

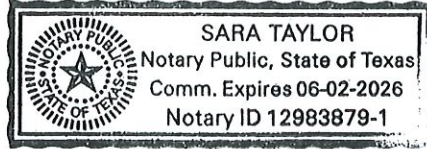
(Signed) [Signature]

VP of Finance
Title


Subscribed and sworn to me this 22 day of February 2024

By: Sara Taylor
Notary Public

My commission expires June 2, 2026



CONTRACTOR CERTIFICATIONS

U.S. Department of Housing and Urban Development	
CERTIFICATION OF BIDDER REGARDING CIVIL RIGHTS LAWS AND REGULATIONS	
INSTRUCTIONS	
CERTIFICATION OF BIDDER REGARDING Executive Order 11246 and Federal Laws Requiring Federal Contractor to adopt and abide by equal employment opportunity and affirmative action in their hiring, firing, and promotion practices. This includes practices related to race, color, gender, religion, national origin, disability, and veterans' rights.	
NAME AND ADDRESS OF BIDDER (include ZIP Code) <i>Tejas Underground Utilities LLC P.O. Box 1419 Magnolia TX 77353</i>	
CERTIFICATION BY BIDDER	
Bidder has participated in a previous contract or subcontract subject to Civil Rights Laws and Regulations. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The undersigned hereby certifies that: <input checked="" type="checkbox"/> The Provision of <u>Local Training, Employment, and Business Opportunities</u> clause (Section 3 provision) is included in the Contract. A written Section 3 plan (Local Opportunity Plan) was prepared and submitted as part of the bid proceedings (if bid equals or exceeds \$100,000). <input checked="" type="checkbox"/> The <u>Equal Opportunity</u> clause is included in the Contract (if bid equals or exceeds \$10,000).	
Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
NAME AND TITLE OF SIGNER (Please type) <i>Charlie Bell VP of Finance</i>	
SIGNATURE 	DATE <i>2/22/2024</i>

CONTRACTOR'S CERTIFICATION of RECOVERED MATERIAL

ACKNOWLEDGEMENT

I, Charlie Bell (Principal's Name) of Texas Underground Utilities LLC (Company Name), (hereinafter called "Contractor"), acknowledge the recovered material bidding requirements found in 2 CFR 200.322 that requires the Contractor to procure those items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

I also acknowledge that this requirement shall apply to items purchased (1) where the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) where during the preceding fiscal year, the value of the quantity acquired was in excess of \$10,000.

Finally, I acknowledge the attached list of recovered materials included in the bid documents.

(For up-to-date listing, please go to <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#directory>)

Charlie Bell VP of finance
Printed Name and Title

[Signature]
Signature

2/22/2024
Date

USE OF RECOVERED MATERIAL

Please check one:

- Recovered materials are included in this bid:
Materials included Crushed concrete
- Recovered materials are not reasonably available in a reasonable period of time.
- Recovered materials fail to meet reasonable performance standards, which are determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable.
- Recovered materials are only available at an unreasonable price.

Charlie Bell VP of finance
Printed Name and Title

[Signature]
Signature

2/22/2024
Date

CONTRACTOR'S LOCAL OPPORTUNITY PLAN

Texas Underground Utilities (name of company) agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses within the City of Sweeny.

- A. To ascertain from the City's CDBG program official the exact boundaries of the project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the city the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within and servicing the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.
- C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insert this plan in all bid documents and to require all bidders on subcontracts to submit an affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- E. To ensure that subcontracts (greater than \$10,000), which are typically let on a negotiated rather than a bid basis in areas other than the covered project area, are also let on a negotiated basis, whenever feasible, in a covered project area.
- F. To formally contact unions, subcontractors, and trade associations to secure their cooperation in this effort.
- G. To ensure that all appropriate project area business concerns are notified of pending sub-contractual opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this plan.
- J. To maintain records concerning the amount and number of contracts, subcontracts, and purchases which contribute to objectives.
- K. To maintain records of all projected work force needs for all phases of the project by occupation, trade, skill level, and number of positions and to update these projections based on the extent to which hiring meets these Local Opportunity objectives.
- L. As officers and representatives of Texas Underground Utilities (name of company), we the undersigned have read and fully agree to this Plan and the City's

Section 3 Plan and become a party to the full implementation of the program and its provisions.



Signature

Charlie Bell

Printed Name

VP of finance

Title

2/22/2024

Date

PROPOSED CONTRACTS BREAKDOWN *will provide if low bidder*

Type of Contracts	No. of Contracts	Approx. Total Dollar Amount	Estimated No. to local Business	Estimated \$ Amount Local Business

ESTIMATED PROJECT WORKFORCE BREAKDOWN *will provide if low bidder*

Work Classifications	Total Estimated Positions	No. of Positions Currently Filled	No. of Positions not Filled	No. of Positions to fill with LMI Residents (Section 3)
Totals				



Texas General Land Office
Community Development Block Grant (CDBG)
Disaster Recovery Program

CERTIFICATION FOR BUSINESS CONCERNS
Seeking Section 3 Preference in Contracting and
Demonstration of Capability

Economic Opportunities for Low and Very Low-Income Persons

Grantee/Subrecipient:	Contract Number:	Date:
<input type="text"/>	<input type="text"/>	<input type="text"/>

CONTRACTOR INFORMATION

Name of Business

Address of Business

- Type of Business: Corporation Partnership Non-Profit Consortium
 Sole Proprietorship Joint Venture

Attach the following documentation as evidence of Section 3 eligible status:
(Definition of "Section 3 Business Concern" in 24 CFR 135 describes the three alternative qualifications.)

For Business claiming status as a Section 3 resident-owned enterprise:

- | | |
|---|---|
| <input type="checkbox"/> Copy of resident lease | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation in a public assistance program | <input type="checkbox"/> Other evidence |

For business entity as applicable:

- | | |
|---|---|
| <input type="checkbox"/> Copy of Articles of Incorporation | <input type="checkbox"/> Certificate of Good Standing |
| <input type="checkbox"/> Assumed Business Name Certificate | <input type="checkbox"/> Partnership Agreement |
| <input type="checkbox"/> List of owners/stockholders and % ownership of each appointed officers | <input type="checkbox"/> Corporation Annual Report |
| <input type="checkbox"/> Organization chart with names and titles and brief function statement | <input type="checkbox"/> Latest Board minutes |
| | <input type="checkbox"/> Additional documentation |

For business entity claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business(es):

- List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, by claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- | | |
|---|---|
| <input type="checkbox"/> List of all current full-time employees | <input type="checkbox"/> List of employees claiming Section 3 status |
| <input type="checkbox"/> PHA/IHA Residential lease less than 3 years from day of employment | <input type="checkbox"/> Other evidence of Section 3 status less than 3 years from date of employment |

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- | | |
|---|--|
| <input type="checkbox"/> Current financial statement | <input type="checkbox"/> Statement of ability to comply with public policy |
| <input type="checkbox"/> List of owned equipment | |
| <input type="checkbox"/> List of all contracts for the past two years | |

Authorized Name and Signature _____

Date _____

(Corporate Seal)

Attested By: _____

**CERTIFICATION REGARDING LOBBYING
COMPLIANT WITH APPENDIX A TO 24 C.F.R. PART 87***

(To be submitted with each bid or offer exceeding \$100,000)

Certification for Contracts, Grants, Loans, and Cooperative Agreements:

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.


(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance:

The undersigned states, to the best of his or her knowledge and belief, that: If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the duly authorized representative of the Contractor, I hereby certify that the applicant will comply with the above applicable certification.



Signature of Contractor's Authorized Official

Charlie Bell VP of Finance

Printed Name and Title of Contractor's Authorized Official


2/22/2024

Date

*24 C.F.R. 87 App. A, available at <https://www.gpo.gov/fdsys/granule/CFR-2011-title24-vol1/CFR-2011-title24-vol1-part87-appA>.
Published Apr. 1, 2011. Accessed Aug. 1, 2018.

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

<p>1. Type of Federal Action: <u>A</u> a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance</p>	<p>2. Status of Federal Action: <u>A</u> a. bid/offer/application b. initial award c. post-award</p>	<p>3. Report Type: <u>A</u> a. initial filing b. material change</p> <p>For material change only: Year _____ quarter _____ Date of last report _____</p>
<p>4. Name and Address of Reporting Entity: <input checked="" type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if Known: Tyas Underground Utilities LLC 30355 Old Hockley Rd Magnolia, TX 77355 Congressional District, if known: <u>CP8</u></p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: N/A Congressional District, if known: <u>CO8</u></p>	
<p>6. Federal Department/Agency: HUD</p>	<p>7. Federal Program Name/Description: CDBG CFDA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known: IFB</p>	<p>9. Award Amount, if known: \$</p>	
<p>10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI): Bell, Charlie</p>	<p>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): N/A</p>	
<p>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>	<p>Signature:  Print Name: <u>Charlie Bell</u> Title: <u>VP of Finance</u> Telephone No. <u>281-356-6910</u> Date: <u>2/22/2024</u></p>	
<p>Federal Use Only</p>	<p>Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)</p>	

STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered, and the data given must be clear and comprehensive. **This statement must be notarized.** If necessary, questions may be answered on separate attached sheets. The Bidder may submit any additional information it desires.

Date: 2/22/2024
Bidder (Legal Name of Firm): Texas Underground Utilities LLC.
Date Organized: 4/27/1997
Name of Owner(s): Cecil Bell JR
Address: 3035 S Old Hoddey Rd
Magnolia TX 77355
Date Incorporated 4/27/1997
Federal ID Number: 76-0539727
Number of Years in contracting business under present name 27

List all other names under which your business has operated in the last 10 years:

Work Presently Under Contract:

Contract	Amount \$	Completion Date
<u>Everstead @ Windsor</u>	<u>2,392,192</u>	<u>Complete</u>
<u>Allora Cinco Ranch</u>	<u>2,252,053</u>	<u>Complete</u>
<u>Allora Bear Creek</u>	<u>2,025,408</u>	<u>Complete</u>

Type of work performed by your company: Underground Utility work

Total Staff employed by Firm (Break down by Managers and Trades on separate sheet): 60 Employees
Estimator/pm (5) operators
Clerical/bookkeeping (2) Skilled labors
Supervisors Common labors

Have you ever failed to complete any work awarded to you? Yes No

(If yes, please attach summary of details on a separate sheet. Include brief explanation of cause and resolution)

Have you ever defaulted on a contract? Yes No

(If yes, please attach summary of details on a separate sheet.)

Has your organization had any disbarments or suspensions that have been imposed in the past five years or that was still in effect during the five-year period or is still in effect? Yes No

(If yes, list and explain; such list must include disbarments and suspensions of officers, principals, partners, members, and employees of your organization.)

List the projects most recently completed by your firm (include project of similar importance):

Project	Amount \$	Mo/Yr Completed

Major equipment available for this contract: Compactor, Dozer, Tractor, Loader, Backhoe.

Are you in compliance with all applicable EEO requirements? Yes No
(If no, please attach summary of details on a separate sheet.)

(Optional) Minority Business Reporting Information:

Owner's Race: Caucasian
Owner's Ethnicity: _____
Owner's Gender: Male

Are you a Section 3 business? (See below) Yes No

Section 3 Business Concerns:

- a) Businesses that are 51 percent or more owned by Section 3 residents;
- b) Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents;
- c) Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above; or
- d) Businesses located within the City's jurisdiction that identifies themselves as Section 3 Business Concerns because they provide economic opportunities for low- and very low-income persons.

Bank References Texas First Bank

Address: _____ Contact Name: Alvin Johnson
City & State: _____ Zip: _____ Phone Number: 713-482-4102
Credit available: \$ _____

Has the firm or predecessor firm been involved in a bankruptcy or reorganization? Yes No
(If yes, please attach summary of details on a separate sheet.)

List on a sheet attached hereto all judgements, claims, arbitration proceedings, or suits pending or outstanding against bidder over the last five (5) years with amount of claim and brief description.

List on a sheet attached hereto all lawsuits or requested arbitration with regard to construction contracts which bidder has initiated within the last five (5) years and brief explanation of claim and outcome.

Attach resume(s) for the principal member(s) of your organization, including the officers as well as the proposed superintendent for the project.

Signed this 22 day of February, 2024.

[Handwritten Signature]

Signature

Charlie Bell VP of finance

Printed Name and Title

Texas Underground Utilities LLC.

Company Name

Notary Statement:

Charlie Bell being duly sworn, says that he/she is the VP Finance Position/Title of Texas Underground Utilities (Firm Name), and hereby swears that the answers to the foregoing questions and all statements therein contained are true and correct. He/she hereby authorizes and requests any person, firm, or corporation to furnish any information requested City of Sweeny in verification of the recitals comprising this Statement of Bidder's Qualifications.

Subscribed and sworn before me this 22 day of February 2024.

Notary Public

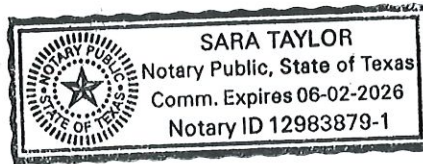
[Handwritten Signature]

Signature

Sara Taylor

Printed Name

My Commission Expires: June 2, 2026



The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

**Insert System for Award Management (SAM)
record search for company name and company
principal**

SECTION 504 CERTIFICATION

POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY

The Company does not discriminate on the basis of disability status in the admission or access to, or treatment or employment in, its federally assisted programs or activities.

(Name) Texas Underground Utilities LLC

(Address) 30355 Old Hockley Rd

magnolia TX 77355
City State Zip

Telephone Number (281) 354-6960 Voice
() _____ - _____ TDD

Charlie Bell has been designated to coordinate compliance with the nondiscrimination requirements contained in the Department of Housing and Urban Development's (HUD) regulations implementing Section 504 (24 CFR Part 8. dated June 2, 1988).

CHILD SUPPORT STATEMENT FOR NEGOTIATED CONTRACTS AND GRANTS

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is eligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

Section 231.006, Family Code, specifies that a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under a contract to provide property, materials, or services; or receive a state-funded grant or loan.

List below the name and ownership percentage of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25% of the business entity submitting the bid or application.

NAME	OWNERSHIP BY %

A child support obligor or business entity ineligible to receive payments described above remains ineligible until all arrearage have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

The undersigned proposer certifies that he or she, is the proposing individual, or the sole proprietor of the proposing business, and is eligible under Section 231.006 of the Texas Family Code, to receive the payments of State funds which may be disbursed in connection with a contract arising from this solicitation, The undersigned each further acknowledges that a contract resulting from this solicitation may be terminated and payment may be withheld if the certification provided herein is found to be inaccurate.



Signature – Company Official

Texas Underground Utilities LLC

Printed/Type Firm Name

Charlie Bell vp of finance

Printed/Typed Name and Title

2/22/2024

Date



AGENDA MEMO

Business of the City Council City of Sweeny, Texas

Meeting Date	03.05.2024	Agenda Item	
Approved by City Manager	Yes	Presenter(s)	Larry Jones with Texas Rebuild
Reviewed by City Attorney	YES	Department	Utility Billing
Subject	Discussion and possible action to approve the Profession Services Agreement with Texas Rebuild / E3 to confirm preliminary findings of AMI meter accuracy.		
Attachments			
Financial Information	Expenditure Required:	N/A	
	Amount Budgeted:	N/A	
	Account Number:		
	Additional Appropriation Required:		
	Additional Account Number:		

Executive Summary

Texas Rebuild/E3 has been collaborating with the utility billing department to investigate a possible malfunction in the current water metering system. Water/sewer revenue has decreased over the past three years, resulting in a loss of more than \$500,000.

The purpose of this agenda item is for Council to see the preliminary findings and potential self-funding solutions proposed by Texas Rebuild.

The next step would be to execute a Professional Services Agreement with Texas Rebuild/E3 to confirm the preliminary study results. Meter testing may be required to complete a final proposal for a cost not to exceed \$10,000. The costs of meter testing and final engineering will be included in the overall project.

Texas Rebuild has been discussing turnkey solution to repurposing an existing city-owned building into a full-service animal shelter. We understand the project scope has likely changed substantially due to a successful fund raiser event, and the City is in the process of executing a legal agreement with the donor.

The focus of this item is on utility metering accuracy and request to execute an agreement for services.

Recommended Action

Staff recommends approval of a contract with Texas Rebuild / E3 for testing existing meters for accuracy, for recommending self-funding solutions, and possibly to conduct a utility rate study.

Suggested motion, "I move we approve a professional services agreement with Texas Rebuild to confirm preliminary AMI meter findings."



TEXAS REBUILD

*transforming communities through
turnkey infrastructure modernization
projects*



Below average
water rates



Revenue
trending down



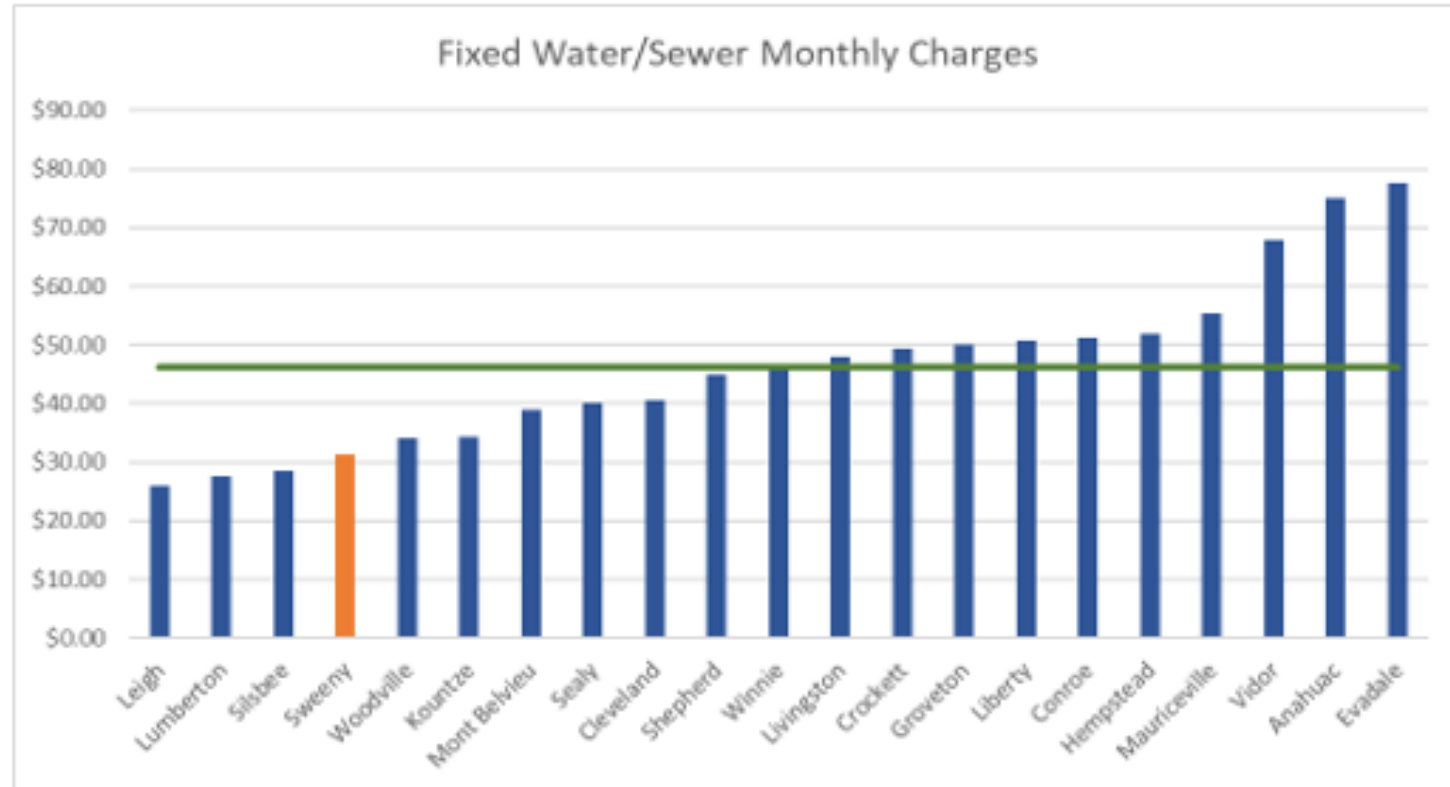
RG3 metering
system at end of life



trends : water rates

No difference in residential and commercial base charge schedule is broken down into "inside city limits" and "outside city limits" Item 6.

City	Water	Sewer	Total
Leigh	\$18.00	\$8.00	\$26.00
Lumberton	\$14.00	\$13.50	\$27.50
Silsbee	\$14.25	\$14.25	\$28.50
Sweeny	\$15.67	\$15.67	\$31.34
Woodville	\$17.00	\$17.00	\$34.00
Kountze	\$17.11	\$17.11	\$34.22
Mont Belvieu	\$22.24	\$16.68	\$38.92
Sealy	\$18.00	\$22.00	\$40.00
Cleveland	\$20.00	\$20.50	\$40.50
Shepherd	\$28.40	\$16.47	\$44.87
Winnie	\$36.00	\$10.00	\$46.00
Livingston	\$26.50	\$21.50	\$48.00
Crockett	\$24.67	\$24.67	\$49.34
Groveton	\$34.00	\$16.00	\$50.00
Liberty	\$24.84	\$25.92	\$50.76
Conroe	\$12.48	\$38.83	\$51.31
Hempstead	\$24.36	\$27.62	\$51.98
Mauriceville	\$26.12	\$29.35	\$55.47
Vidor	\$32.77	\$35.15	\$67.92
Anahuac	\$45.00	\$30.00	\$75.00
Evadale	\$37.50	\$40.00	\$77.50
Average			\$46.15





trends : industry averages



- Average residential house uses 7,200 gallons of water per month
- Sweeny 1389 connections x 5,000 gallons of water = \$1.375M in water & sewer revenue
- Sweeny current revenue is \$1.3M
- \$75k annual delta

Excludes usage from Hospital, Schools, and 9 restaurants



trends: revenue

City of Sweeny 2019 / 2020
Budget
FINAL DRAFT

ENTERPRISE FUND -- FUNCTION 00 REVENUE		19/20
5400	CHARGES FOR SERVICES	
5450	Turn on / Reconnect Fee	\$12,750.00
5460	Penalty - Late Payment	\$33,000.00
5470	Charged off Accounts Collected	\$1,500.00
	TOTAL	\$47,250.00
5600	OTHER REVENUES	
5621	Infrastructure Donations	\$1,440.00
	TOTAL	\$1,440.00
5800	CHARGES FOR WATER AND SEWER	
5810	Water Sales	\$825,000.00
5820	Water Taps	\$800.00
5830	Sewer Revenue	\$661,250.00
5840	Sewer Taps	\$800.00
	TOTAL	\$1,487,850.00

Missing \$179,750 of annual revenue between 2019/2020 and 2022/2023

Missing revenue, meter lease payment and in-house expense = \$15 a meter per month

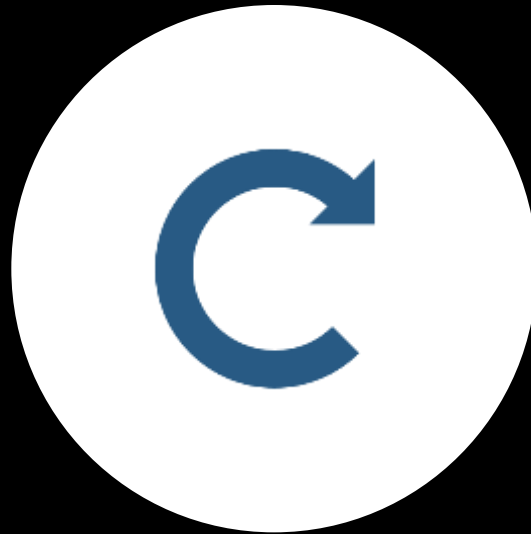
ENTERPRISE FUND -- FUNCTION 00 REVENUE				FY 2022 Adopted	FY 2022 Amend. 04/19/2022	FY 2023 PROPOSED
Fund Code	Func Code	Acct Code	Description			
40	00	5400	CHARGES FOR SERVICES			
40	00	5450	Turn on / Reconnect Fee [CONNECTION FEES]	\$ 11,000.00	\$ 11,000.00	\$ 11,000.00
40	00	5460	Penalty - Late Payment	\$ 34,500.00	\$ 34,500.00	\$ 32,300.00
40	00	5470	Charged off Accounts Collected	\$ 750.00	\$ 750.00	\$ 720.00
			TOTAL	\$ 46,250.00	\$ 46,250.00	\$ 44,020.00
		5600	OTHER REVENUES			
40	00	5610	Interest Earning on CD's	\$ 320.00	\$ 320.00	\$ -
			TOTAL	\$ 320.00	\$ 320.00	\$ -
		5800	CHARGES FOR WATER AND SEWER			
40	00	5810	Water Sales	\$ 701,890.57	\$ 701,890.57	\$ 704,000.00
40	00	5816	Infrastructure Donations	\$ -	\$ -	\$ -
40	00	5820	Water Taps	\$ 800.00	\$ 800.00	\$ 800.00
40	00	5830	Sewer Sales	\$ 602,140.25	\$ 602,140.25	\$ 602,500.00
40	00	5840	Sewer Taps	\$ 800.00	\$ 800.00	\$ 1,200.00
			TOTAL	\$ 1,305,630.82	\$ 1,305,630.82	\$ 1,308,500.00

Year	Water Sales	Sewer Sales
2019/2020	\$825,000	\$661,250
2022/2023	\$704,000	\$602,500
Difference	-\$121,000	-\$58,750
Total	-\$179,750	

PERFORMANCE REBUILDING



Monetize future savings from owning & operating budgets to finance improvements today



Turnkey development & delivery



No upfront costs

SCOPE



**Ultrasonic
Metering
System**



Boxes & Lids



Right Sizing



Curb stops



**Copper &
Lead Study**



**Realtime
Data**



Portals

the solution



INCREASED:

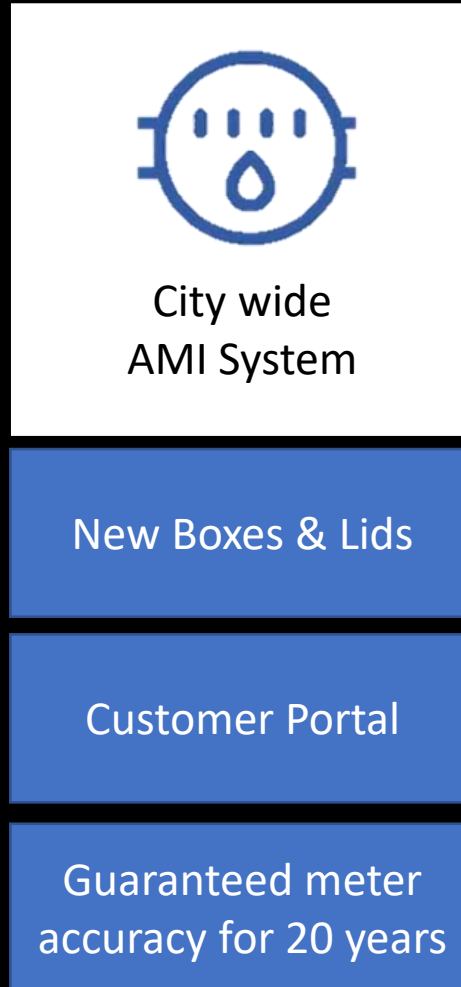
Water / Sewer Revenues

Accurate Readings

Visible Distribution

Customer Satisfaction

Resource Efficiency



REDUCED:

Meter reading costs

Water meter maintenance costs

Billing costs

Billing errors



the solution

Advanced Metering Infrastructure:

- Meters (Water)
- Communication (Utility & Residents)
- Software / Analytics
- Consistent Billing
- Reduced Unaccounted Water

Distribution:

- Leak detection
- Pressure monitoring
- Remote disconnect
- Controls
- Reduced Latency
- Scalable



Financials

Project Cash Flow											
Year	Rebate	Increased Water Revenue	Utility Savings	O&M Savings	Capital Cost Avoidance	Total Annual Funding	Payments				Net Cash Flow \$
							Finance Payment	M&V Services	Annual Service Cost	Total Annual Payments	
1	\$0	\$179,000	\$0	\$15,000	\$40,000	\$234,000	\$125,245	\$0	\$16,800	\$142,045	\$91,955
2	\$0	\$184,370	\$0	\$15,450	\$40,000	\$239,820	\$125,245	\$0	\$17,304	\$142,549	\$97,271
3	\$0	\$189,901	\$0	\$15,914	\$40,000	\$245,815	\$125,245	\$0	\$17,823	\$143,068	\$102,747
4	\$0	\$195,598	\$0	\$16,391	\$40,000	\$251,989	\$125,245	\$0	\$18,358	\$143,603	\$108,386
5	\$0	\$201,466	\$0	\$16,883	\$40,000	\$258,349	\$125,245	\$0	\$18,909	\$144,154	\$114,195
6	\$0	\$207,510	\$0	\$17,389	\$40,000	\$264,899	\$125,245	\$0	\$19,476	\$144,721	\$120,178
7	\$0	\$213,735	\$0	\$17,911	\$40,000	\$271,646	\$125,245	\$0	\$20,060	\$145,305	\$126,341
8	\$0	\$220,147	\$0	\$18,448	\$40,000	\$278,596	\$125,245	\$0	\$20,662	\$145,907	\$132,689
9	\$0	\$226,752	\$0	\$19,002	\$40,000	\$285,753	\$125,245	\$0	\$21,282	\$146,527	\$139,227
10	\$0	\$233,554	\$0	\$19,572	\$40,000	\$293,126	\$125,245	\$0	\$21,920	\$147,165	\$145,961
11	\$0	\$240,561	\$0	\$20,159	\$40,000	\$300,720	\$125,245	\$0	\$22,578	\$147,823	\$152,897
12	\$0	\$247,778	\$0	\$20,764	\$40,000	\$308,541	\$125,245	\$0	\$23,255	\$148,500	\$160,041
13	\$0	\$255,211	\$0	\$21,386	\$40,000	\$316,598	\$125,245	\$0	\$23,953	\$149,198	\$167,400
14	\$0	\$262,868	\$0	\$22,028	\$40,000	\$324,896	\$125,245	\$0	\$24,671	\$149,916	\$174,979
15	\$0	\$270,754	\$0	\$22,689	\$40,000	\$333,442	\$125,245	\$0	\$25,412	\$150,656	\$182,786
16	\$0	\$278,876	\$0	\$23,370	\$40,000	\$342,246	\$0	\$0	\$26,174	\$26,174	\$316,072
17	\$0	\$287,242	\$0	\$24,071	\$40,000	\$351,313	\$0	\$0	\$26,959	\$26,959	\$324,354
18	\$0	\$295,860	\$0	\$24,793	\$40,000	\$360,652	\$0	\$0	\$27,768	\$27,768	\$332,885
19	\$0	\$304,736	\$0	\$25,536	\$40,000	\$370,272	\$0	\$0	\$28,601	\$28,601	\$341,671
20	\$0	\$313,878	\$0	\$26,303	\$40,000	\$380,180	\$0	\$0	\$29,459	\$29,459	\$350,721
Total	\$0	\$4,809,797	\$0	\$403,056	\$800,000	\$6,012,853	\$1,878,675	\$0	\$451,422	\$2,330,097	\$3,682,756



path forward



intro to
council



psa



testing



council
approval



begin
project





PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into as of this 5th day of March, 2024 between Texas Rebuild/ E3 Entegral Solutions, Inc. (E3), with principal offices at 2040 Highland Village Road, Suite 100, Highland Village, TX 75077, and City of Sweeny (Client) with principal offices at 102 W. Ashley Wilson Rd., Sweeny, TX 78480 whereby Tx Rebuild/E3 agrees to perform certain analysis, project development, and engineering tasks in order to provide Client with an executable Implementation Contract with a lump sum price according to the terms and conditions herein.

This Professional Services Agreement includes the Client’s assets listed below:

City Wide
Automated Metering Infrastructure
Refurbish Building/ Animal Shelter

SCOPE OF SERVICES

Texas Rebuild/E3 has completed a preliminary study and has worked with Client to select a scope of work appropriate for inclusion in an executable Implementation Agreement. This scope of work will be developed and engineered sufficiently to finalize the Implementation Agreement.

E3 will provide Professional Services related to the following scope(s) of work:

1. Automated Metering Infrastructure
2. Identify condition of boxes and curb stops
3. Final changes on Animal Shelter
4. Other facility improvements as directed by Client.

- The professional services fee for these services is based on a lump sum fee of **\$10,000**
- The professional services fee for these services is based on (____%) the final project implementation costs.
- The professional services fee for these services is \$XX,XXX and is based on (____) \$ per square feet of included facility space.

TERMS:

Texas Rebuild/E3 will incorporate the cost of the engineering into the final project. If the city of Sweeny chooses not to forward with Texas Rebuild/E3, they will owe \$10,000. E3 will invoice Client upon completion of the deliverables, due Net 45.



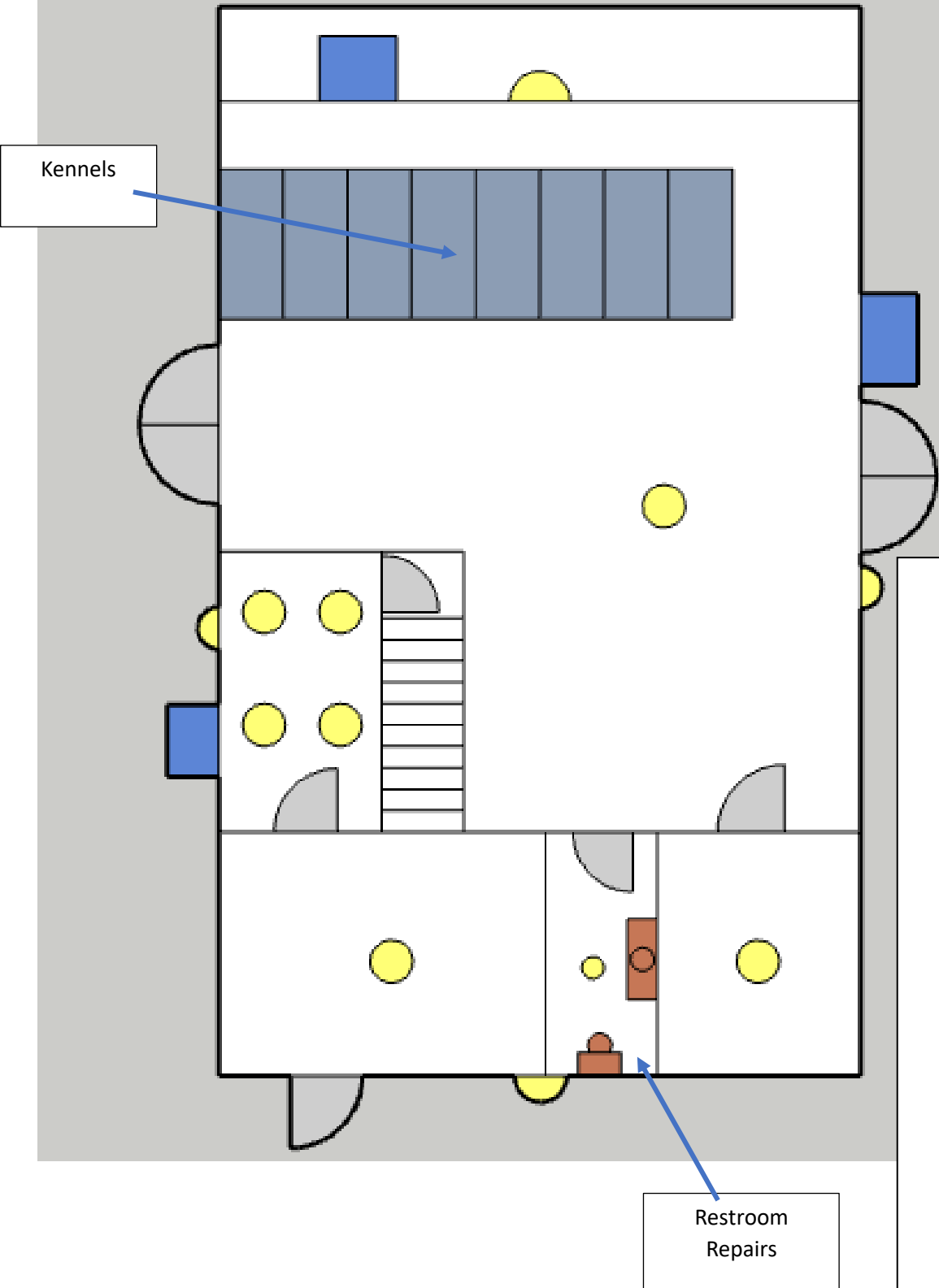
EXECUTION:

Texas Rebuild/E3:

By: _____
Name: Klip Weaver
Title: President
Date: _____

Client:

By: _____
Name: Lindsay Koskiniemi
Title: City Manager
Date: _____



New AC Units

Lighting Fixtures

- Exterior Repairs**
- New Roof
 - New Siding
 - New Gutters
 - 2 New Exterior Double Doors
- Interior Repairs**
- Insulate walls and roof
 - Sheetrock walls and paint (office and restroom)
 - New kennel drainage system
 - New water taps
 - New partitions and doors for dog kennels
 - Rewire electrical
 - New Floor Seals
 - Epoxy Flooring

**RUN IN CLASSIFIED/LEGALS AS A STANDARD PUBLIC NOTICE
ONE TIME ONLY
(DATE BELOW)**

Item 7.

Questions? Contact **NAME, CITY/COUNTY OF** at **PHONE NUMBER**

AD STARTS HERE

**Request for Proposals
CITY/COUNTY OF _____**

The **City/County of _____** plans to apply for a Resilient Communities Program (RCP) grant from the Texas General Land Office (GLO) for eligible activities. The **CITY/COUNTY** is seeking to contract with a qualified planning consultant to assist in the application preparation, development of the planning process and associated planning reports, and grant contract compliance. Please email your proposal of services and a statement of qualifications for the proposed services to the following email address: **EMAIL ADDRESS**. Proposals must be received no later than **TIME** on **DATE** to be considered. The **CITY/COUNTY OF _____** reserves the right to negotiate with any and all individuals or firms that submit proposals and may award one or more contracts to one or more service provider(s). Section 3 Residents and Business Concerns, Minority Business Enterprises, Small Business Enterprises and Women Business Enterprises, and Labor Surplus Area firms are encouraged to submit proposals. **The CITY/COUNTY OF _____** is an Affirmative Action/Equal Opportunity Employer. Servicios de traducción están disponibles por petición.

AD ENDS HERE

PRINT IN CLASSIFIED/LEGALS AS A STANDARD PUBLICNOTICE

Run Date	
Newspaper	
Billing to	
Questions call	
Due at Paper	

COVER PAGE

The City/County/District of (Insert City/County/District Name) plans to apply for a Resilient Communities Program (RCP) grant from the Texas General Land Office (GLO) for eligible activities. The City/County/District is seeking to contract with a qualified planning consultant to assist in the application preparation, development of the planning process and associated planning reports, and grant contract compliance.

Please email your proposal of services and a statement of qualifications for the proposed services to the following email address: (Insert City/County/District email address). Proposals must be received by the City/County/District no later than (Insert the time you want proposals due, e.g. 2:00pm) on (Insert Date, e.g. May 15, 2022) to be considered.

The City/County/District reserves the right to negotiate with any and all individuals or firms that submit proposals and may award one or more contracts to one or more service provider(s). Section 3 Residents and Business Concerns, Minority Business Enterprises, Small Business Enterprises and Women Business Enterprises, and Labor Surplus Area firms are encouraged to submit proposals.

The City/County/District of (Insert City/County/District Name) is an Affirmative Action/Equal Opportunity Employer.

Administration Professional Services Rating Sheet

Item 7.

Grant Recipient _____ Name of Respondent _____
 Evaluator's Name _____ Date of Rating _____

Rate the Respondent of the Request For Proposal (RFP) by awarding points up to the maximum listed for each factor. Information necessary to assess the Respondent on these criteria may be gathered either from past experience with the Respondent and/or by contacting past/current clients of the Respondent. Respondents proposing to offer specific services (environmental or buyout only) will be scored only on those services.

Experience

<u>Factors</u>	<u>Max.Pts.</u>	<u>Score</u>
1. Related Experience / Background with federally funded, CDBG projects	15	_____
2. Related Experience / Background with grant-funded comprehensive planning	15	_____
3. Related experience/background with specific services:		
a. Grant Administration and coordination with GLO	10	_____
b. Disaster Recovery and Mitigation Project Management	10	_____
4. References from current/past clients	5	_____
Subtotal, Experience	55	_____

Work Performance

<u>Factors</u>	<u>Max.Pts.</u>	<u>Score</u>
1. Submits requests to client/GLO in a timely manner	5	_____
2. Responds to client/GLO requests in a timely manner	5	_____
3. Past client/GLO projects completed on schedule	5	_____
4. Work product is consistently of high quality with low level of errors	5	_____
5. Past client/GLO projects have low level of monitoring findings/concerns	5	_____
6. Manages projects within budgetary constraints	5	_____
Subtotal, Performance	30	_____

Capacity to Perform

<u>Factors</u>	<u>Max.Pts.</u>	<u>Score</u>
1. Qualifications / Experience of Staff		
a. Grant Administrative	3	_____
b. Comprehensive Planning	3	_____
2. Present and Projected Workloads	2	_____
3. Demonstrated understanding of scope of the RCP Project	2	_____
Subtotal, Capacity to Perform	10	_____

Proposed Cost

<u>Factors</u>	<u>Max.Pts.</u>	<u>Score</u>
Proposed cost is in line with independent estimate and compared with all cost proposals received	5	_____
A = Lowest Proposal \$ _____ $A \div B \times 5 =$ Respondent's Score	5	_____
B = Respondent's Proposal \$ _____		

TOTAL SCORE

<u>Factors</u>	<u>Max.Pts.</u>	<u>Score</u>
<input type="checkbox"/> Experience	55	_____
<input type="checkbox"/> Work Performance	30	_____
<input type="checkbox"/> Capacity to Perform	10	_____
<input type="checkbox"/> Proposed Cost	5	_____
Total Score	100	_____

Request for Proposals for Planning Services

The [City/County/District Name] is seeking to enter into a professional services contract with a competent planning consultant to assist the [City/County/District] in the application preparation, overall development of the planning process and associated planning reports, as well as grant contract compliance, if funded by the Texas General Land Office (GLO) for the Resilient Communities Program (RCP). The following outlines the request for proposals.

I. **Scope of Work** - The contract will encompass all project related services to the [City/County/District Name], including, but not limited to, the completion of an application in conformance with the GLO-RCP Application Guide and performance of activities described in the attached Texas General Land Office Resilient Communities Program performance statement.

A final scope of work will be developed through the application process, comprised of one or more planning activities described in the attached Sample Performance Statement.

II. **Statement of Qualifications** - The [City/County/District] is seeking to contract with a competent planning and/or engineering firm that has experience in the following areas:

- a) Experience with the federal Community Development Block Grant program, through either the HUD Entitlement Program, the Non-entitlement Texas Community Development Block Grant Program, or the Community Development Block Group – Disaster Recovery/Mitigation programs.
- b) Performance of activities described in the attached Sample Performance Statement.

As such, please provide within your proposal a list of past client local governments, as well as resumes of all planners and/or engineers who will or may be assigned to this project if your firm received the planning services contract award.

III. **Proposed Cost of Services** -. Please specify the proposed cost to the [City/County], and estimated time of completion. These include a proposed cost by Scope of Work category of what you or your firm feels is appropriate for each area of the Scope of Work. Please note that the [City/County Name] will not use lowest/best bid as the sole basis for entering into this contract.

IV. **Evaluation Criteria** - The proposals received will be evaluated and ranked according to the following criteria:

Criteria	Maximum Points
Experience	55
Work Performance	30
Capacity to Perform	10
Proposed Cost	5
Total	100

V. **Submission Requirements**

- A copy of your current **certificate of insurance** for professional liability.
- **Statement of Conflicts of Interest** (if any) the service provider or key employees may have regarding these services, and a plan for mitigating the conflict(s). Note that [City/County/District] may in its sole discretion determine whether or not a conflict disqualifies a firm, and/or whether or not a conflict mitigation plan is acceptable.
- **System for Award Management**. Service provider and its Principals, may not be debarred or suspended nor otherwise on the Excluded Parties List System (EPLS) in the System for Award Management (SAM). Include verification that the service provider as well as the its principals are not listed (are not debarred) through the System for Award Management (www.SAM.gov). Enclose a print out of the search results that includes the record date.
- **Form CIQ**, (enclosed). Texas Local Government Code chapter 176 requires that any vendor or person who enters or seeks to enter into a contract with a local government entity disclose in the Questionnaire Form CIQ the vendor or person's employment, affiliation, business

relationship, family relationship or provision of gifts that might cause a conflict of interest with a local government entity. Questionnaire form CIQ is included in the RFP and must be submitted with the response.

- **Certification Regarding Lobbying** (enclosed). Certification for Contracts, Grants, Loans, and Cooperative Agreements is included in the RFP and must be submitted with the response.
- **Form 1295**, Effective January 1, 2016, all contracts and contract amendments, extensions, or renewals executed by the Commissioners Court will require the completion of Form 1295 "Certificate of Interested Parties" pursuant to Government Code § 2252.908. Form 1295 must be completed by awarded vendor at time of signed contract submission. Form 1295 is included in this RFP for your information.
- **Required Contract Provisions**. Applicable provisions (enclosed) must be included in all contracts executed as a result of this RFP.

VI. **Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms**. - Small and minority businesses, women's business enterprises, and labor surplus area firms are encouraged to participate in this RFP. If the awarded vendor is a prime contractor and may use subcontractors, the following affirmative steps are required of the prime contractor:

- 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- 2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) of the Department of Commerce.

Minority-owned businesses may be eligible for contract procurement assistance with public and private sector entities from MBDA centers:

Houston MBDA Business Center
2302 Fannin Street, Suite 165, Houston, TX 77002
713-718-8974
<https://www.hccs.edu/hcc-in-the-community/entrepreneurial-initiatives/mbda/>

Dallas-Fort Worth MBDA Business Center
8828 N Stemmons Freeway - Ste 550-B, Dallas, TX 75247
214-920-2436
<http://www.mbdadfw.com/>

San Antonio MBDA Business Center
501 W César E Chávez Blvd, San Antonio, TX 78207
210-458-2480
<https://sanantoniombdacenter.com/>

MBDA Business Center – El Paso
c/o El Paso Hispanic Chamber of Commerce
2401 E. Missouri Ave.
El Paso, TX 79903
915-351-6232 ext. 19
<https://ephcc.org/blog/growing-my-existing-business/our-mbda-business-center/>

Small and woman-owned businesses may be eligible for assistance from SBA Women's Business Centers:

Houston Women's Business Council, Inc.
9800 Northwest Freeway, Suite 120, Houston, TX 77018
713-681-9232
wbc@wbea-texas.org

LiftFund - Dallas Fort Worth Women's Business Center
8828 N. Stemmons Fwy, Suite 142, Dallas, TX 75247
888-215-2373
wbcdfw@liffund.com

LiftFund - San Antonio Women's Business Center
600 Soledad St., San Antonio, TX 78205
888-215-2373
wbc@liffund.com

SBA also provides assistance at Small Business Development Centers located across Texas:
<https://americassbdc.org/small-business-consulting-and-training/find-your-sbdc/>

- VII. Deadline for Submission – Proposals must be received no later than (Insert the same proposal due date & time you included in the newspaper notice). It is the responsibility of the submitting entity to ensure that the proposal is received in a timely manner. Proposals received after the deadline will not be considered for award, regardless of whether or not the delay was outside the control of the submitting firm. Please submit an email of your proposal to _____. Any questions or requests for clarification must be submitted in writing via EMAIL to the address above at least 3 business days prior to the deadline. City/County/District may, if appropriate, circulate the question and answer to all service providers submitted proposals.

SAMPLE PERFORMANCE STATEMENT

1. BASE MAPPING

Contractor shall prepare a corporate area base map, which should coordinate with the State Plane Coordinate System, in digitized format and hardcopy to include:

- (1) Highway and street rights-of-way;
- (2) Highway designations and street names;
- (3) All major drainage ways;
- (4) Major bodies of water;
- (5) Block and lot lines for all platted subdivisions as available;
- (6) Property lines within unplatted subdivisions as available;
- (7) The width of all major utility easements;
- (8) Railroad rights-of-way;
- (9) All subdivisions and their names;
- (10) Corporate limits;
- (11) Other major facilities or features to include but not necessarily limited to:
 - (a) Major park and recreation areas and facilities;
 - (b) Water Treatment plants;
 - (c) Sewage Treatment plants;
 - (d) Extraterritorial jurisdiction line, as appropriate; and
 - (e) Other significant features.

2. HOUSING INVENTORY, ANALYSIS AND PLAN

- a. Contractor shall prepare a housing conditions inventory, analysis and plan which shall, to the fullest extent possible, be based on the participation of a diverse and representative group of housing interests. (A “diverse and representative group of housing interests” includes owners and renters, realtors, developers, builders, single persons, families, minorities, disabled persons, etc. Generally, all persons must be encouraged to participate in plan preparation, particularly those considered within the protected classes of the Fair Housing Act. No person shall be excluded or denied program benefits on the basis race, color, religion, sex, handicap (disability), national origin, and familial status).
- b. Contractor shall develop criteria to be used in the classification of building conditions and formulate definitions for each classification. As a minimum, the three following classifications shall be utilized within the study: 1) Standard, 2) Deteriorating, and 3) Dilapidated.
- c. Contractor shall perform an assessment of the exterior of all residential buildings within the city to determine the physical condition of each building or structure. Contractor shall record vacant and abandoned residential units as the assessment is being made.
- d. To the extent possible, the Contractor shall determine whether housing is owner or renter occupied.
- e. Contractor shall use the base map at its contracted scale to create a Housing Conditions Map depicting all housing conditions as inventoried and showing all housing and its classification as defined by the developed criteria.
 - (1) Included on the map shall be the delineation of low and moderate income areas, as can be determined from the most recent available Census and/or demographic survey, with a brief narrative for the basis of their delineation.
 - (2) Included on the map shall be clearly marked units and/or areas of affordable housing that are properly represented on the map legend.
 - (3) Included on the map shall be census geographic boundary delineations as available from the most recent Census. The map shall show any identified areas that contain a concentration of aforementioned protected classes within the community.
- f. Contractor shall conduct an analysis of housing data to determine problems and housing

needs of the current and prospective population and identifiable segments of the population, including the need for fair housing.

g. Contractor shall identify previous implementation actions, both public and private, taken during the past two years to implement or improve housing programs, including fair housing.

h. Contractor shall determine what local administrative and legal capacity is available or in effect to overcome housing-related problems which could be utilized more fully, (such as, the use of non-profit organizations), to improve housing, provide remedies to housing needs, including the need for fair housing.

i. Contractor shall prepare a goal(s) statement and annual housing related objectives. To the extent possible, objectives shall be stated in quantifiable terms and target dates set for their achievement.

j. Contractor shall identify future implementation actions and probable costs, both public and private, to be taken annually over the next three to five years. These activities shall result in the preparation of an overall program design for housing related activities, including fair housing and improved housing stock resiliency during and after disaster situations.

3. POPULATION

a. Contractor shall determine existing population estimates of the locality by occupied dwelling units. A realistic assessment of the locality's existing population shall be made by reliable methods.

b. Contractor shall:

(1) Estimate the locality's future population by five-year increments for the next fifteen to twenty years based on existing trends.

(2) Analyze the distribution of classes protected by federal fair housing laws on the basis of race, color, religion, sex, handicap (disability), national origin, and familial status within the community, where such information is available from the most recent Census or other official publications at the block or block group level.

(3) Use the base map at its contracted scale for illustrative purposes and create a Population Distribution Map showing the existing and projected population distribution for the planning period. The map shall show any identified areas that contain a concentration of aforementioned protected classes within the community. Included on the map shall be census geographic boundary delineations as available from the most recent Census.

4. LAND USE INVENTORY, ANALYSIS AND PLAN

a. Contractor shall assess and inspect each plot, tract and parcel of land within the project area to determine its use. The project area should include the city's extraterritorial jurisdiction (ETJ), if significant development has occurred there.

b. Categories in classifying land uses shall include, as a minimum, the following:

(1) Vacant (vacant developed or vacant undeveloped);

(2) Agriculture (cultivated and range land - five or more acres);

(3) Residential (single family, two family, multi-family, manufactured and mobile homes);

(4) Commercial; (retail and services);

(5) Industrial; (light and heavy);

(6) Public and Semi-Public (schools, parks and public buildings); and

(7) Other such additional or subcategories as may be deemed necessary to accurately reflect the existing pattern of land areas.

c. Contractor shall prepare a color-coded Existing Land Use Map of the corporate area using the base map at its contracted scale. Contractor shall prepare a color-coded map of existing land uses within the planning area at appropriate scale, if the development within the ETJ or portion of the ETJ was determined to be significant in its potential impact on the city. Colors should conform to standard code.

- d. Contractor shall make a tabulation of the existing land uses to show:
- (1) Total acreage by use;
 - (2) Percentage of acreage in each land use;
 - (3) Acres per 100 persons, or other standard for comparison purposes; and
 - (4) Developed and undeveloped land as a percent of the total land.
 - (5) Contractor should make an analysis of the community regarding past and potential developments and should report on factors affecting the development of land, such as those below:
 - Occupied dwelling units;
 - Existing land use;
 - Thoroughfares
 - Existing and anticipated population;
 - Soil characteristics as related to developments;
 - Adequacy of public utilities;
 - Adequacy of public facilities;
 - Storm drainage problem areas;
 - Natural and man-made constraints.
- e. Contractor shall prepare a goal(s) statement and annual land use related objectives and, using the base map at its contracted scale, Contractor shall prepare a color-coded Future Land Use Map to illustrate the future physical development of the locality during the planning period.

5. ZONING ORDINANCE

- a. Contractor shall prepare technical material necessary for the drafting of zoning ordinance that will best be adapted to direct the use of land consistent with proposals of the city's previously prepared Land Use Plan. Technical material on zoning shall be based on sound zoning principles and not be inconsistent with all applicable laws, including affirmatively furthering fair housing and reducing or eliminating disparate treatment of classes protected under federal Fair Housing law(s).
- b. Based on the Land Use Plan and other plans related to physical development of the municipality, Contractor shall have prepared a Zoning District Map using the base map at its contracted scale.
- c. Following development of the technical material and prior to adoption, Contractor shall seek counsel and advice from the city's attorney regarding the legal aspects and implications of zoning, particularly that it has positive influence in the effort to promote fair and affordable housing.
- d. The technical material on zoning and the recommended zoning district map shall be prepared in report form suitable for adoption and be submitted to the Department as provided herein.

6. INFRASTRUCTURE STUDY AND CAPITAL IMPROVEMENTS PLAN

The following actions shall occur for the water, wastewater, street, and drainage systems, as applicable.

- a. Contractor shall determine if any prior studies have been made of part or all the existing infrastructure systems.
- b. Contractor shall make an inventory of the physical characteristics of the existing system and record the data on applicable tables, charts, and maps
- c. Contractor shall make an analysis of the system to list and rank problems and deficiencies in the system and should present possible actions and costs to resolve the problems
- d. Contractor shall prepare a goal(s) statement and objectives for the planning period and should include construction-related and policy-related recommendations regarding improvements. To the extent possible, objectives shall be stated in quantifiable terms and target dates set for their achievement.

- e. Contractor shall prepare a Future System Conditions Map. The plan shall provide for the elimination of deficiencies and recommended improvements to meet forecasted needs. Improvements shall be in accordance with accepted municipal standards and shall be shown by phases.

7. BUILDING CODES

- a. Contractor shall review building codes currently adopted and enforced within the jurisdiction to determine compliance with RCP requirements.
- b. Contractor shall recommend building codes to the jurisdiction and assist in the adoption of the needed revisions and building codes as required by the RCP and applicable laws.

8. FLOOD DAMAGE PREVENTION ORDINANCE

- a. Contractor shall review building codes and flood prevention policies currently adopted and enforced within the jurisdiction to determine compliance with RCP requirements.
- b. Contractor shall provide a Flood Damage Prevention Ordinance requiring construction at least two (2) feet above the base flood elevation and shall assist the jurisdiction to adopt said ordinance.

9. HAZARD MITIGATION

- a. Contractor shall review and evaluate any current hazard mitigation plan. If none exists, prepare a plan for adoption.

- **Insert Certificate of Insurance**
- **Insert System for Award Management (SAM) record search for company name and company principal**
- **Statement regarding firm/individual's conflict of interest, if any**

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY
Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

Certification Regarding Lobbying

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned shall require that the language paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995).

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Printed Name and Title of Contractor's Authorized Official

Date

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

Type of Federal Action: _____ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	Status of Federal Action: _____ a. bid/offer/application b. initial award c. post-award	Report Type: _____ a. initial filing b. material change
Name and Address of Reporting Entity: _____ Prime _____ Subawardee Tier _____, if Known: Congressional District, if known:		If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:
Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
Federal Action Number, if known:	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)	

(To be completed by awarded vendor)

CERTIFICATE OF INTERESTED PARTIES		FORM 1295																																							
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.		OFFICE USE ONLY																																							
1 Name of business entity filing form, and the city, state and country of the business entity's place of business.		Must file online at www.ethics.state.tx.us/File																																							
2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.																																									
3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.																																									
4 <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2" style="width: 35%;">Name of Interested Party</th> <th rowspan="2" style="width: 25%;">City, State, Country (place of business)</th> <th colspan="2" style="width: 40%;">Nature of Interest (check applicable)</th> </tr> <tr> <th style="width: 15%;">Controlling</th> <th style="width: 25%;">Intermediary</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>		Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)		Controlling	Intermediary																																		
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5 Check only if there is NO Interested Party. <input type="checkbox"/>																																									
6 UNSWORN DECLARATION My name is _____, and my date of birth is _____. My address is _____ (street) _____ (city) _____ (state) _____ (zip code) _____ (country). I declare under penalty of perjury that the foregoing is true and correct. Executed in _____ County, State of _____, on the _____ day of _____, 20____. <div style="text-align: right; margin-right: 100px;"> _____ Signature of authorized agent of contracting business entity (Declarant) </div>																																									
ADD ADDITIONAL PAGES AS NECESSARY																																									

REQUIRED CONTRACT PROVISIONS

Italics – Explanatory; not contract language

All Contracts

THRESHOLD	PROVISION	CITATION
None	<p>(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.</p>	<p>2 CFR 200 APPENDIX II (H)</p>
None	<p>The U.S. Department of Housing and Urban Development (HUD), Inspectors General, the Comptroller General of the United States, and the Texas Department of Agriculture (TDA), and the City/County, or any of their authorized representatives, shall have access to any documents, papers, or other records of the Contractor which are pertinent to the TxCDBG award, in order to make audits, examinations, excerpts, and transcripts and to closeout the City’s/County’s TxCDBG contract with TDA.</p>	<p>2 CFR 200.336 (former 24 CFR 85.36(i)(10))</p>
None	<p>Grantees or subgrantees must retain all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.</p>	<p>2 CFR 200.333 (former 24 CFR (85.36(i)(11))</p>
None	<p>Sec. 176.003. CONFLICTS DISCLOSURE STATEMENT REQUIRED.</p> <p>(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:</p> <p>(1) the vendor enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the vendor; and</p> <p>(2) the vendor:</p> <p>(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that:</p> <p>(i) a contract between the local governmental entity and vendor has been executed; or</p> <p>(ii) the local governmental entity is considering entering into a contract with the vendor;</p> <p>(B) has given to the local government officer or a family member of the officer one or more gifts that have an</p>	<p><u>Chapter 176</u> of the Local Government Code</p>

	<p>aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:</p> <p>(i) a contract between the local governmental entity and vendor has been executed; or</p> <p>(ii) the local governmental entity is considering entering into a contract with the vendor; or has a family relationship with the local government officer.</p> <p>(a-1) A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:</p> <p>(1) a political contribution as defined by Title 15, Election Code; or</p> <p>(2) food accepted as a guest.</p> <p>(a-2) A local government officer is not required to file a conflicts disclosure statement under Subsection (a) if the local governmental entity or vendor described by that subsection is an administrative agency created under Section 791.013, Government Code.</p> <p>(b) A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement under Subsection (a).</p>	
<p>>\$10,000</p>	<p><i>(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.</i></p> <p>Use the following language for contracts > \$ 10,000:</p> <p><u>Termination for Cause</u></p> <p>If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the City/County shall have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the City/County, be turned over to the City / County and become the property of the City / County. In the event of termination for cause, the Contractor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.</p>	<p>2 CFR 200 APPENDIX II(B)</p>

	<p>Notwithstanding the above, the Contractor shall not be relieved of liability to the City/County for damages sustained by the City/County by virtue of any breach of contract by the Contractor, and the City/County may set-off the damages it incurred as a result of the Contractor's breach of contract from any amounts it might otherwise owe the Contractor.</p> <p><u>Termination for Convenience of the City/County</u></p> <p>City/County may at any time and for any reason terminate Contractor's services and work at City/County's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.</p> <p>[Parties should include the manner by which such termination will be effected and the basis for settlement or any other terms and conditions concerning payment upon such termination.]</p>	
<p>>\$50,000</p>	<p><i>(A) Contracts for more than \$50,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.</i></p> <p>Use the following language for contracts > \$50,000:</p> <p><u>Resolution of Program Non-compliance and Disallowed Costs</u></p> <p>In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or TxCDBG program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. <i>[This section may also provide for the qualifications of the mediator(s), the locale of meetings, time limits, or any other item of concern to the parties.]</i> If the matter is not resolved through such mediation within 60</p>	<p>2 CFR 200 APPENDIX II (A)</p>

	days of the initiation of that procedure, either party may proceed to file suit.	
Option Contract Language for Procurement before Grant Funds Awarded	Payment of the fees [described in ____ section] shall be contingent on CDBG funding. In the event that grant funds are not awarded to the City / County by TDA through the TxCDBG program, this agreement shall be terminated by the City / County.	2 CFR 200.319(a)

Additional provisions for administration & engineering contracts associated with construction contracts

THRESHOLD	PROVISION	CITATION
>\$10,000	<p><i>(Italics – Explanatory; not contract language)</i></p> <p><i>2 CFR 200 Appendix II (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”</i></p> <p><i>Therefore, include the following EO clause (not in italics) in construction contracts including construction associated administration and engineering contracts > \$10,000:</i></p> <p>§60-1.4(b) Equal opportunity clause.</p> <p><i>(b) Federally assisted construction contracts. Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:</i></p> <p><i>The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:</i></p>	<p>41 CFR §60-1.4(b) And 2 CFR 200 APPENDIX II (C)</p>

	<p>During the performance of this contract, the contractor agrees as follows:</p> <p>(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.</p> <p>(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.</p> <p>(3) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.</p> <p>(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.</p> <p>(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.</p>	
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	<p>(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.</p> <p>(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.</p> <p>(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.</p> <p>The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.</p> <p>The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will</p>	
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	<p>otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.</p> <p>The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.</p> <p>(c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.</p> <p>(d) Incorporation by reference. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate.</p> <p>(e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.</p> <p>(f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.</p> <p>[43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997; 79 FR 72993, Dec. 9, 2014; 80 FR 54934, September 11, 2015]</p>	
<p>>\$100,000</p>	<p>§135.38 Section 3 clause</p>	<p>24 CFR §135.38</p>

	<p><i>All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):</i></p> <p>A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.</p> <p>B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.</p> <p>C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.</p> <p>D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.</p> <p>E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.</p>	
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	<p>F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.</p> <p>G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).</p>	
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RESOLUTION

A RESOLUTION OF (Insert City/County Name), TEXAS, AUTHORIZING PROFESSIONAL SERVICE PROVIDER SELECTION FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT-MITIGATION (CDBG-MIT) RESILIENT COMMUNITIES PROGRAM THROUGH THE TEXAS GENERAL LAND OFFICE (GLO).

WHEREAS, participation in CDBG-MIT programs requires implementation by professionals experienced in the planning/administration/project delivery of federally-funded projects and creation of planning documents;

WHEREAS, in order to identify qualified and responsive providers for these services a Request for Proposals (RFP) process for administration and planning services has been completed in accordance with the GLO requirements;

WHEREAS, the proposals received by the due date have been reviewed to determine the most qualified and responsive providers for each professional service giving consideration to ability to perform successfully under the terms and conditions of the proposed procurement, integrity, compliance with public policy, record of past performance, and financial and technical resources

NOW, THEREFORE, BE IT RESOLVED:

- Section 1. That _____ is selected to provide application and project-related **planning/administration/project delivery services** for CDBG-MIT program(s).
- Section 2. That a cost-price analysis has been conducted and determined the proposed fee to be appropriate and reasonable based upon program requirements and rules.
- Section 3. That any and all project-related services contracts or commitments made with the above-named service provider(s) are dependent on the successful negotiation of a contract with the service provider(s).

PASSED AND APPROVED ON _____, 2022.

APPROVED:

County Judge/City Mayor

ATTEST:

County Clerk/City Secretary



AGENDA MEMO

Business of the City Council City of Sweeny, Texas

Meeting Date	1/30/2024	Agenda Item	
Approved by City Manager	Yes	Presenter(s)	Lindsay Koskiniemi, City Manager
Reviewed by City Attorney	No	Department	Capital Projects
Subject	Discussion and possible action on continuing Capital Improvements Project (CIP) planning.		
Attachments	<ol style="list-style-type: none"> 1) PIF – Sweeny Emergency Water System Improvements (itemized) 2) Email from Enprotech 3) State Revolving Fund Preliminary Cost Projection 4) Facilities additions – PD, City Hall 5) Presentation of CIP adopted 1/30/2024 		
Financial Information	Expenditure Required:		N/A
	Amount Budgeted:		N/A
	Account Number:		
	Additional Appropriation Required:		
	Additional Account Number:		

Executive Summary

At the last meeting, Council tentatively adopted the City’s first CIP plan, which included utility departments of Water, Wastewater, and Gas, Streets, Sidewalks, and Parks. Other areas we have not covered include: City Facilities, Fleet / Equipment, and Drainage. For the purposes of this meeting, an update to the Water portion of the CIP will be provided with suggested additions for inclusion with the Facilities portion of the CIP.

Update on Water:

Since the last CIP meeting, staff learned of a product called an Aeralator, a product that removes secondary constituents from ground water such as iron and manganese through a process of aeration and oxidation (<https://www.westech-inc.com/products/iron-manganese-removal-system-aeralater>). The City has partnered with Enprotec Hibbs & Todd (EHT) to complete the Project Information Form (PIF) for submission to the Texas Water Development Board (TWDB, “Water Board) for funding through the Drinking Water State Revolving Fund (DWSRF) as a distressed community. EHT has performed preliminary cost analysis to request the necessary funding to the Water Board.

The total proposed project not only includes the aeralator technology, but also the extensive steel water main line replacement to fully overhaul the city’s water distribution system, as well as upgrades to Supervisory Control and Data Acquisition (SCADA) systems. (SCADAs are used for controlling, monitoring, and analyzing industrial devices and processes, where systems consist of both software and hardware components and enables remote and on-site gathering of data from the industrial equipment.)

EHT will submit the PIF by the deadline for submission, March 01, 2024. The City currently has an active request for qualifications (RFQ) published on the City’s website with a submission deadline



AGENDA MEMO

Business of the City Council

City of Sweeny, Texas

of 3/8/2024 for engineering services related to the work described in the attachments. The RFQ can be accessed here:

https://cms8.revize.com/revize/sweenytx/Document_Center/City%20Department/Budget%20&%20Finance/FY24/Sweeny%20Engineering%20RFQ%20Solicitation.pdf

The strategy for funding this expansive water system update project is:

- Plan A: Partner with organizations for benevolent clean water projects
- Plan B: Obtain funding from TWDB – Caveat: Must be invited to submit a completed application after PIF is approved to move on in the application process. Funding lead times are lengthy and can take several years for projects to be funded and to begin construction.
- Plan C: General Obligation bond on May 2025 ballot.

CIP – Facilities:

City staff members recognize the need for additional office and conference space, with a specific focus on the police department and city hall facilities. Additionally, the City Hall Council Chambers needs to be updated.

To achieve more office space, staff has proposed the following ideas:

- 1) Expand City Hall to the back to include additional office space and a conference room which could be used during City Council executive sessions and remodel the interior of Council Chambers and the kitchen/breakroom area. Estimated cost: \$350,000.
- 2) Expand the police department to include additional office space and two single-cell jails. The proposed expansion would be toward the west side of the property. The police department would lose a part of the parking lot and a parking lot egress, limiting parking to only one ingress. Estimated cost: \$250,000.
- 3) Expand City Hall to include more office space for existing staff and an add-on for a new police station and parking area. The addition is suggested to be at the back of City Hall (north side), as that land is already owned by the City. Expansion to the west is recommended, because there is more space available. The old police station would become the new Public Works campus, and the existing Public Works building would be rehabbed for Animal Control, Code Enforcement, and equipment. Estimated cost: \$750,000.

Staff believes the third option will provide the longest-term usage in anticipation of current and future needs.

The existing PD building is 2,921 square feet with approximately 4300 square feet for parking space. The police department has outgrown the building. A new facility would need to include shower facilities in male and female heads, 2 single-cell jails, a training room, and a conference room that can accommodate at least 10 people.

The existing City Hall is 2,780 square feet and contains a council chamber, 2 office spaces occupied by the mayor and the city manager, and a bull pin area office space shared by 5 people of approximately 500 square feet). This space includes a drive through window area and a walk-up service counter.



AGENDA MEMO

Business of the City Council

City of Sweeny, Texas

The proposed expansion of City Hall would be to add on to the back of the building (north side) and expand to include a conference room that could be used as an executive session room, so that the public still has access to restrooms, add 2 office spaces to the back of City Hall, convert the existing restrooms to ADA-approved restrooms, add a public ADA-approved restroom onto the front of the building (to the right of the entrance doors) where there is existing utilities, remodel the kitchen, remove all carpet and install either new floors or high polish the existing concrete, remodel council chambers to re-orient the room to maximize the space.



Copied from CIP discussion at the Special City Council Meeting held on January 30, 2024:

A general best practice in managing municipalities is having capital improvement project plan (CIP) adopted by the governing body that gives staff direction on how to save for capital needs and provides a blueprint for budgeting and planning for infrastructure upgrades and replacements. A CIP, if managed properly, can help cities respond proactively to capital needs.

City of Sweeny has never had a formally adopted CIP. There are several underserved departments that reflect decades of avoiding investment into upkeep of city assets such as the roads – many of which are potholed, cratered, and show signs of repeated filling that has failed. Most of Sweeny’s roads are asphalt, which do not have the life expectancy of concrete roadways, and many of the asphalt roads need to be resurfaced. Some roads actually need to be replaced.



AGENDA MEMO

Business of the City Council

City of Sweeny, Texas

The is an estimated 17 miles of 2” steel waterlines in Sweeny. The size and composition of these lines are inconsistent with today’s standards and are believed to be a huge contributing factor to the brown water observed by residents.

While roads and water are just two examples of major capital needs currently, a CIP includes any cost that is at least \$50,000 and improves or adds to the fixed asset portfolio. This CIP draft includes Water, Wastewater, Streets, Drainage, Sidewalks, and Parks. Facilities and Equipment are not included, because more research is needed to accurately determine those needs.

The CIP draft was initially intended to be presented to City Council for review and approval in March, however, there is an urgent need to present earlier. Due to the expansive possible waterline replacement project previously discussed at the Council meeting on January 16, 2024, the City intends to submit a low interest loan request to the Texas Water Development Board. The preliminary application, or, Project Information Form (PIF) is due to be submitted on or before March 01, 2024 to be eligible to be invited to submit the full application.

TWDB low interest loans are incredibly competitive because these loans have little or no interest rate and offer partial principal forgiveness to eligible entities. An adopted CIP is considered among the rating criteria, as shown from the TWDB PIF below. Having an adopted CIP will allow the City to be more competitive, as a CIP is a standard practice for cities.

Furthermore, if the City is going to plan for a 2025 General Obligation bond to go to the voters, the City will need to know how much the bond will be for and how it will be used. This CIP draft takes the proposed 2025 GO Bond into consideration.



AGENDA MEMO

Business of the City Council
City of Sweeny, Texas

Recommended Action

Staff recommends City Council consider the long-term needs of the City and incorporate the third option for expanding city hall and relocating the police department into the CIP plan.

Lindsay Koskiniemi

From: Joshua Berryhill <joshua.berryhill@e-ht.com>
Sent: Thursday, February 29, 2024 4:23 PM
To: Lindsay Koskiniemi
Cc: Jordan Hibbs
Subject: Sweeny - Updated Estimate for Water Project
Attachments: Sweeny DWSRF - Emergency Water Improvements - 2025 - rev2 - Summary Page.pdf;
 Sweeny DWSRF - Emergency Water Improvements - 2025 - rev2 - Base OPCC.pdf

Good Afternoon Lindsay –

Please see attached for our draft Cost Summary for the proposed water project...please see below for background on key cost items:

- **Opinion of Probable Construction Cost (OPCC)**
 - Distribution improvements – extracted from Strand cost estimate
 - Treatment for the wells – for reduction of iron and manganese
 - Allowance for further rehab of your existing wells – can be removed now or later on to help lower overall project costs
 - SCADA Improvements – included to upgrade your automated operation capability
 - Waste Handling System – this is recommended to help “buffer” the waste flow volume during backwash events to minimize surcharges to your wastewater collection system
 - Support System – lab testing equipment to support the treatment system
 - Piping, site work, electrical, mobilization – typical industry percentages of total construction
 - Owner’s Allowance – we usually include a small allowance for Owner-directed scope additions during construction

- **Summary Page – Non-Construction Costs**
 - AIS / BABA – This is a markup we have to plan for due to American Iron & Steel and the new Buy American / Build American requirements (i.e., “domestic steel”)
 - Loan Origination Fee (LOF) – This is a cost applied to a project loan by TWDB for staffing costs to manage the project from their side
 - Escalation – We set this at 10% for now, which is somewhat low, but we were trying to help with the “sticker shock” for these costs. We have been seeing anywhere from 10-15% per year over the last couple years.
 - WCP – We anticipate needing to update this during the course of the project
 - Application – Covers the funding application costs (if the project moves forward and is funded by TWDB)
 - Environmental – It may be possible to obtain a Categorical Exclusion (CE) for this project, but we typically budget on the high side for a full Environmental Information Document (EID) to begin with until we can determine a CE may be allowed instead
 - Project Management – Supports monthly coordination efforts with TWDB
 - Surveying – Development for site work at the plant and offsite improvements
 - Regulatory Compliance – This would support pilot testing, development of exceptions approvals with TCEQ, and submittals of updated CT and monitoring plans to TCEQ for the improvements
 - Geotech – Limiting onsite drilling to verify onsite soil conditions
 - Asset Management Plan – This is a \$100,000 grant that is offered by TWDB to fund detailed analyses of the utility’s water and wastewater systems...plus, it gets you additional points in the project ranking
 - Corrosion Control Study – This will have to be completed twice...first during design, and second after construction to verify finished water conditions for TCEQ

- Inspection – TWDB requires a project inspector onsite during construction to verify that the awarded contractor is adhering to the construction documents (plans and specs)
- Testing – Budget for concrete testing and soil density testing for proper soil compaction
- O&M Manual and Startup Training – In addition to the equipment vendor operation and maintenance (O&M) manuals, we will prepare a Plan of Operations which covers process theory for day-to-day and optimized operations, and we provide time with our operators to help with startup, performance testing and supporting training of your operations staff
- Fiscal/Legal – This covers costs for the Financial Advisor and Bond Counsel for helping with the funding application and closing of any loan for the project
- Contingency – This provides some cushion for the project budget prior to starting design

After you have had a chance to go over this information, please let me know when you would have time to discuss the costs further tomorrow.

Thanks!



Firm Registration Nos.
PE 1151 | PG 50103 | RPLS 10011900

Joshua L. Berryhill, PE
Vice President / Technical Director

- P** (325) 698-5560
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Enprotec / Hibbs & Todd, Inc.
402 Cedar Street
Abilene, Texas 79601

www.e-ht.com

COMPONENT		PROJECTED COST
<i>Construction Costs</i>		
Distribution Improvements		\$11,252,000
Well Treatment System		\$3,350,000
Well Rehab		\$800,000
SCADA Improvements		\$600,000
Waste Handling System		\$1,025,000
Support System		\$25,000
Yard Piping and Valves		\$853,000
Site Work, Paving, SWPPP		\$179,000
Electrical and SCADA		\$2,733,000
Contingency and Owner Allowance		\$100,000
Mobilization, Bonds & Insurance, OHP, Internal contingency		\$2,092,000
Subtotal Construction		\$23,009,000
AIS / BABA	10%	\$2,301,000
LOF	2%	\$426,000
		\$0
Subtotal Construction		\$25,736,000
Escalation	10%	\$2,574,000
Total Construction		\$28,310,000.00
<i>Non-construction Costs</i>		
Engineering Basic Services - PAD	12.00%	\$3,397,000
Water Conservation Plan		\$10,000
Application		\$30,000
Environmental (EID)		\$50,000
Project Management		\$20,000
Surveying		\$25,000
Regulatory Compliance, Permitting and Pilot Testing		\$200,000
Geotechnical Services		\$20,000
Asset Management Plan		\$100,000
Land Acquisition		\$0
Corrosion Control Study - 2 step		\$15,000
<i>Subtotal, PAD Services</i>		\$3,867,000
Engineering Basic Services - Bidding / Construction		\$340,000
Construction Inspection		\$653,000
Testing		\$60,000
O&M Manual and Startup Training		\$150,000
Legal & Fiscal - Construction and Engineerin	2.00%	\$566,000
Contingency - Construction and Engineering	20.00%	\$5,662,000
<i>Subtotal, Construction Services</i>		\$7,091,000
Subtotal Non-Construction		\$10,958,000
TOTAL PROJECT COST		\$39,268,000

SWEENEY - EMERGENCY WATER SYSTEM IMPROVEMENTS

Item Description	Qty.	Unit	Unit Cost	% Mark-Up	Line Total	Subtotals
Distribution Improvements						
City Area No. 1	1	LS	\$2,717,000		\$2,717,000	
City Area No. 2	1	LS	\$1,674,000		\$1,674,000	
City Area No. 3	1	LS	\$1,800,000		\$1,800,000	
City Area No. 4	1	LS	\$1,718,000		\$1,718,000	
City Area No. 5	1	LS	\$1,401,000		\$1,401,000	
City Area No. 6	1	LS	\$1,942,000		\$1,942,000	
Category Total						\$ 11,252,000
Well Treatment System						
Dewatering, Excavation, Backfill	1	LS	\$50,000		\$50,000	
Modify existing treatment building (equipment demo)	1	LS	\$100,000		\$100,000	
HVAC modifications for existing treatment building	1	LS	\$25,000	20%	\$30,000	
Chemical Feed System for Oxidation	1	LS	\$100,000	20%	\$120,000	
Aerolater Treatment System	1	LS	\$1,750,000	20%	\$2,100,000	
Clearwell mixing and aeration system	1	LS	\$150,000	20%	\$180,000	
HS Pump Modifications (rehab, VFDs, etc.)	1	LS	\$300,000	20%	\$360,000	
Piping, Valves and Gates	1	LS	\$300,000	20%	\$360,000	
Handrails, grating, and other metalwork	1	LS	\$50,000		\$50,000	
Category Total						\$ 3,350,000
Well Rehab						
Rehab existing wells (well head, flushing, controls, etc.)	4	EA	\$200,000		\$800,000	
Category Total						\$ 800,000
SCADA Improvements						
New SCADA system for WTP, well sites and distribution	1	LS	\$500,000	20%	\$600,000	
Category Total						\$ 600,000
Waste Handling System						
Dewatering, Excavation, Backfill	1	LS	\$50,000		\$50,000	
Backwash Waste PS (wet well and pumps)	1	LS	\$500,000	20%	\$600,000	
Waste Transfer force main to collection system (allowance)	1	LS	\$250,000		\$250,000	
Piping, Valves, Appurtenances	1	LS	\$75,000		\$75,000	
Handrails, grating, and other metalwork	1	LS	\$50,000		\$50,000	
Category Total						\$ 1,025,000
Support System						
Lab equipment	1	LS	\$25,000		\$25,000	
Category Total						\$ 25,000
Yard Piping and Valves						
Category Total	1	LS	\$17,052,000	5%	\$853,000	\$ 853,000
Site Work, Paving, SWPPP						
Site work, Paving, Grading, Fencing, and SWPPP	1	LS	\$17,905,000	1%	\$179,000	
Category Total						\$ 179,000
Electrical and SCADA						
Category Total	1	LS	\$6,832,000	40%	\$2,733,000	\$ 2,733,000
Contingency and Owner Allowance						
Contingency and Owner Allowance	1	LS	\$100,000		\$100,000	
Category Total						\$ 100,000
Mobilization, Bonds & Insurance, OHP, Internal contingency	10%	JOB	\$20,917,000		\$2,091,700	\$ 2,092,000
Phase Total						\$ 23,009,000
BASE SUBTOTAL						\$ 23,009,000
CONTINGENCY						\$ -
CONSTRUCTION TOTAL						\$ 23,009,000

City of Sweeny Capital Improvement Project Plan (CIP)

2024 – 2038

15-Year Outlook



2024 – 2038 CIP LEAD SHEET

CITY OF SWEENY
 15-YEAR CAPITAL PLAN SUMMARY
 CITY-WIDE

GENERAL FUND	TOTAL	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038
STREETS, DRAINAGE, SIDEWAL	4,203,365	-	201,852	-	897,741	1,291,481	834,741	99,000	290,250	72,000	103,500	148,500	88,800	175,500	-	-
PARKS	485,000	-	145,000	165,000	92,500	62,500										
FACILITIES & IMPROVEMENTS																
EQUIPMENT																
TOTAL GENERAL FUND	4,688,365	-	346,852	165,000	990,241	1,353,981	834,741	99,000	290,250	72,000	103,500	148,500	88,800	175,500	-	-

UTILITY FUND	TOTAL	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038
WATER	20,171,440	645,080	2,980,010	2,906,100	1,502,000	1,151,500	1,191,750	1,232,000	1,205,000	1,178,000	1,073,000	968,000	1,147,750	1,327,500	663,750	1,000,000
WASTEWATER	5,663,500	1,311,000	4,026,750	208,250	117,500	-										
GAS DISTRIBUTION SYSTEM	650,000	30,000	30,000	155,000	280,000	155,000										
FACILITIES & IMPROVEMENTS																
EQUIPMENT																
TOTAL UTILITY FUND	26,484,940	1,986,080	7,036,760	3,269,350	1,899,500	1,306,500	1,191,750	1,232,000	1,205,000	1,178,000	1,073,000	968,000	1,147,750	1,327,500	663,750	1,000,000

TOTALS:	\$31,173,305	\$1,986,080	\$7,383,612	\$3,434,350	\$2,889,741	\$2,660,481	\$2,026,491	\$1,331,000	\$1,495,250	\$1,250,000	\$1,176,500	\$1,116,500	\$1,236,550	\$1,503,000	\$663,750	\$1,000,000
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** Does not include Facilities or Equipment in General or Enterprise Funds.*

WATER PROJECTS

WATER CAPITAL PROJECTS		TOTAL PROJECT COSTS			5-YR OUTLOOK					10-YR OUTLOOK					15-YR OUTLOOK					NOTES	FUNDING SOURCE	
PRIORITY	UTILITY FUND - WATER	TOTAL	CONSTRUCTION	ENGINEERING	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	NOTES	FUNDING SOURCE	
1	MAIN STREET WATER MAIN	1,500,240	1,417,240	83,000	500,080	1,000,160														7,750 LF	2019 CERTIFICATES OF OBLIGATION	
2	MANGANESE FILTRATION PROJECT	120,000			120,000															INSTALLATION FY24, IF APPROVED	ENTERPRISE FUND	
3	WATER VALVE SURVEY / INVENTORY	25,000			25,000																ENTERPRISE FUND	
4	PECAN STREET WATERLINE REPLACEMENT	463,200	463,200			231,600	231,600													1,500 LF	CDBG-DR \$180,500, ENTERPRISE FUND \$282,700	
5	WEST SIDE WATERLINES	1,644,000	1,370,000	274,000		822,000	822,000													APPROX 1MI. 3RD, 4TH, 5TH, 6TH, CEDAR, MAGNOLIA, SYCAMORE, MILK	CONDITIONALLY AWARDED CDBG-MIT	
6	WATERLINE REPLACEMENT - ZONE 1	3,705,000	3,260,000	445,000		926,250	1,852,500	926,250												22,000 LF	2025 GENERAL OBLIGATION BOND / TWDB LOAN	
7	WATERLINE REPLACEMENT - ZONE 2	2,303,000	2,008,000	295,000				575,750	1,151,500	575,750										13,000 LF	2025 GENERAL OBLIGATION BOND / TWDB LOAN	
8	WATERLINE REPLACEMENT - ZONE 3	2,464,000	2,159,000	305,000						616,000	1,232,000	616,000								14,000 LF	2025 GENERAL OBLIGATION BOND / TWDB LOAN	
9	WATERLINE REPLACEMENT - ZONE 4	2,356,000	2,061,000	295,000								589,000	1,178,000	589,000						13,000 LF	2025 GENERAL OBLIGATION BOND / TWDB LOAN	
10	WATERLINE REPLACEMENT - ZONE 5	1,936,000	1,681,000	255,000										484,000	968,000	484,000				11,000 LF	2025 GENERAL OBLIGATION BOND / TWDB LOAN	
11	WATERLINE REPLACEMENT - ZONE 6	2,655,000	2,330,000	325,000												663,750	1,327,500	663,750		15,600 LF	2025 GENERAL OBLIGATION BOND / TWDB LOAN	
12	DRILL WELL	1,000,000	50,000	350,000																1,000,000	MAY NOT BE NEEDED, DEPENDS ON CITY'S GROWTH	TBD
TOTAL COST		20,171,440	16,799,440	2,627,000	645,080	2,980,010	2,906,100	1,502,000	1,151,500	1,191,750	1,232,000	1,205,000	1,178,000	1,073,000	968,000	1,147,750	1,327,500	663,750	1,000,000			

STREETS, DRAINAGE, SIDEWALKS PROJECTS

STREETS, DRAINAGE & SIDEWALKS	AMOUNT	CONSTRUCTION	ENGINEERING	5-YR OUTLOOK					10-YR OUTLOOK					15-YR OUTLOOK					NOTES	FUNDING
				2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038		
STREETS																				
ASPHALT OVERLAY - 6TH AND MLK CONSTRUCTION	159,852				159,852														BRAZORIA COUNTY INTERLOCAL INCLUDES \$10 ASPHAL UNIT INCREASE	BRAZORIA COUNTY INTERLOCAL AGREEMENT
ROAD REPLACEMENT CAREY & WOODWIN INTERSECTION	88,800	14,800	74,000												88,800				TO COINCIDE W/ PROJECT ZONE 5 WATER PROJECT	2025 GENERAL OBLIGATION BOND
ROAD REPLACEMENT N. ROSS - BETWEEN ALICE & 2ND	72,000	60,000	12,000									72,000							TO COINCIDE W/ PROJECT ZONE 4 WATER PROJECT	2025 GENERAL OBLIGATION BOND
ASPHALT OVERLAY N. HACKBERRY AWR TO 6TH	198,000									99,000	99,000								APPROX .6 MI - TO COINCIDE WITH TXDOT TA PROJECT	2025 GENERAL OBLIGATION BOND
ASPHALT OVERLAY ORANGE ST. TO AVE. C	198,000					99,000	99,000												APPROX .58 MI - TO COINCIDE WITH PROJECT ZONE 2 WATER PROJECT	2025 GENERAL OBLIGATION BOND
ASPHALT OVERLAY AVE. B - S. ORANGE TO YAUPON ST.	180,000							90,000		90,000									2840 LF, 0.5 MI. - TO COINCIDE WITH PROJECT ZONES 3 & 3 OR WATER PROJECT	2025 GENERAL OBLIGATION BOND
ASPHALT OVERLAY - 6TH AT CEDAR TO END OF MAGNOLIA	42,000				42,000														760 FT., 0.14 MI. - TO COINCIDE WITH WEST SIDE WATERLINE PROJECT	2025 GENERAL OBLIGATION BOND
ROAD RECONSTRUCTION - PORTION FROM 6TH BEYOND MIDDLE SCHOOL	175,500															175,500			1440 LF, .27 MI.	2025 GENERAL OBLIGATION BOND
ASPHALT OVERLAY - 4TH ST. HACKBERRY TO ORANGE	54,000						54,000												965 LF, 0.18 MI. WITH ZONE 1 WATER PROJECT	2025 GENERAL OBLIGATION BOND
ASPHALT OVERLAY - 5TH ST. HACKBERRY TO ORANGE	54,000					54,000													965 LF, 0.18 MI. WITH ZONE 1 WATER PROJECT	2025 GENERAL OBLIGATION BOND
ROAD RECONSTRUCTION - FIG ST.	351,000					175,500		175,500											2800 LF, 0.52 MI. WITH ZONE 1 & 2 WATER PROJECT	2025 GENERAL OBLIGATION BOND
ROAD RECONSTRUCTION - FRANCES ST.	101,250										101,250								800 LF, .15 MI - ZONE 3 WATER PROJECT	2025 GENERAL OBLIGATION BOND
ASPHALT OVERLAY - OLD OCEAN FROM HACKBERRY TO MCKINNEY	148,500													148,500					2300 LF, 0.44 MI. ZONE 3 WATER PROJECT	2025 GENERAL OBLIGATION BOND
ROAD RECONSTRUCTION - MEADOR ST.	103,500												103,500						800 LF, .15 MI - WITH ZONE 4 WATER PROJECT	2025 GENERAL OBLIGATION BOND
SIDEWALKS																				
SUP - N. HACKBERRY, AWR TO 6TH & PAR AWR	2,276,963	1,835,346	441,617			569,241	1,138,481	569,241											TXDOT ELIGIBLE REIMBURSEMENT OF 80%, SIDEWALK FUND - REAPPLY IN 2025/2026	80/20 REIMBURSABLE PROJECT TXDOT / SIDEWALK FUND
DRAINAGE																				
TOTAL FOR STREETS, SIDEWALKS, DRAINAGE PROJECTS	4,203,365				- 201,852	- 897,741	1,291,481	834,741	99,000	290,250	72,000	103,500	148,500	88,800	175,500					

2023 ROAD CONDITION SURVEY

Item 8.



PROPOSED PROJECT: CAREY DR. & WOODWIN AVE. ROADWAY IMPROVEMENT (SITE MAP)

Item 8.



372

City of Sweeny
Interlocal Agreement Project Request Summary FY-23

Approved by Sweeny
City Council on
09-20-2022

**FY23 BRAZORIA COUNTY INTERLOCAL
FOR ASPHALT OVERLAY (2MI.) WAS NOT
BUDGETED.** Item 8.

STREET/LOCATION	LIMITS (TO - FROM)	LENGTH (FT)	WIDTH (FT)	WORK DESCRIPTION (Major Street Projects ONLY)	FOR OFFICE USE ONLY
W. 6th Street	FROM: MAGNOLIA ST. TO: N. MAIN ST.	1900	20		
N. and S. MARTIN LUTHER KING ST.	FROM: W. 6TH ST. TO: TERMINATING END OF S. MLK ST.	2400	20		

Materials Cost Estimate for Project: N. and S. MLK St.

Limits	Len	Pct	Ctr	Area	Priority	Type	FY
W. 6th St. to end of S. MLK St.	0.45	4	Bra	Wes	2	IS	2023

Item Description	Len_Mi	Wid_Ft	Thk_In	Rate	Rate Unit	Qty	Unit	Price	ItemCost
ABS-65	0.45	22		0.2	Gal/SqYd	1,173	Gal	2.96	3,473
ABS-65	0.45	22		1.4	Gal/SqYd	8,213	Gal	2.96	24,312
Base - crushed concr.	0.45	22	2			642	Ton	28.39	18,238
Asphalt - HMAC Type D	0.45	20	2			584	Ton	64.00	37,376

Materials Cost Estimate for Project: West 6th Street

Project Cost: 83,398

Limits	Len	Pct	Ctr	Area	Priority	Type	FY
Magnolia St. to N. Main St.	0.36	4	Bra	Wes	1	IS	2023

Item Description	Len_Mi	Wid_Ft	Thk_In	Rate	Rate Unit	Qty	Unit	Price	ItemCost
ABS-65	0.36	22		1.4	Gal/SqYd	6,502	Gal	2.96	19,247
ABS-65	0.36	22		0.2	Gal/SqYd	929	Gal	2.96	2,750
Base - crushed concr.	0.36	22	2			509	Ton	28.39	14,438
Asphalt - HMAC Type D	0.36	20	2			462	Ton	64.00	29,589

Project Cost: 66,024

***As of May 2023, costs per unit of asphalt has increased by \$10, or total increase of \$10,430 for both streets.**

SEWER PROJECTS

SEWER CAPITAL PROJECTS		TOTAL PROJECTED COSTS			5-YR OUTLOOK						
PRIORITY	UTILITY FUND - SEWER	AMOUNT	CONSTRUCTION	ENGINEERING	2024	2025	2026	2027	2028	NOTES	FUNDING SOURCE
1	SEWER PLANT CLARIFIER REHAB	125,000			25,000	100,000				PROJECT STARTED IN FY23, DESLUDGE C2, INSTALL 2 NEW RAS PUMPS	ENTERPRISE FUND
2	SECONDARY PUMPS IN EACH LIFT STATION	22,000			11,000	11,000					FY24 ENTERPRISE FUND
3	DRYING BED REHAB	50,000			25,000	25,000				BEDS HAVE NOT BEEN USED AND NEED ASSESSMENT AND POSSIBLE REHAB.	ENTERPRISE FUND
4	SAN BERNARD LIFT STATION UPGRADE	181,500				90,750	90,750			LS NOT KEEPING UP WITH CAPACITY, NEEDS ELECTRICAL AND EQUIPMENT UPGRADES	ENTERPRISE FUND
5	MAC DRIVE SMOKE TESTING	50,000	-	50,000		50,000				TO IDENTIFY AREAS SUBJECT TO I&I	EF, POTENTIAL GRANT
6	MAC DRIVE I&I REMEDIATION	235,000	200,000	35,000			117,500	117,500		NEEDED IF AREAS OF I&I ARE IDENTIFIED	EF, POTENTIAL GRANT
	GLO - MIT SEWER IMPROV. PROJECT CONSTRCT.	5,000,000			1,250,000	3,750,000				PROJECT FUNDED AND PROJECTED TO BE BID IN FEB 2024.	GLO \$4,850,000, COS 2019 CO \$150,000
TOTAL SEWER		5,663,500	200,000	85,000	1,311,000	4,026,750	208,250	117,500	-		

GAS PROJECTS

GAS UTILITY CAPITAL PROJECTS		5-YR OUTLOOK						
UTILITY FUND - GAS	AMOUNT	2024	2025	2026	2027	2028	NOTES	FUNDING
STEEL SERVICE LINE REPLACEMENT	150,000	30,000	30,000	30,000	30,000	30,000	KEEP WORK IN HOUSE FOR COST SAVINGS - TO BEGIN STEEL SERVICE LINE CHANGE OUT IN APRIL 2024 TO MEET 2011 MANDATE.	ENTERPRISE FUND
USDOT NAT GAS DIST MODERNIZATION PRJOCT	500,000			125,000	250,000	125,000	TO IMPLEMENT UPDATES SYSTEM WIDE	FEDERAL GRANT TO APPLY FOR IN FY25 *NOT AWARDED*
TOTAL GAS	650,000	30,000	30,000	155,000	280,000	155,000		

PARKS PROJECTS

GENERAL FUND - PARKS	AMOUNT	2024	2025	2026	2027	2028	NOTES	FUNDING
BACKYARD PARK								
PREFABRICATED RESTROOM INSTALLATION, DEMO EXISTING RR	130,000		65,000	65,000			PREFAB ADA BUILDING AND DEMOLITION OF OLD STRUCTURE	
BIG PAVILION RE-ROOF & UPGRADES	20,000			20,000			ROOF NEEDS TO BE REPLACED	FY26 GENERAL FUND BUDGET
ASPHALT RESURFACING OF WALKING TRAILS	80,000		40,000	40,000			EXISTING ASPHALT HAS FAILED. LARGE CRACKS MAKE THE WALKWAYS UNSAF	GENERAL FUND BUDGET
SHADE STRUCTURE OVER PLAYGROUND	30,000				30,000			
SPLASH PAD UPGRADES	125,000				62,500	62,500	UPGRADE PLUMBING (NECESSARY) INCLUDE A DUMP BUCKET AND SPRINKLER STRUCTURE	
MLK PARK								
PREFABRICATED RESTROOM INSTALLATION	80,000		40,000	40,000			CURRENTLY NO RESTROOMS - INSTALL FAMILY RR ADA COMPLIANT	
REPLACE PAVILLION WITH WINDSTORM RATED STRUCTURES	20,000	20,000					EXISTING PAVILLION IS NON-WINDSTORM-RATED CARPORT. REPLACE FOR SAFETY/AESTHETICS	\$16,750 GRANT FROM P66
TOTAL PARKS	485,000	-	145,000	165,000	92,500	62,500		



Hexagonal Umbrella

\$20,070.00

Model Number: QR148

Hexagons are used to enhance existing structures and designs. The hexagonal hip shade uses a 6-column design featuring a canopy tensioned over a hip and ridge frame. It is available in a range of sizes and offered with 8', 10' and 12' entry heights.

REQUEST A QUOTE

COMPARE

Specifications

DESIGN FEATURES

- Blocks up to 97% of harmful UV rays
- Cools covered area by as much as 25° (14° C)
- Available QuickRelease™ system makes it fast and easy to adjust or remove fabric
- Available in standard or high-wind options for your specific regional needs
- Compliant with local building codes in US and Canada



**BACKYARD PARK RESTROOM
REPLACEMENT PROJECT –
PREFABRICATED BUILDING
ADA COMPLIANT**



Item 8.



RESTROOM/ STORAGE BUILDING

PUBLIC RESTROOM COMPLIANT

www.PublicRestroom.com
1-800-845-2000



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PROJECTED STUDIES NEEDED

PLANNING/ STUDIES PROJECTS	ESTIMATED COST	JUSTIFICATION	POTENTIAL FUNDING SOURCE
UTILITY RATE STUDY	\$ 20,000	THE UTILITY RATE STUDY IS GOING TO BE REQUIRED TO ASSESS REVENUE FROM UTILITIES AS COLLATORAL FOR A POSSIBLE 2025 GENERAL OBLIGATION BOND.	ENTERPRISE FUND
GIS SYSTEM	\$ 30,000	THE CITY NEEDS A GIS SYSTEM TO HAVE ALL UTILITY SYSTEMS AND THEIR COMPONENTS, FACILITIES, ZONING INFORMATION, FEMA FLOOD MAPS, CONSTRUCTION RECORD DRAWINGS, ETC. ALL IN ONE REPOSITORY ELECTRONICALLY FOR RECORD KEEPING AND INFORMATION ACCESS. THE CITY CURRENTLY DOES NOT HAVE A CENTRAL GIS WITH ALL NECESSARY LAYERS.	ENTERPRISE AND GENERAL FUNDS
COMPREHENSIVE MASTER PLAN	\$ 35,000	A COMPREHENSIVE MASTER PLAN IS A TOOL CITIES USE AS A GUIDE FOR LAND DEVELOPMENT AND PROJECTING FUTURE GROWTH WITH LONG RANGE GOALS AND OBJECTIVES FOR ALL ACTIVITIES THAT AFFECT THE LOCAL GOVERNMENT. THIS TYPE OF PLAN IS TYPICALLY COMPLETED BY A PROFESSIONAL PLANNER. A COMP MASTER PLAN IS REQUIRED TO BE ELIGIBLE FOR SOME GRANTS.	TEXAS A&M GRADUATE STUDIES - LOWER COST ALTERNATIVE TO DEVELOPING A COMP MASTER PLAN. LENGTHY WAIT PERIOD AND SELECTION PROCESS.
COMPREHENSIVE UTILITY PLAN	\$ 60,000	A UTILITY MASTER PLAN IS A TOOL USED BY LOCAL GOVERNMENTS AND UTILITY PROVIDERS THAT PROJECTS FUTURE GROWTH AND IMPACTS ON UTILITY USAGE FOR ESTIMATING FUTURE CAPACITY EXPANSION NEEDS. THIS TYPE OF PLAN IS TYPICALLY COMPLETED BY AN LICENSED ENGINEER.	ENTERPRISE FUND / TWDB LOAN
IMPACT FEE STUDY	\$ 25,000	IT IS IMPORTANT FOR CITIES TO HAVE IMPACT FEES ESTABLISHED PRIOR TO NEW DEVELOPMENT CONSTRUCTION SO THAT THE CITY CAN COLLECT FEES FOR THE ADDED USE OF THE UTILITY SYSTEMS AND USE IMPACT FEES COLLECTED FOR INFRASTRUCTURE UPGRADES AS NEEDED. IMPACT FEES CAN INCLUDE PARKLAND DEDICATION OR FEES IN LIEU OF DEDICATION TO ALLOCATE THE PROPORTIONATE SHARE OF THE COST OF ADDING OR UPGRADING PARKS WHEN NEW DEVELOPMENTS ARE CONSTRUCTED THAT ADD TO THE CITY'S EXISTING POPULATION.	ENTERPRISE FUND