Duncanville City Council Meeting Agenda

City Council Briefing Room and City Council Chamber
Duncanville City Hall
203 E. Wheatland Road
Duncanville, TX 75116
(972) 780-5017

Tuesday, January 21, 2025
6:00 P.M. - Work Session/Briefing
7:00 P.M. - Regular Session
or immediately following the 6:00 pm Work Session/Briefing

The Duncanville City Hall is accessible to people with disabilities. If you need assistance in participating in this meeting due to a disability as defined under the ADA, please call 972-780-5017 or email city.secretary@duncanvilletx.gov at least three (3) business days prior to the scheduled meeting to request an accommodation.

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purposes of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

Pursuant to Texas Government Code 551.127, one or more members of the governing body may appear via videoconference call. The presiding officer and a quorum of the City Council must be physically present at the above stated location.

The City of Duncanville reserves the right to reconvene, recess or align the Regular Session or called Executive Session or order of business at any time prior to adjournment at the direction and agreement of Mayor and Council.

This is an open meeting conducted in person and will be broadcast by website and social media channels.

To view the live meeting or previous meetings click on the link below.
https://duncanvilletx.new.swagit.com/views/454/

To submit a comment via email the following information is required:

- Submit a comment by 4:00 p.m. on Tuesday, January 21, 2025.
- Email city.secretary@duncanvilletx.gov
- Email title: Public Comment – Tuesday, January 21, 2025
- First Name, Last Name, and Address

WORK SESSION / BRIEFING

1. DISCUSS AGENDA ITEMS

2. CITY COUNCIL CALENDAR

3. BRIEFINGS / PRESENTATIONS

A. Life School Project Update — 7

Life School Project Update

B. City Council to receive a briefing on the current Municipal Materials Management Agreement for Solid Waste, Recycling, Bulky Waste and Brush Collection and Transport Services; provide direction to staff to begin the process for renewal or a new contract for September 2026. — 8 - 9

Upcoming Municipal Materials Management Agreement Expiration

C. City Council to receive a briefing on the 2025 Project Roadmap

EXECUTIVE SESSION

1. City Council shall convene in Executive Session pursuant to Section 551.072 of the Texas Government Code, to deliberate the sale, exchange, lease, purchase, or value of certain real property located east of Main St., south of I20, west of Cockrell Hill Rd., and north of Wheatland Rd., and pursuant to Section 551.071 of the Texas Government Code, to seek legal advice from the City Attorney regarding the same. — 10 - 11

Executive Session

2. City Council shall convene into closed executive session pursuant to Section 551.074, of the Texas Government Code, Personnel, to deliberate the duties of the City Manager under the Home Rule Charter and, pursuant to Section 551.071 of the Texas Government Code, to seek legal advice from the City Attorney on the same topic. — 12

Executive Session

REGULAR SESSION - CONVENE INTO THE COUNCIL CHAMBERS (7:00 P.M. OR IMMEDIATELY FOLLOWING THE 6:00 PM WORK SESSION/BRIEFING)

CALL TO ORDER
INVOCATION - Duncanville Police Chaplain Moises Ruiz
PLEDGES - PLEDGE OF ALLEGIANCE; TEXAS PLEDGE OF ALLEGIANCE

1. REPORTS

The Mayor’s Report, the Councilmembers' Reports, and the City Manager's Report are informational only. There is no Council deliberation or action taken on any of these items.

A. Mayor's Report.

B. Councilmembers' Reports

C. City Manager's Report.

2. PROCLAMATIONS AND PRESENTATIONS

3. CITIZENS' INPUT

In-person citizen comments will be heard during the Regular Session. In keeping with the City Council's Rules of Procedure adopted on June 4, 2024, electronic mail comments will no longer be read aloud. Paper copies will be provided to the City Council at the dais. The comments will be made a part of the public record in the minutes.

"Pursuant to Section 551.007 of the Texas Gov't Code, any member of the public has the opportunity to address the City Council concerning any matter of public business or any posted agenda item; however, the Act prohibits the City Council from deliberating any issues not on the public agenda and such non-agenda issues may be referred to City staff for research and any future action; all persons addressing are subject to council adopted rules and limitations permitted by law"

At this time, two-minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the City Secretary prior to the beginning of the Citizens' Input portion of the Council meeting. In accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decisions at this time. Issues may be referred to City Staff for research and possible future action.

4. CONSENT AGENDA

The following may be acted upon in one motion. A City Councilmember may request items be removed from the Consent Agenda for individual consideration.

A.	Consider the Minutes of the below City Council Regular and Special Meetings. Special Called Meetings - 05 Dec 2024 - Minutes Special Called Meetings - 17 Dec 2024 - Minutes City Council - 17 Dec 2024 - Minutes	13 - 21
B.	Consider an Ordinance providing for the appointment and contracts for a Presiding Municipal Court Judge and Associate Municipal Court Judges for the Municipal Court of Duncanville; authorizing the Mayor to execute said contracts; and authorizing funding from the General Fund for said contracts. Appointment and Contracts for Municipal Court Judges	22 - 37
C.	Consider a Resolution confirming the City Manager's appointment of Christopher Shaw (serve 1 year term) and Steven Flanagan (serve 3 year term) as members of the City of Duncanville Civil Service Commission. Civil Service Commission Appointments	38 - 47
D.	Council to approve of the Conservation Fund Policy. Conservation Fund Policy	48 - 56

E.	Consider a Resolution authorizing the award of RFP #18-107 for the Official Newspaper Designation to Rambler Texas Media, without a competitive process as allowed by Texas Government Code 252.022 (16), in the annual amount not to exceed $16,000, for an initial one-year period, with the option to extend the agreement for two (2) additional one-year periods with not-to-exceed expenditure amount of $48,000.00. Official City Newspaper	57 - 125
F.	Consider a Resolution authorizing Change Order 1 for the FY23 Pipebursting Project in an expenditure amount of $59,429.15, not exceeding a total contract amount of $507,693.65. Authorization of Change Order 1 for the FY23 Pipebursting Project	126 - 176
G.	Consider a Resolution authorizing the City Manager to execute Change Order 1 in an expenditure amount of $66,375.00 for the FY22 Pipebursting Project with Vortex Companies, LLC, using the previously authorized contingency of $99,999.63, not exceeding a total contract amount of $1,099,995.88. FY22 Pipebursting Authorization for the City Manager to Execute Change Order 1	177 - 228
H.	Consider a Resolution awarding a bid and authorize a cooperative purchasing agreement with Siddons-Martin Emergency Group for fire engine parts and repair services through Houston-Galveston Area Council Contract FS12-23 for a one-year term with the option to renew for up to four additional one-year terms in an estimated expenditure amount not to exceed $1,105,127.00 over the five years, subject to the exercise of contract renewal and City Council appropriation. Siddons-Martin Emergency Group	229 - 265
I.	Consider a Resolution awarding RFQ 24-0028 Stormwater Management Services to Freese and Nichols, Inc. through the City's competitive qualifications process for stormwater management program services and authorizing a contract for a one-year term with the option to renew for up to four additional one-year terms for a total contract amount not to exceed $395,507.00, subject to the exercise of contract renewals and City Council appropriation. Stormwater Management Services RFQ Award	266 - 278
J.	Consider a Resolution awarding RFQ 25-0001 On-Call Traffic Engineering Services and authorizing indefinite-delivery/indefinite-quantity master service agreements with the firms outlined in Exhibit A to provide traffic engineering services to the City of Duncanville for a one-year term with the option to renew for up to four additional one-year terms, not exceeding a total contract amount of $300,000.00 per firm over the three years, subject to the exercise of contract renewals and City Council appropriation. On-Call Traffic Engineering Services RFP Award	279 - 285
K.	Consider adopting the Complete Streets Policy. Complete Streets Policy	286 - 293
L.	Consider Resolution 2025-407 to accept the Dog Park Master Plan. Dog Park Master Plan Acceptance	294 - 311
M.	Wheatland Plaza PD Amendment	312 - 326

Wheatland Plaza PD Amendment

N. Consider a Resolution to authorize a contract with CentralSquare Technologies for the management of residential and business alarm services. 327 - 344

CentralSquare Technologies

5. ITEMS FOR INDIVIDUAL CONSIDERATION

A. Take any necessary action as a result of the Executive Session.

B. Consider a resolution authorizing approval of incentive grants by the Duncanville Community & Economic Development Corporation (DCEDC) to Succeed Forever Community Transformation in an amount not to exceed $7,950 for exterior signage for The Outlet Thrift Store located at 914 S. Cedar Ridge Drive, Duncanville, Texas 75137 345 - 379

Succeed Forever Community Transformation/ The Outlet Thrift Store - 914 S. Cedar Ridge Dr

C. Consider a Resolution that authorizes the City Manager to execute the Purchase and Sale Agreement (PSA) of 302 N. Main Street, along with the closing documents and any other necessary paperwork, following approval as to form by the City Attorney and establishing an effective date. 380 - 410

302 Main Street

6. STAFF AND BOARD REPORTS

A. Present a report to City Council for the Special Event - 2024 Holiday Lights in the Park and Parade 411 - 412

Special Event After Action Report - 2024 Holiday Lights in the Park and Parade

B. Report on the American Rescue Plan Act (ARPA) Funds and Projects 413 - 418

American Rescue Plan Act (ARPA) Funds

C. Receive a presentation summarizing the Police Department and Neighborhood Services collaboration of a neighborhood sweep in the Candlelight Subdivision. 419 - 420

Candlelight Subdivision

D. Present the Police Department's Quarterly Report. 421 - 438

Police Quarterly Report

ADJOURNMENT

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted in accordance with the regulations of the Texas Open Meetings Act on the bulletin board located outside the entrance to the City of Duncanville City Hall, next to the entryway doors, a place convenient and readily accessible to the general public, as well as to the City's website www.duncanvilletx.gov and said Notice was posted **by** the following date and time: **Thursday, January 16, 2025 , by 6:30 P.M.** and remained posted for at least two hours after said meeting was convened.

Chiquita Taylor, City Secretary

“Guns prohibited on these premises by state law unless licensed under Chapter 411, Tex. Gov. Code. Section 46.035 Texas Penal Code.”

“Las armas de fuego están prohibidas en estas instalaciones por la ley estatal a menos que estén autorizadas bajo el Capítulo 411 del Código de Gobierno de Texas. Sección 46.035 del Código Penal de Texas.”

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Life School Project Update

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

STAFF RESPONSIBLE:
Victor Barrera, Economic Development Director

BACKGROUND/HISTORY:
In recent weeks, staff and their consultants, Walter P. Moore and Olsson, have reviewed the development plans for the proposed Life School. They provided feedback to the applicant based on their assessment of the plans. The staff and the Walter P. Moore team recently met to discuss the comments related to engineering and the traffic study. This collaboration allowed them to revise the plans that adequately address the city's concerns.

In a few days, staff will meet with the Olsson team and the Life School representatives to discuss the zoning analysis and formulate a strategy for proceeding with the zoning application, whether to pursue a Planned Development (PD) or a Specific Use Permit (SUP).

POLICY EXPLANATION:
The staff would like to take this opportunity to update the City Council on the proposed development. Currently, a public hearing before the Planning and Zoning Commission has not been scheduled. As part of the process, public hearing notices must be published prior to the meeting.

FUNDING SOURCE:

ORG and Object Number
NA

Available Budget	Purchase Amount	After Encumber
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
1. Other actions as directed by Council.

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
City Council to receive a briefing on the current Municipal Materials Management Agreement for Solid Waste, Recycling, Bulky Waste and Brush Collection and Transport Services; provide direction to staff to begin the process for renewal or a new contract for September 2026.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**

STAFF RESPONSIBLE:
Matt Bryant, Director of Public Works
David Dunn, Assistant Utilities Superintendent

BACKGROUND/HISTORY:
On July 16, 2019, the City of Duncanville approved a Municipal Materials Management Agreement ("Agreement") with Republic Waste Services of Texas, LTD. to provide for continued garbage, recycling, bulk/brush collection, and disposal services from September 21, 2019, through September 20, 2026. The Agreement will renew for successive five-year periods unless terminated in advance by the City of Duncanville or Republic Services.

The current residential service levels with Republic Services include:

- Trash - Hand collect bags twice a week
- Recycle - Retrieve recycling in18 gallon bins once a week
- Bulk/brush - Collect no more than 10 cubic yards twice a month
- Support to senior citizens and the disabled with trash collection

POLICY EXPLANATION:
City Council action is required to approve the renewal of a Municipal Materials Management Agreement. Although the current contract does not expire until September 20, 2026, it is advantageous to the City and a solid waste provider to approve a contract approximately one year

before the expiration of the current contract. This allows adequate time for a solid waste contractor to acquire new equipment if necessary and allows the City and the selected contractor to plan for a smooth transition if there is a change in contractors and/or service levels.

Staff will provide a summary outlining options and discussion points to begin the process for a new solid waste contract or the renewal of the current agreement. Staff is seeking direction on how to proceed so that the City Council can make a final decision and approve a new solid waste contract in September/October 2025.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	**Purchase Amount**	**After Encumber**
N/A	N/A	N/A

ACTION ALTERNATIVES:
N/A

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
City Council shall convene in Executive Session pursuant to Section 551.072 of the Texas Government Code, to deliberate the sale, exchange, lease, purchase, or value of certain real property located east of Main St., south of I20, west of Cockrell Hill Rd., and north of Wheatland Rd., and pursuant to Section 551.071 of the Texas Government Code, to seek legal advice from the City Attorney regarding the same.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Re-Imagine: High Quality of Life**
  - **Develop, maintain, and encourage safe, attractive, viable family-oriented neighborhoods that embrace diversity and pride, promoting economic vitality.**

STAFF RESPONSIBLE:
Victor Barrera, Economic Development Director

BACKGROUND/HISTORY:
City Council shall convene in Executive Session pursuant to Section 551.072 of the Texas Government Code, to deliberate the sale, exchange, lease, purchase, or value of certain real property located east of Main St., south of I20, west of Cockrell Hill Rd., and north of Wheatland Rd., and pursuant to Section 551.071 of the Texas Government Code, to seek legal advice from the City Attorney regarding the same.

POLICY EXPLANATION:
City Council shall convene in Executive Session pursuant to Section 551.072 of the Texas Government Code, to deliberate the sale, exchange, lease, purchase, or value of certain real property located east of Main St., south of I20, west of Cockrell Hill Rd., and north of Wheatland Rd., and pursuant to Section 551.071 of the Texas Government Code, to seek legal advice from the City Attorney regarding the same.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	**Purchase Amount**	**After Encumber**
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:

1. Take any necessary action as a result of executive session.

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
City Council shall convene into closed executive session pursuant to Section 551.074, of the Texas Government Code, Personnel, to deliberate the duties of the City Manager under the Home Rule Charter and, pursuant to Section 551.071 of the Texas Government Code, to seek legal advice from the City Attorney on the same topic.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

STAFF RESPONSIBLE:
Douglas Finch, City Manager

BACKGROUND/HISTORY:
City Council shall convene into closed executive session pursuant to Section 551.074, of the Texas Government Code, Personnel, to deliberate the duties of the City Manager under the Home Rule Charter and, pursuant to Section 551.071 of the Texas Government Code, to seek legal advice from the City Attorney on the same topic.

POLICY EXPLANATION:
City Council shall convene into closed executive session pursuant to Section 551.074, of the Texas Government Code, Personnel, to deliberate the duties of the City Manager under the Home Rule Charter and, pursuant to Section 551.071 of the Texas Government Code, to seek legal advice from the City Attorney on the same topic.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	Purchase Amount	After Encumber
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
1. Other actions as directed by Council.

Draft

Duncanville Special Called Meeting Minutes
Regular Meeting
Thursday, December 5, 2024

CALL TO ORDER
A special meeting of the Duncanville City Council was called to order on Thursday, December 5, 2024, at 5:05 p.m. in the Council Briefing Room at City Hall with a quorum to wit:

COUNCIL PRESENT:
Councilmember At-Large DeMonica Gooden
Councilmember Joe Veracruz
Councilmember Don McBurnett
Mayor Pro Tem Jeremy Koontz
Councilmember Karen Cherry-Brown
Mayor Greg Contreras
Councilmember Kyle Pennebaker

COUNCIL ARRIVING AT:

COUNCIL ABSENT:

1. RECEIVE PUBLIC COMMENTS

No public comments

2. CONDUCT INTERVIEWS AND DISCUSS APPOINTMENTS FOR THE BOARD AND COMMISSION APPLICANTS FOR THE FOLLOWING BOARD AND COMMISSIONS:

- Zoning Board of Adjustment
- City Planning & Zoning Commission
- Duncanville Community and Economic Development Corporation Board (DCEDC)
- Duncanville Neighborhood Vitality Commission
- Library Advisory Board
- Multicultural Commission
- Sign Control Board

Interviews held

3. DISCUSS APPOINTMENTS, DISMISSALS, DUTIES AND/OR ELIMINATION OF POSSIBLE BOARDS

Open Discussion and appointments made

4. EXECUTIVE SESSION

The regular session was recessed, and the Executive Session was called into session at 7:40 p.m. Mayor Contreras read the item into the record.

The Council closed the executive session at 8:03 p.m. and reconvened into the regular session.

The City Council shall convene into Executive Session pursuant to the Texas Government Code Section 551.074 (Personnel) to discuss appointments, dismissals and/or duties to the Planning and Zoning Commission, Board of Adjustment, Duncanville Community and Economic Development Corporation Board, and TIF (Tax Increment Financing Reinvestment Zone Number One).

5. Take any necessary or appropriate action on closed/executive session matters

No action taken

Draft

ADJOURNMENT

The meeting was adjourned at 8:04 p.m.

ATTEST:

_____

CITY SECRETARY

Draft

Duncanville Special Called Meeting Minutes
Regular Meeting
Tuesday, December 17, 2024

CALL TO ORDER
A special meeting of the Duncanville City Council was called to order on Tuesday, December 17, 2024, at 5:13 p.m. in the Council Briefing Room at City Hall with a quorum to wit:

COUNCIL PRESENT:
Councilmember At-Large DeMonica Gooden
Councilmember Joe Veracruz
Councilmember Don McBurnett
Mayor Pro Tem Jeremy Koontz
Councilmember Karen Cherry-Brown
Mayor Greg Contreras
Councilmember Kyle Pennebaker

COUNCIL ARRIVING AT:

COUNCIL ABSENT:

1. RECEIVE PUBLIC COMMENTS

No public comments

2. CONDUCT INTERVIEWS AND DISCUSS APPOINTMENTS FOR THE BOARD AND COMMISSION APPLICANTS FOR THE FOLLOWING BOARD AND COMMISSIONS:

- Zoning Board of Adjustment
- City Planning & Zoning Commission
- Duncanville Community and Economic Development Corporation Board (DCEDC)
- Duncanville Neighborhood Vitality Commission
- Library Advisory Board
- Multicultural Commission
- Sign Control Board

Interviews held

3. DISCUSS APPOINTMENTS, DISMISSALS, DUTIES AND/OR ELIMINATION OF POSSIBLE BOARDS

Open Discussion and appointments made

4. EXECUTIVE SESSION

The regular session was recessed, and the Executive Session was called into session at 5:45 p.m. Mayor Contreras read the item into the record.

The Council closed the executive session at 6:00 p.m. and reconvened into the regular session.

The City Council shall convene into Executive Session pursuant to the Texas Government Code Section 551.074 (Personnel) to discuss appointments, dismissals and/or duties to the Planning and Zoning Commission, Board of Adjustment, Duncanville Community and Economic Development Corporation Board, and TIF (Tax Increment Financing Reinvestment Zone Number One).

5. Take any necessary or appropriate action on closed/executive session matters

No action taken

Draft

ADJOURNMENT

The meeting was adjourned at 6:01 p.m.

ATTEST:

_____

CITY SECRETARY

Draft

Duncanville City Council Meeting Minutes
Regular Meeting
Tuesday, December 17, 2024

CALL TO ORDER

A regular meeting of the Duncanville City Council was called to order on Tuesday, December 17, 2024, at 6:02 p.m. in the Council Briefing Room at City Hall with a quorum to wit:

COUNCIL PRESENT:

Councilmember At-Large DeMonica Gooden
Councilmember Joe Veracruz
Councilmember Don McBurnett
Mayor Pro Tem Jeremy Koontz
Councilmember Karen Cherry-Brown
Mayor Greg Contreras
Councilmember Kyle Pennebaker

COUNCIL ARRIVING AT:

COUNCIL ABSENT:

WORK SESSION / BRIEFING

1. DISCUSS AGENDA ITEMS

Mayor Contreras read the item into the record, and City Manager Finch reviewed each item.

2. CITY COUNCIL CALENDAR

3. BRIEFINGS / PRESENTATIONS

The Briefing Session was adjourned at 7:12 p.m.

In the interest of time, the executive session was moved to after the regular session items.

A. ***Provide an update on City's Continuity of Operations Plan (COOP) creation.***
Presented by Emergency Management Operations Coordinator Lauren Sanchez. City Manager Finch informed the council that training on emergency management with staff was done last week. There is a plan to have training with the council in early 2025.

B. ***Council to receive a briefing from the City Attorney on requirements for amending the City's Charter.***
Presented by City Attorney Robert Hager.

C. ***City Council to receive a briefing on the status of the AMI (Automated Metering Infrastructure) systems.***
Presented by Public Works Director Matt Bryant.

D. ***Receive a presentation from the Regional CARE Team on Homelessness.***
Police Chief Matt Stogner introduced DeSoto Police Lieutenant Melissa Franks and Officer Ambrosio Hernandez with the Regional Care Team who presented this item.

E. ***Receive and discuss the draft Dog Park Master Plan.***
Presented by Director of Parks and Recreation Bart Stevenson and Consultant Kimley Horn.

EXECUTIVE SESSION

The Executive Session was called into session at 8:44 p.m. and Mayor Contreras read the item into the record.

The Council closed the Executive Session at 9:28 p.m.

Draft

1. ***City Council shall convene in Executive Session pursuant to Section 551.072 of the Texas Government Code, to deliberate the sale, exchange, lease, purchase, or value of certain real property located east of Cedar Ridge Dr., south of Ranchero Ln., west of Cockrell Hill Rd., and north of Wheatland Rd., and pursuant to Section 551.071 of the Texas Government Code, to seek legal advice from the City Attorney regarding the same.***

REGULAR SESSION - CONVENE INTO THE COUNCIL CHAMBERS (7:00 P.M. or immediately following the 6:00 pm Work Session/Briefing)

The City Council convened into Regular Session in the Council Chambers at 7:17 p.m. with Mayor Contreras presiding.

Councilmember Veracruz delivered the Invocation.

Mayor Contreras led the Pledge of Allegiance and Texas Pledge.

1. REPORTS

A. ***Mayor's Report.***

Mayor Contreras commented on the success of the Christmas parade. He then wished everyone a Merry Christmas.

B. ***Councilmembers' Reports***

CM McBurnett commented on the various events taking place in the city including the Christmas parade and drone show, the Lions Club "build a bed" program, Cookies with Santa at the recreation center, the McMillian Institute, and the Sandra Meadows Classic basketball tournament. Mayor Pro Tem Koontz updated citizens on the North Central Texas Housing Finance Corporation meeting on affordable housing in the region including housing opportunities for first-time home buyers and first responders. He also encouraged citizens to view the lights in Armstrong Park and the trees at the Ladd preserve. Councilmember Gooden thanked staff for supporting the city council. She stated the Art survey regarding the Cultural District is available and requested citizen participation. Councilmember Pennebaker requested to do his report after the staff and board reports.

Mayor Pro Tem Jeremy Koontz made a motion to approve as requested, Councilmember Don McBurnett seconded the motion. The vote was cast 7 for, 0 against.

Councilmember Pennebaker along with the Mayor and other Councilmembers read the Christmas document - "Twas the Night before Christmas" and wished everyone a Merry Christmas and Happy New Year!

C. ***City Manager's Report.***

Mr. Finch thanked the city staff, the mayor, and the Council for the successes and challenges in 2024.

2. PROCLAMATIONS AND PRESENTATIONS

A. ***Briefing on Wheatland Plaza after winning the Greater Dallas Planning Council Trinity Urban Design Award***

Presented by Economic Development Director Victor Barrera and Monte Anderson the developer for Wheatland Plaza.

3. CITIZENS' INPUT

"Pursuant to Section 551.007 of the Texas Gov't Code, any member of the public has the opportunity to address the City Council concerning any matter of public business or any posted agenda item; however, the Act prohibits the City Council from deliberating any issues not on the public agenda and such non-agenda issues may be referred to City staff for research and any future action; all persons addressing are subject to council adopted rules and limitations permitted by law"

At this time, two-minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the City Secretary prior to the beginning of the Citizens' Input portion of the Council

Draft

meeting. In accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decisions at this time. Issues may be referred to City Staff for research and possible future action.

To view the live meeting or previous meetings click on the link below.
https://duncanvilletx.new.swagit.com/views/454/

To submit a comment via email the following information is required:

- Submit a comment by 4:00 p.m. on _
- Email citysecretary@duncanvilletx.gov
- Email title: Public Comment – _
- First Name, Last Name, and Address

Mayor Contreras read the item into the record. The following spoke during the Citizens Input Period:

Edna Rodriguez
615 Crestview Drive
Construction Noise

Lori Wilson
611 Crestside Dr.
Problems on Crestside Dr.

Erika Browning
442 E. Cherry St.
Animal ordinance

Susan Davis
119 Forest Court
Animal ordinance

Mac Browning
442 E. Cherry St.
Animal Ordinance

Jeremy Davis
119 Forest Court
Animal ordinance

Emily Bridges
418 Oleander
Animal Ordinance

Teresa Montgomery
519 Allen Ave.
Wheatland Plaza

Ti Phang Lui
434 Blue Ridge Dr.
Transparency

Jennifer Watkins
327 Merribrook Trail
email / Animal ordinance

Tyler and Brandy Burkey
1007 Briar Hill Circle
email / Animal ordinance

4. CONSENT AGENDA

Draft

A. ***Consider the Minutes for the November 19, 2024 and December 3, 2024 City Council Regular Meetings.***

B. ***Consider a Resolution authorizing the execution of a Title III Federal Service Agreement with the Dallas Area Agency on Aging for the time period of October 1, 2024 through September 30, 2025.***

RES 2024-366

C. ***Consider a Resolution awarding bids and authorizing cooperative purchasing agreements with Advance Auto Parts and AutoZone Parts, Inc. for automotive parts and supplies through Prince William County Public Schools Contract R-LD-23013-01 and Region 4 Education Service Center Contract R211201, respectively, via OMNIA Partners for a one-year term, with the option to renew for up to four additional one-year terms, in an amount not to exceed $469,681.00 over the five years, subject to the exercise of contract renewals and City Council appropriation.***

RES 2024-384

D. ***Consider a Resolution awarding bids and authorizing cooperative purchasing agreements with NAPA Auto Parts and O'Reilly Auto Parts for automotive parts and supplies through Sourcewell Contracts 032521-GPC and 032521-ORA, respectively, for a one-year term, with the option to renew for up to four additional one-year terms, in an amount not to exceed $469,681.00 over the five years, subject to the exercise of contract renewals and City Council appropriation.***

RES 2024-385

E. ***Consider an Ordinance amending the FY 2024-2025 budget by appropriating fund balance resources in the one-time project fund and amending expenditures.***

ORD 2533

Councilmember Don McBurnett made a motion to approve the consent agenda as stated, Mayor Pro Tem Jeremy Koontz seconded the motion. The vote was cast 7 for, 0 against.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

A. ***Take any necessary action as a result of the Executive Session.***
No action taken.

B. ***Adopt revised Chapter Four—Animals and Fowl City Ordinance to comply with state legislation changes and best practices, Council discussion on the proposed changes, and direction if needed.***
Presented by Assistant Police Chief Ron Wilcots, Police Chief Stogner, and Animal Control Officer Chad Chamberlain. Councilmember Gooden stated she understands the need for the fowl ordinance due to approximately 799 calls received over the past year. She then asked why roosters are prohibited. Officer Wilcots responded that roosters are loud and can be aggressive. Also, they are not necessary. Councilmember Gooden then stated other surrounding cities are allowing roosters and asked if there is a grace period for those who own chickens or roosters due to the cost of the fees for fencing, nesting boxes, and hens. Officer Wilcots stated that this could be considered. Mayor Pro Tem Koontz asked about fines for violations as it states up to $500. Mr. Finch stated that normally fines are imposed through the court system, and they may vary depending on the situation. Mayor Pro Tem Koontz then stated this ordinance was brought due to dogs at large and wants the focus to be on dogs and irresponsible pet owners. He then asked if anything in the ordinance is related to dogs. Mayor Contreras stated there are sections related to dogs or animals at large.

Councilmember Kyle Pennebaker made a motion to table this item pending a workshop, Councilmember Joe Veracruz seconded the motion. The vote was cast 7 for, 0 against.

Draft

TABLED

6. STAFF AND BOARD REPORTS

A. ***Monthly Financial Report as of October 31, 2024***
Presented by Budget Administrator Jennifer Otey.

Mayor Contreras recessed the regular session at 8:39 pm.

Mayor Contreras reconvened the regular session at 9:28 pm.

ADJOURNMENT

The meeting was adjourned at 9:29 p.m.

ATTEST:

_____
CITY SECRETARY

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider an Ordinance providing for the appointment and contracts for a Presiding Municipal Court Judge and Associate Municipal Court Judges for the Municipal Court of Duncanville; authorizing the Mayor to execute said contracts; and authorizing funding from the General Fund for said contracts.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**

STAFF RESPONSIBLE:
Richard Jackson, Managing Director of Fiscal Services/CFO
Vicky De Los Santos, Court Administrator

BACKGROUND/HISTORY:
Section 7-2 of the Code of Ordinances of the City of Duncanville, Texas provides for the appointment of Presiding and Associate Municipal Court Judges. Municipal Court Judges serve at the pleasure of the Council. Associate Municipal Court Judges are subject to the same qualifications as the Presiding Municipal Judge. Title 2, Subtitle A., Chapter 30, Subchapter A, Sec. 30.00006 of the Texas Government Code stipulates that:

(a) A municipal court of record is presided over by one or more municipal judges.
(b) The governing body shall by ordinance appoint its municipal judges.
(c) A municipal judge must:
  (1) be a resident of this state;
  (2) be a citizen of the United States;
  (3) be a licensed attorney in good standing; and
  (4) have two or more years of experience in the practice of law in this state.

Municipal Judges may grant writs of mandamus and other writs necessary to the enforcement of the jurisdiction of the court. Municipal Judges may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court and a municipal judge is a magistrate. Municipal Judges may also issue administrative search warrants. Each appointment is for a term of two years

which will run from February 1, 2025 thru January 31, 2027. Total expenditures are estimated to be $65,000 annually over the life of the contract.

POLICY EXPLANATION:
The City Council is responsible for the selection and appointment of the municipal court judges, including selection of a presiding judge and associate judges.

FUNDING SOURCE:

ORG and Object Number
01022300-700444

Available Budget	Purchase Amount	After Encumber
$123,000	$67,000	$56,000

ACTION ALTERNATIVES:
1. Approve the Ordinance providing for the appointment and contract for a Municipal Court Judge and Associate Municipal Court Judges and approve funding associated with said contracts.
2. Do not approve the Ordinance providing for the appointment and contract for a Municipal Court Judge and Associate Municipal Court Judges and do not approve funding associated with said contracts.
3. Other actions as directed by Council.

ATTACHMENTS:
John Rizo Bio Dec 2024_Redacted
Kathleen Austin 2024_Redacted
Anthony Eiland 2025_Redacted
Ordinance No. - 2534 - Appointments and Contracts - Municipal Court Judges - Pdf

JOHN B. RIZO, SR.
Rizo & Associates, PLLC
[redacted]
Dallas, Texas 75223

[redacted]

Tel:
Fax: [redacted]

BIOGRAPHY

John Rizo is a 1984 graduate of the Harvard Law School. He has 40 years of experience in the practice of law. He has served as an Assistant District Attorney for Dallas County, in-house counsel for a major corporation, J. C. Penney, has worked in various civil law firms, and has owned his own law firm for the last 20 years. He is of Hispanic origin and is bilingual (Spanish/English). He currently serves as Presiding Judge for the Municipal Court of the City of Duncanville, Texas.

Mr. Rizo has tried numerous cases before judges or juries in state and federal courts in Texas and across the country. He has experience in handling various types of matters, including accident, injury, civil, criminal prosecution, criminal defense, family, adoption, divorce, child custody, child support, CPS, business, immigration, intellectual property, ERISA, and appellate.

Mr. Rizo is admitted to practice before all courts of the State of Texas, the United States District Courts for the Northern, Eastern, Southern, and Western Districts of Texas, and the United States Courts of Appeals for the Second, Third, and Fifth Circuits.

He is a member of the Texas Bar.

KATHY A. AUSTIN

[redacted] ❖ DUNCANVILLE, TEXAS ❖ 75137-2826 ❖ [redacted] ❖ [redacted]

OBJECTIVE

TO HAVE A CHALLENGING EXPERIENCE IN A PROGRESSIVE CITY WHICH WILL UTILIZE MY EXPERIENCES OF THE PAST THIRTY YEARS.

EMPLOYMENT

RESPONSIBLE FOR MAGISTRATE DUTIES, HEARING TRIALS, REVIEWING AND SIGNING SEARCH WARRANTS, CAPIAS WARRANTS AND JUDGMENTS IN THE FOLLOWING CITIES

ASSOCIATE JUDGE — YEARS EMPLOYED (2015 - 2024)
DUNCANVILLE MUNICIPAL COURT — DUNCANVILLE, TEXAS

ASSOCIATE JUDGE — YEARS EMPLOYED (2012 - 2020)
DESOTO MUNICIPAL COURT — DESOTO, TEXAS

ASSOCIATE JUDGE — YEARS EMPLOYED (1995 - 2020)
RED OAK MUNICIPAL COURT — RED OAK, TEXAS

ASSOCIATE JUDGE — YEARS EMPLOYED (2015 - 2020)
FERRIS MUNICIPAL COURT — FERRIS, TEXAS

PRESIDING JUDGE — YEARS EMPLOYED (1992 - 2015)
GLENN HEIGHTS MUNICIPAL COURT — GLENN HEIGHTS, TEXAS

EDUCATION

SOUTHERN METHODIST UNIVERSITY — YEARS ATTENDED (1992- 1995)
6425 BOAZ LANE
DALLAS, TEXAS 75205

DOCTOR OF JURISPRUDENCE / JURIS DOCTOR (J.D.)

SOUTHERN METHODIST UNIVERSITY — YEARS ATTENDED (1989- 1991)
6425 BOAZ LANE
DALLAS, TEXAS 75205

BACHELOR OF ARTS - PSYCHOLOGY

- I AM CURRENT ON ALL JUDICIAL REQUIREMENTS FOR CLE

Anthony P. Eiland
[redacted]
Mesquite, Texas 75150
[redacted]

EDUCATION

George Washington University School of Law, Washington, DC
- **LLM, Litigation and Dispute Resolution** May 2007

Southern University Law Center, Baton Rouge, LA
- **JURIS DOCTOR** May 2006
- Rank: Top 1/3 of Class

University of Louisiana at Monroe
- **B.A. in Legal Studies/Pre-Law** May 2002
- Member of President's and Dean's List

PROFESSIONAL EXPERIENCE

Licensed Texas Attorney November 2006

Duncanville Municipal Court January 2019-Present
Associate Judge
Presiding Judge, John Rizo
- Presides over jury trials, bench trials, attorney dockets and city ordinance violations
- Signs off on both felony and misdemeanor arrest warrants
- Magistrates individuals arrested by Duncanville Police

Allstate Insurance Company/Susan L. Florence and Associates January 2019-January 2020
Senior Trial Attorney
Saul Friedman, Supervising Attorney
- Defended car accident cases on behalf of Allstate Insurance
- Engaged in depositions, mediations, motion hearings
- Lead attorney on several jury trials to verdict
- Prepared motions, reviews discovery, prepares clients for depositions and trial

Redmond & Eiland, PLLC February 2013-Present
Managing Partner/Co-Founder (469) 301-2400
- Provides criminal defense to clients in both Federal and State Court
- Member of CJA Panel for Federal Northern District of Texas
- Member of Dallas and Navarro County Felony and Misdemeanor Court Appointment Wheel
- Appointed lead special prosecutor on high profile Dallas cases from 2015-2018

Dallas County District Attorney's Office October 2007-February 2013
Assistant District Attorney, Child Abuse Division and Felony Trial Section
Supervisor: Felony Trial Bureau Chief, Kevin Brooks: (214) 653-3600
- Prosecuted felony criminal offenses
- Lead trial prosecutor on over 40 trials including, murder, robbery, assault, and burglary
- Interviewed witnesses, investigated crime scenes, prepared and argued motions, provided discovery, and prepared witnesses for trial
- Responsible for prosecution of murders, assaults, robberies, child abuse and most other 1st, 2nd, and 3rd degree felonies

Wichita County Public Defender's Office July 2007-October 2007
Assistant Public Defender
Supervisor: Anthony Odiorne, Public Defender
- Represented individuals charged with criminal offenses

Federal Communications Commission January 2007-May 2007
Enforcement Division Intern
Supervisor: Special Counsel, David Janas: (202) 418-2913
- Conducted research regarding complex media issues
- Prepared briefs and memoranda

ORDINANCE NO. 2534

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, PROVIDING FOR THE APPOINTMENT AND CONTRACTS FOR JOHN B. RIZO SR., PRESIDING MUNICIPAL COURT JUDGE, KATHY A. AUSTIN, ASSOCIATE MUNICIPAL COURT JUDGE, AND ANTHONY P. EILAND, ASSOCIATE MUNICIPAL COURT JUDGE; AUTHORIZING THE MAYOR TO EXECUTE SAID CONTRACTS; AUTHORIZING THE EXPENDIITURE FROM THE GENERAL FUND FOR SAID CONTRACTS; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 7-2 of the Code of Ordinances of the City of Duncanville, Texas provides for the appointment of Municipal Court Judges, who shall serve at the pleasure of the Council for a period of two (2) years; and

WHEREAS, John B. Rizo, Kathy A. Austin, and Anthony P. Eiland presently serve as a Municipal Court Judges; and

WHEREAS, the Council finds that it is necessary to appoint a Presiding Municipal Court Judge and two Associate Municipal Judges for a 2 year term; and

WHEREAS, the City Council finds it to be in the public interest to appoint John B. Rizo Sr., Presiding Municipal Court Judge, Kathy A. Austin, as an Associate Municipal Court Judge, and Anthony P. Eiland, as an Associate Municipal Court Judge for the Duncanville Municipal Court of Record and authorize the Mayor to enter into an agreement with John B. Rizo Sr., Kathy A. Austin and Anthony P. Eiland, regarding the terms and conditions of said appointment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. John B. Rizo Sr., Presiding Municipal Court Judge; Kathy A. Austin, Associate Municipal Court Judge; and Anthony P. Eiland, Associate Municipal Court Judge, are hereby appointed to serve a two (2) year term for the Municipal Court of Record in the City of Duncanville, Texas commencing on February 1, 2025 and expiring on January 31, 2027.

SECTION 2. The Mayor is hereby authorized to execute agreements with John B. Rizo Sr., Kathy A. Austin, and Anthony P. Eiland, setting forth the terms and conditions of said appointment as provided in the attached .

SECTION 3. The expenditures associated with said contracts are hereby authorized from the General Fund for the compensation of the Municipal Court Judges.

SECTION 4. This Ordinance shall take effect immediately from and after its passage and publication.

DULY ORDAINED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

THE STATE OF TEXAS §
§ **PRESIDING MUNICIPAL JUDGE**
COUNTY OF DALLAS §

This agreement is made by and between the City of Duncanville (herein called "City"), a home rule municipal corporation located in Dallas County, Texas, and John B. Rizo (herein called "Presiding Municipal Judge").

W I T N E S S E T H :

1. The City, acting by and through its city council, exercising its discretion pursuant to the City Charter, Code of Ordinances and the laws of State of Texas hereby appoints John B. Rizo as the Presiding Municipal Judge of the Duncanville Municipal Court of Record and agrees to compensate the Presiding Municipal Judge for his services as hereinafter set forth.

2. The Presiding Municipal Judge agrees to perform the services of Presiding Municipal Judge of the Duncanville Municipal Court of Record and to maintain eligibility and the appropriate licenses as may be required by law to serve in such capacity for a term of two (2) years commencing the 1st day of February, 2025 and concluding on the 31st day of January, 2027, unless sooner terminated in accordance with the Texas Law and this Contract.

3. Compensation shall be at a rate of one hundred forty dollars ($140.00) per hour, portal to portal, which would include presiding over municipal court proceedings under Texas law and the City Home Rule Charter for and on behalf of the Duncanville Municipal Court as its Presiding Municipal Judge and to conduct such services as may be required from time-to-time, including but not limited to, arraignments, issuance of search, arrests, and/or capias warrants, and such administrative duties and responsibilities as are necessary and incidental to the office of the Presiding Municipal Judge of the Municipal Court of the City of Duncanville.

4. The Presiding Municipal Judge shall provide time and billing records to the City to reflect the time dedicated to the services for and on behalf of the Municipal Court.

5. The Presiding Municipal Judge is not and shall not be deemed an employee of the City for any purpose and agrees that he serves solely as an independent contractor.

6. The Presiding Municipal Judge further acknowledges and agrees that he shall undertake to exercise his discretion as Judge free from improper influences and shall act as he deems appropriate under his independent judgment as the Presiding Judge of the Municipal Court.

7. The Presiding Municipal Judge shall perform all services in accordance with the Code of Judicial Conduct applicable to judges of courts in the State of Texas and agrees to conduct himself in a judicial demeanor at all times in representing the City.

8. The Presiding Municipal Judge is not precluded from performing such legal services in maintaining his private practice of law and nothing construed herein shall preclude his from maintaining his private legal practice, other municipal court judicial appointments or other

matters permitted in accordance with judicial ethics and disciplinary regulations of the Texas State Bar.

9. The Presiding Municipal Judge hereby agrees not to knowingly undertake or involve himself in any matter that would compromise or conflict with his duties and responsibilities as the Municipal Court Judge or otherwise knowingly undertake to represent a client on a legal matter against the City.

10. The Parties to this agreement hereby acknowledge that the Presiding Municipal Judge can be removed for cause in accordance with State Law as provided for in such cases.

11. City agrees, with regard to the services provided herein, to indemnify and hold harmless the Presiding Municipal Judge for any act, claim or liability for negligence or gross negligence acting on behalf of the City and shall maintain adequate insurance or liability coverage to effectuate this provision.

12. This Contract consists of this document, upon which the parties have affixed their signatures, and those documents specifically incorporated herein by reference. This Contract as so constituted is the entire agreement between the parties, with respect to the subject matter hereof, and supersedes all other previous statement, communications, or agreements, whether oral or written. No modification, alteration, or waiver of any provision hereof shall be binding upon the parties unless evidenced in writing and signed by both parties.

13. The City or the Presiding Municipal Judge may terminate this contract in accordance with state law. If the contract is terminated as provided herein, the Presiding Municipal Judge's fee would be paid for hours worked, which have not already been compensated, performing the services of the City covered by this contract.

14. That the City shall reimburse the Presiding Municipal Judge’s tuition and travel expenses, which shall include lodging and meals, for mandatory judicial continuing education.

15. Both the Presiding Municipal Judge and the City represent that they have full capacity and authority to grant all rights and assume all obligations that they have granted and assumed under this Contract.

16. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties, shall be governed by the law of the State of Texas and any venue for any action concerning this Contract shall be in Dallas County, Texas.

17. In the event one or more of the provisions contained in the Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Contract shall be constructed as if such invalid, illegal, or unenforceable provision had never been contained in it.

THIS AGREEMENT IS MADE, ENTERED INTO AND EXECUTED on this 22nd day of January, 2025.

PRESIDING MUNICIPAL JUDGE

BY: _____
John B. Rizo

CITY OF DUNCANVILLE, TEXAS

BY: _____
Greg Contreras, Mayor

ATTEST:

_____
Chiquita Taylor, City Secretary

THE STATE OF TEXAS §
§ **ASSOCIATE MUNICIPAL JUDGE**
COUNTY OF DALLAS §

This agreement is made by and between the City of Duncanville (herein called "City"), a home rule Municipal Corporation located in Dallas County, Texas, and Kathy A. Austin (herein called "Associate Municipal Judge").

W I T N E S S E T H :

1. The City, acting by and through its city council, exercising its discretion pursuant to the City Charter, Code of Ordinances and the laws of State of Texas hereby appoints Kathy A. Austin as the Associate Municipal Judge of the Duncanville Municipal Court of Record and agrees to compensate the Associate Municipal Judge for her services as hereinafter set forth.

2. The Associate Municipal Judge agrees to perform the services of Associate Municipal Judge of the Duncanville Municipal Court of Record and to maintain eligibility and the appropriate licenses as may be required by law to serve in such capacity for a term of two (2) years commencing the 1st day of February, 2025 and concluding on the 31st day of January, 2027, unless sooner terminated in accordance with the Texas Law and this Contract.

3. Compensation shall be at a rate of one hundred twenty-five dollars ($ 125.00) per hour, portal to portal, which would include presiding over municipal court proceedings under Texas law and the City Home Rule Charter for and on behalf of the Duncanville Municipal Court as its Associate Municipal Judge and to conduct such services as may be required from time-to-time, including but not limited to, arraignments, issuance of search arrests and/or capias warrants, and such administrative duties and responsibilities as are necessary and incidental to the office of the Associate Municipal Judge of the Municipal Court of the City of Duncanville.

4. The Associate Municipal Judge shall provide time and billing records to the City to reflect the time dedicated to the services for and on behalf of the Municipal Court.

5. The Associate Municipal Judge is not and shall not be deemed an employee of the City for any purpose and agrees that she serves solely as an independent contractor.

6. The Associate Municipal Judge further acknowledges and agrees that she shall undertake to exercise her discretion as Judge free from improper influences and shall act as she deems appropriate under her independent judgment as the Associate Judge of the Municipal Court.

7. The Associate Municipal Judge shall perform all services in accordance with the Code of Judicial Conduct applicable to judges of courts in the State of Texas and agrees to conduct herself in a judicial demeanor at all times in representing the City.

8. The Associate Municipal Judge is not precluded from performing such legal services in maintaining her private practice of law and nothing construed herein shall preclude her from maintaining her private legal practice, other municipal court judicial appointments or other

matters permitted in accordance with judicial ethics and disciplinary regulations of the Texas State Bar.

9. The Associate Municipal Judge hereby agrees not to knowingly undertake or involve herself in any matter that would compromise or conflict with her duties and responsibilities as the Municipal Court Judge or otherwise knowingly undertake to represent a client on a legal matter against the City.

10. The Parties to this agreement hereby acknowledge that the Associate Municipal Judge can be removed for cause in accordance with State Law as provided for in such cases.

11. City agrees, with regard to the services provided herein, to indemnify and hold harmless the Associate Municipal Judge for any act, claim or liability for negligence or gross negligence acting on behalf of the City and shall maintain adequate insurance or liability coverage to effectuate this provision.

12. This Contract consists of this document, upon which the parties have affixed their signatures, and those documents specifically incorporated herein by reference. This Contract as so constituted is the entire agreement between the parties, with respect to the subject matter hereof, and supersedes all other previous statement, communications, or agreements, whether oral or written. No modification, alteration, or waiver of any provision hereof shall be binding upon the parties unless evidenced in writing and signed by both parties.

13. The City or the Associate Municipal Judge may terminate this contract in accordance with state law. If the contract is terminated as provided herein, the Associate Municipal Judge's fee would be paid for hours worked, which have not already been compensated, performing the services of the City covered by this contract.

14. That the City shall reimburse the Associate Municipal Judge’s tuition and travel expenses, which shall include lodging and meals, for mandatory judicial continuing education.

15. Both the Associate Municipal Judge and the City represent that they have full capacity and authority to grant all rights and assume all obligations that they have granted and assumed under this Contract.

16. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties, shall be governed by the law of the State of Texas and any venue for any action concerning this Contract shall be in Dallas County, Texas.

17. In the event one or more of the provisions contained in the Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Contract shall be constructed as if such invalid, illegal, or unenforceable provision had never been contained in it.

THIS AGREEMENT IS MADE, ENTERED INTO AND EXECUTED on this 22nd day of January, 2025.

ASSOCIATE MUNICIPAL JUDGE

BY: _____
Kathy A. Austin

CITY OF DUNCANVILLE, TEXAS

BY: _____
Greg Contreras, Mayor

ATTEST:

_____
Chiquita Taylor, City Secretary

THE STATE OF TEXAS §
§ **ASSOCIATE MUNICIPAL JUDGE**
COUNTY OF DALLAS §

This agreement is made by and between the City of Duncanville (herein called "City"), a home rule Municipal Corporation located in Dallas County, Texas, and Anthony P. Eiland (herein called "Associate Municipal Judge").

W I T N E S S E T H :

1. The City, acting by and through its city council, exercising its discretion pursuant to the City Charter, Code of Ordinances and the laws of State of Texas hereby appoints Anthony P. Eiland as the Associate Municipal Judge of the Duncanville Municipal Court of Record and agrees to compensate the Associate Municipal Judge for her services as hereinafter set forth.

2. The Associate Municipal Judge agrees to perform the services of Associate Municipal Judge of the Duncanville Municipal Court of Record and to maintain eligibility and the appropriate licenses as may be required by law to serve in such capacity for a term of two (2) years commencing the 1st day of February, 2025 and concluding on the 31st day of January, 2027, unless sooner terminated in accordance with the Texas Law and this Contract.

3. Compensation shall be at a rate of one hundred twenty-five dollars ($ 125.00) per hour, portal to portal, which would include presiding over municipal court proceedings under Texas law and the City Home Rule Charter for and on behalf of the Duncanville Municipal Court as its Associate Municipal Judge and to conduct such services as may be required from time-to-time, including but not limited to, arraignments, issuance of search arrests and/or capias warrants, and such administrative duties and responsibilities as are necessary and incidental to the office of the Associate Municipal Judge of the Municipal Court of the City of Duncanville.

4. The Associate Municipal Judge shall provide time and billing records to the City to reflect the time dedicated to the services for and on behalf of the Municipal Court.

5. The Associate Municipal Judge is not and shall not be deemed an employee of the City for any purpose and agrees that she serves solely as an independent contractor.

6. The Associate Municipal Judge further acknowledges and agrees that she shall undertake to exercise her discretion as Judge free from improper influences and shall act as she deems appropriate under her independent judgment as the Associate Judge of the Municipal Court.

7. The Associate Municipal Judge shall perform all services in accordance with the Code of Judicial Conduct applicable to judges of courts in the State of Texas and agrees to conduct herself in a judicial demeanor at all times in representing the City.

8. The Associate Municipal Judge is not precluded from performing such legal services in maintaining her private practice of law and nothing construed herein shall preclude her from maintaining her private legal practice, other municipal court judicial appointments or other

matters permitted in accordance with judicial ethics and disciplinary regulations of the Texas State Bar.

9. The Associate Municipal Judge hereby agrees not to knowingly undertake or involve herself in any matter that would compromise or conflict with her duties and responsibilities as the Municipal Court Judge or otherwise knowingly undertake to represent a client on a legal matter against the City.

10. The Parties to this agreement hereby acknowledge that the Associate Municipal Judge can be removed for cause in accordance with State Law as provided for in such cases.

11. City agrees, with regard to the services provided herein, to indemnify and hold harmless the Associate Municipal Judge for any act, claim or liability for negligence or gross negligence acting on behalf of the City and shall maintain adequate insurance or liability coverage to effectuate this provision.

12. This Contract consists of this document, upon which the parties have affixed their signatures, and those documents specifically incorporated herein by reference. This Contract as so constituted is the entire agreement between the parties, with respect to the subject matter hereof, and supersedes all other previous statement, communications, or agreements, whether oral or written. No modification, alteration, or waiver of any provision hereof shall be binding upon the parties unless evidenced in writing and signed by both parties.

13. The City or the Associate Municipal Judge may terminate this contract in accordance with state law. If the contract is terminated as provided herein, the Associate Municipal Judge's fee would be paid for hours worked, which have not already been compensated, performing the services of the City covered by this contract.

14. That the City shall reimburse the Associate Municipal Judge’s tuition and travel expenses, which shall include lodging and meals, for mandatory judicial continuing education.

15. Both the Associate Municipal Judge and the City represent that they have full capacity and authority to grant all rights and assume all obligations that they have granted and assumed under this Contract.

16. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties, shall be governed by the law of the State of Texas and any venue for any action concerning this Contract shall be in Dallas County, Texas.

17. In the event one or more of the provisions contained in the Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Contract shall be constructed as if such invalid, illegal, or unenforceable provision had never been contained in it.

THIS AGREEMENT IS MADE, ENTERED INTO AND EXECUTED on this 22nd day of January, 2025.

ASSOCIATE MUNICIPAL JUDGE

BY: _____
Anthony P. Eiland

CITY OF DUNCANVILLE, TEXAS

BY: _____
Greg Contreras, Mayor

ATTEST:

_____
Chiquita Taylor, City Secretary

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a Resolution confirming the City Manager's appointment of Christopher Shaw (serve 1 year term) and Steven Flanagan (serve 3 year term) as members of the City of Duncanville Civil Service Commission.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**

STAFF RESPONSIBLE:
Douglas Finch, City Manager
Ashley Jacobs, Human Resources and Civil Service Director

BACKGROUND/HISTORY:
The City of Duncanville Civil Service Commission consists of three members appointed by the municipality's chief executive officer, and confirmed by the governing body of the municipality. The Commission's duties are established in Texas Statutes, Local Government Code Chapter 143. The primary responsibility of the Commission is to serve as an appeal board for fire and police employees who request the Commission to act as an impartial third party to review or investigate an action over which they have authority. Oftentimes, this concerns disciplinary actions. Per Section 143.006, the Commission members serve staggered three-year terms with the term of one member expiring each year and members may serve three consecutive terms. Persons appointed to the Commission must:
• be of good moral character;
• be a United States citizen;
• be a resident of the municipality and have resided in the municipality for more than three years;
• be over the age of 25 years; and
• not have held public office within the preceding three years

POLICY EXPLANATION:
Section 143.006 (b) of the Texas Local Government Code states, "The commission consists of three members appointed by the municipality's chief executive and confirmed by the governing body of the

municipality." After conferring with Civil Service Director Ashley Jacobs, Police Chief Matthew Stogner, and Fire Chief Christopher Connealy, the City Manager has appointed Christopher Shaw to fulfill the unexpired term with an expiration date of October 31, 2025, and appointed Steven Flanagan to fulfill a three (3) year term with an expiration date of October 31, 2027. The City Manager is requesting confirmation by City Council.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	**Purchase Amount**	**After Encumber**
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:

1. Approve the new Civil Service Commission appointments.
2. Do not approve the new Civil Service Commission appointments.
3. Other actions as directed by Council.

ATTACHMENTS:

Attachment 1 - Shaw, Christopher Lee (Civil Service Commission)_Redacted
Attachment 2 - Flanagan, Steven (Civil Service Commission)_Redacted
Resolution No. - 2025-408 - Civil Service Commission Appointments - Pdf

From: Jotform
To: City Secretary; City Secretary
Subject: Re: City of Duncanville Boards, Commission, and Committees Application - Christopher Lee Shaw
Date: Monday, December 9, 2024 2:27:45 PM

City of Duncanville Boards, Commission, and Committees Application

Are you a new applicant not currently serving on a board, commission, or committee?	Yes
Complete Legal Name	Christopher Lee Shaw
Occupation	PoliceChief
Address	[redacted]
Phone Number	[redacted]
Do you agree to receive SMS from the City of Duncanville? You can reply Stop to opt-out at any time, reply Help for assistance. Messages and data rates may apply. Message frequency will vary.	Agree
Email	[redacted]
How many years have you been a resident of the City of Duncanville?	6
Are you a registered voter?	Yes
First Choice	Civil Service Commission

Second Choice	City Planning and Zoning Commission
Why are you applying to serve on a City board, commission, or committee?	My background has equipped me with a unique perspective on public safety, community engagement, and strategic planning, which I believe can be valuable assets in addressing the challenges and opportunities facing our city. I am passionate about fostering collaboration between different sectors of our community to create a safer, more inclusive, and thriving environment for all residents. Serving on a City board, commission, or committee will allow me to leverage my skills and experience to contribute to meaningful initiatives, drive positive change, and ensure that our city's policies and programs reflect the needs and aspirations of its citizens. Moreover, I am eager to engage with fellow community members, listen to their concerns, and work together to develop innovative solutions that enhance the quality of life in our city. By participating in this capacity, I hope to continue my dedication to public service and make a lasting impact on the future of our community.
What do you hope to accomplish by serving on a City board, commission, or committee?	Enhance Public Safety: Utilize my extensive experience in law enforcement to develop and implement strategies that improve the safety and security of our community. Foster Community Engagement: Create opportunities for meaningful dialogue between citizens and city officials, ensuring that community voices are heard and considered in decision-making processes. Promote Inclusivity: Advocate for policies and programs that support diversity and inclusion, making our city a welcoming place for all residents. Drive Strategic Planning: Contribute to the development of long-term plans that address current challenges and anticipate future needs, ensuring sustainable growth and development. Support Innovation: Encourage the adoption of innovative solutions and best practices that enhance the efficiency and effectiveness of city services. Build Strong Partnerships: Strengthen collaborations between various stakeholders, including local businesses, non-profits, and community organizations, to achieve common goals.
What experience do you possess that will be helpful to the mission of this board, commission, or committee?	I bring a wealth of experience that aligns well with the mission of this board, commission, or committee: Leadership in Law Enforcement: As a police chief, I have led diverse teams, managed complex operations, and developed policies that enhance public safety and community trust. Board and Commission Experience: I have served on and chaired various boards and commissions, gaining valuable insights into governance, strategic planning, and collaborative decision-making.

	Community Engagement: My role has involved extensive interaction with community members, listening to their concerns, and working together to find solutions. This experience has honed my ability to foster strong relationships and build consensus. Crisis Management: I have successfully navigated numerous crises, demonstrating my ability to remain calm under pressure, make informed decisions, and lead effectively during challenging times. Policy Development: I have been involved in crafting and implementing policies that address key issues such as public safety, community welfare, and resource allocation, ensuring they are both effective and equitable. Training and Mentorship: I have a strong background in training and mentoring both new recruits and seasoned professionals, which has equipped me with the skills to guide and support others in achieving their goals. Commitment to Diversity and Inclusion: I have actively promoted diversity and inclusion within the police force and the broader community, advocating for policies and practices that ensure all voices are heard and respected.
How will you engage other citizens to provide you a perspective or recommendation?	To engage other citizens and gather their perspectives or recommendations, I plan to utilize a variety of methods: Speaking Engagements: I will organize and participate in community meetings, town halls, and local events to directly interact with residents and discuss their concerns and ideas. Electronic Communication: I will use email newsletters and online surveys to reach out to citizens, providing them with updates and opportunities to share their feedback. Social Media: Platforms like Facebook, Twitter, and Instagram will be used to create interactive posts, polls, and live Q&A sessions to engage with a broader audience and gather diverse opinions. Mailers: Sending out informational brochures and feedback forms via mail will ensure that those who may not be active online can still participate and share their views. Social Networking: I will leverage local social networking groups and forums to foster discussions and encourage community members to voice their recommendations and perspectives. By combining these approaches, I aim to create an inclusive and comprehensive engagement strategy that allows all citizens to contribute to the betterment of Duncanville.
What concerns, if any, do you have about the issues facing Duncanville?	I do not have any specific concerns about the issues facing Duncanville. However, I am actively looking for opportunities to get involved and use my knowledge and skills to support Duncanville's advancement.
Are you, or a member of your family, involved in	

any business transaction(s) with the City of Duncanville? If yes, please explain.	No
Have you ever been convicted of a felony? If yes, please explain.	No
If selected, are you interested in serving as Chair or Vice-Chair?	Yes
Complete Legal Name of Spouse	Syvondia Bailey
List all properties you own or have an interest in within the City of Duncanville:	[redacted]
List all businesses you own or have an interest in within the City of Duncanville:	None
I ELECT TO WITHHOLD THE FOLLOWING INFORMATION FROM PUBLIC ACCESS:	Home address

You can edit this submission and view all your submissions easily.

Duncanville
City of Champions

FOR OFFICE USE ONLY	
Received:	12-05-2024
Appointed to:	
Date Approved:	
Term Dates:	
District #:	

The Duncanville City Council is committed to building a "vibrant and inclusive community, driven by a commitment to democratic principles and service above self." Through a diverse and inclusive voice from our Boards and Commissions, we hope to bridge the gap between citizens and City Council, forging the future of Duncanville! To begin the process, we would like for you to answer some questions below. We desire to partner you with a Board or Commission you wish to serve with and match your talents. Thank you again for your interest and willingness to serve your community!

City of Duncanville Boards and Commission Application

PUBLIC INFORMATION NOTICE

Certain information submitted on the Boards and Commission Application is subject to the Texas Information Act and may be disclosed to anyone requesting this information. The act allows a board member of a governmental body to choose whether to allow public access to the information in the custody of the city that relates to the home address and phone numbers. This designation can be made on the application. **I ELECT TO WITHHOLD THE FOLLOWING INFORMATION FROM PUBLIC ACCESS below: (mark through selection: Disclose or Do not disclose**

Disclose ~~Do not disclose~~ HOME ADDRESS TELEPHONE NUMBER Disclose ~~Do not disclose~~

To be eligible to serve, one must be a resident of the City of Duncanville and not be in arrears on City of Duncanville ad valorem taxes, fines, or fees.

Name: STEVEN FLANAGAN	Occupation: RETIRED DUNCANVILLE P.D.
Home Address: [redacted]	
Telephone Number: [redacted]	Email Address: [redacted]
Registered Voter: (Yes) / No	Resident for # of Years in City: 54

Would you please indicate the Board or Commission you prefer serving on by numbering them in order from 1 to 5

City Planning & Zoning Commission		Parks & Recreation Advisory Board	
Civil Service Commission	X	Sign Control Board	
Duncanville Community & Economic Development Corporation (DCEDC)		Tax Increment Finance Reinvestment Zone Board	
Keep Duncanville Beautiful Board		Tri-City Animal Shelter	
Library Advisory Board		Zoning Board of Adjustment	
Neighborhood Vitality Commission		Arts Commission	
Multicultural Commission		Community Engagement Advisory Board	

Why are you interested in applying for this specific Board or Commission?
LIVING IN DUNCANVILLE FOR OVER 50 YEARS & WORKING FOR THE CITY FOR 20 I WOULD LIKE TO KEEP THE CITY'S POLICE & FIRE DEPARTMENTS AS WELL AS OTHER CITY SERVICES AS PROFESSIONAL AS POSSIBLE. TO ATTRACT & KEEP THESE EMPLOYEES WE MUST DO AS BEST WE CAN FOR THEM

What do you hope to accomplish by serving on this Board or Commission?
MAINTAIN A LEVEL OF QUALITY & PROFESSIONALISM AT ALL LEVELS OF OUR DEPARTMENTS.

What experience do you possess that will be helpful to the mission of this Board or Commission?
20 YEARS DUNCANVILLE P.D.

How will you engage other citizens to provide you a perspective or recommendations?
BE AN OPEN BOARD & HONEST IN MY DEALINGS WITH THOSE I ENCOUNTER & OPEN ABOUT INPUT & DECISION.

What concerns, if any, do you have about issues facing Duncanville?
DUNCANVILLE IS IN SEVERE DECLINE. THE ONLY WAY TO CHANGE THAT IS TO GET PEOPLE TO WANT TO LIVE & WORK HERE MAINTAINING PROFESSIONALISM & EDUCATION WILL HELP IN THIS

Are you, or a member of your family, involved in any business transaction with the City of Duncanville? If yes, please explain below.
NO

Have you ever been convicted of a felony? If yes, please explain below.
NO

Pursuant to Ordinance No. 1975, members of boards and commissions shall not be delinquent in the payment of ad valorem taxes, except for the duration of a timely protest in accordance with law and shall not be delinquent in the payment of any fine owing to the City.

The following information is needed for verification purposes.

Complete legal name: STEVEN PATRICK FLANAGAN
The complete legal name of spouse: N/A
Home address: [redacted]
List all properties that you own or have an interest in within the City of Duncanville:
[redacted]
List all businesses that you own or have an interest in within the City of Duncanville:
NONE

Signature: _____ **Date:** 12-4-24

Please return your completed application to the City Secretary's Office at City Hall, 203 E Wheatland Rd., Duncanville, TX 75116 or via electronic mail (e-mail) at citysecretary@duncanvilletx.gov or citysecretary@duncanvilletx.gov

2

APPLICATIONS ARE KEPT ON FILE FOR ONE YEAR
AND ARE ALWAYS WELCOME AS VACANCIES MAY OCCUR THROUGHOUT THE YEAR.

RESOLUTION NO. 2025-408

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, CONFIRMING THE CITY MANAGER'S APPOINTMENTS OF CHRISTOPHER SHAW TO SERVE THROUGH OCTOBER 31, 2025, AND STEVEN FLANAGAN TO SERVE THROUGH OCTOBER 31, 2027, AS MEMBERS OF THE DUNCANVILLE CIVIL SERVICE COMMISSION; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Manager is by state law required to appoint members to the Duncanville Civil Service Commission; and

WHEREAS, Christopher Shaw meets all the qualifications required by Section 143.006 of the Texas Local Government Code; and

WHEREAS, Steven Flanagan meets all the qualifications required by Section 143.006 of the Texas Local Government Code and is familiar with Civil Service due to his previous tenure as a member of the Duncanville Police Department; and

WHEREAS, City Manager, Douglas Finch, has appointed Christopher Shaw and Steven Flanagan to the Duncanville Civil Service Commission subject to the confirmation of the City Council; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The Duncanville City Council hereby confirms the appointment of Christopher Shaw to the Duncanville Civil Service Commission fulfilling the unexpired term with an expiration date of October 31, 2025.

SECTION 2. The Duncanville City Council hereby confirms the appointment of Steven Flanagan to the Duncanville Civil Service Commission fulfilling a three (3) year term with an expiration date of October 31, 2027.

SECTION 3. This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Council to approve of the Conservation Fund Policy.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Promote: Innovative Ideas for Development and Re-development**
  - **Pursue a diverse and robust economy through various business, housing, and employment opportunities that encourage forward-thinking community and economic development.**
- **Re-Imagine: High Quality of Life**
  - **Develop, maintain, and encourage safe, attractive, viable family-oriented neighborhoods that embrace diversity and pride, promoting economic vitality.**

STAFF RESPONSIBLE:
Douglas Finch, City Manager
Sofine Lewis, Executive Liaison to the City Manager

BACKGROUND/HISTORY:
During staff reports Council received a briefing on January 7, 2025, on the possible creation of the Conservation Fund and the Policy. The Duncanville Conservation Fund was proposed as a natural extension of the City's historical efforts, aiming to protect and enhance water resources, wildlife habitats, and open spaces for current and future generations. This initiative embodies the City's dedication to conserving its natural beauty and ensuring the ongoing health of its environment, allowing Duncanville to continue to serve as a model of sustainability and environmental stewardship.

POLICY EXPLANATION:
The Duncanville Conservation Fund will serve as a key tool in promoting biodiversity, supporting climate resilience, and preserving the scenic value of the City's natural landscapes. Through strategic investments in water resource protection, green spaces, trails, and educational programs, the City aims to provide lasting benefits to its residents. Additionally, the fund will help ensure the preservation of land that supports agriculture, stormwater management, and flood control efforts.

The fund's establishment will be supported through annual contributions from the General Fund, with the initial allocation set at $20,000. The City will explore additional funding sources, including donations, fundraising, and grants, to further enhance the fund's resources. By prioritizing conservation, the City will ensure that Duncanville remains a thriving, sustainable community while safeguarding its natural beauty for generations to come. The City may also wish to consider alternative funding solutions at some point such as impact fees.

This policy provides a framework for the long-term management and growth of the Duncanville Conservation Fund, outlining its objectives, funding mechanisms, and the City's ongoing commitment to environmental stewardship. Upon approval of the policy staff will provide for future consideration appropriate budget ordinance amendments to implement the policy.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	**Purchase Amount**	**After Encumber**
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
1. Other actions as directed by Council.

ATTACHMENTS:
Duncanville Conservation Fund Policy
Resolution No. - 2025-410 - Conservation Fund Policy - Pdf

Duncanville Conservation Fund Policy

Purpose: The purpose of the Duncanville Conservation Fund is to support the conservation and protection of natural land and water resources within the City of Duncanville for current and future generations. This fund is designed to support initiatives that enhance water quality, preserve wildlife habitats, open space, greenways, maintain areas of historical and agricultural significance, and promote natural spaces and scenic views.

Mission Statement:
The Duncanville Conservation Fund is dedicated to preserving and enhancing the natural resources, open spaces, and biodiversity of our community. Through strategic initiatives and community collaboration, we aim to protect water quality, maintain wildlife habitats, and provide accessible recreational opportunities for all residents. The mission is to ensure a sustainable environment for current and future generations, fostering a deep appreciation for the beauty and value of Duncanville's natural landscapes.

Why Does the City Protect Open Space?

The City protects open space land to achieve the strategic goals of the City, including:

- **Maintain and Enhance Biological Diversity:** Safeguarding various species and ecosystems to ensure a balanced environment.
- **Secure Land for Agricultural Conservation:** Protecting lands that contribute to local micro agriculture and food production.
- **Support Climate Resilience and Mitigation Programs:** Implementing strategies that help the community adapt to and mitigate the impacts of climate change.
- **Provide Non-Motorized Recreational Opportunities:** Ensuring that residents have access to areas for walking, biking, and other forms of outdoor recreation.
- **Preserve Scenic Value:** Maintaining the natural beauty of Duncanville, which contributes to the quality of life for residents.
- **Manage Watershed and Address Flood Control:** Protecting land that is crucial for managing stormwater and reducing flood risks.

Fund Uses:

The Conservation Fund will be allocated to the following key objectives:

1. **Water Resource Protection:**
    - Protect and enhance the city's water resources, including surface and groundwater, riparian areas, floodplains, and creek corridors, to ensure sustainable water quality for residents and ecosystems.
2. **Biodiversity Support:**
    - Promote biological diversity and safeguard wildlife habitats in Duncanville, fostering a rich variety of plant and animal life that contributes to the ecological health of the area.
3. **Rural Character Maintenance:**
    - Preserve ecological zones by maintaining undeveloped open spaces and scenic vistas that enhance the community's charm and livability.
4. **Green Space and Trails Establishment:**
    - Establish and maintain green spaces and trail corridors that encourage outdoor activity and provide recreational opportunities for residents.
5. **Outdoor Education and Recreation:**
    - Provide facilities and opportunities for outdoor education and recreation, including programs that engage the community in conservation efforts.
6. **Implementation of Conservation Goals:**
    - Implement conservation and resource protection goals, policies, and recommendations as outlined in the Duncanville Comprehensive Plan, ensuring alignment with community values and priorities.
7. **Land Acquisition and Easements:**
    - Purchase land, development rights, or interests in land, including conservation easements and trail or path easements, to protect valuable natural areas and facilitate connectivity in the community.

How Does the City Protect Open Space?

The City periodically acquires open space land from willing sellers on the open market to protect and enhance the natural resources and features of these properties.

Furthermore, the City also recognizes the importance of open space and conservation efforts related to parks and other lands already under its ownership. When evaluating development or redevelopment projects, the City will consider requiring a land set-aside as part of the development or developer purchases of conservation easements or a contribution to the Duncanville Conservation Fund from the developer.

Long-Term Management

When the City owns open space, it takes on the responsibility of maintaining and managing the land for its habitat and conservation values. Long-term management of City-owned open space is a key component of the program. The sale of conservation values through a conservation easement results in funding to:

- Conduct enhancement and habitat restoration work.
- Provide short and long-term management planning.
- Create a non-wasting endowment fund to protect and manage the land and its natural resources in perpetuity.

Active Management is a key component of the program. Management requires financial resources and expertise. The City partners with conservation organizations to manage and protect the open space for:

- **Biodiversity and Habitat**
- **Agriculture and Working Lands**
- **Climate Change Goals:** Adaptation and resilience through watershed, stormwater management, and flood control, enabling the City to address and adapt to climate events.
- **Mitigation:** Focusing on carbon sequestration and reduction.

Funding Mechanism for the Duncanville Conservation Fund

1. **Annual Review of Unexpended Funds:**
    - At the end of each fiscal year, the City Council will conduct a comprehensive review of unexpended funds within the General Fund. This review will identify any surplus funds that can be allocated for community initiatives.
2. **Annual Transfer to the Conservation Fund:**

- The City Council will consider an annual financial contribution or transfer to the Duncanville Conservation Fund based on the results of the review.
- The initial annual transfer from the General Fund will be set at **$20,000** to establish the Conservation Fund.

3. **Subsequent Contributions:**
   - Following the initial transfer, the City Council will evaluate the performance and needs of the Conservation Fund during budget planning sessions each year, allowing for adjustments to the annual contribution based on available funds and community priorities.
4. **Additional Funding Sources:**
   - The Conservation Fund will actively seek to maintain and grow its resources through various mechanisms, including:
     - **Individual Donations:** Encouraging community members to contribute directly to the fund.
     - **Fundraising Events:** Organizing events in collaboration with local organizations to generate additional funds.
     - **Water Bill Donations:** Introducing an option for residents to add a donation to their water bills, supporting the fund on an ongoing basis.
     - **Public and Private Grants:** Applying for grants from governmental and non-governmental organizations focused on conservation and environmental sustainability.
     - **Fees for Services:** Increasing and transferring a portion of collected fees related to city services that directly support conservation efforts.
5. **Reporting and Accountability:**
   - The Duncanville Conservation Fund will provide an annual report to the City Council detailing the use of funds, ongoing projects, and the impact on community resources. This transparency will foster public trust and encourage further support for conservation initiatives.

Long-Term Vision:

The Duncanville Conservation Fund represents a long-term vision for preserving the natural, recreational, educational, historical, and environmental resources in Duncanville. By promoting sustainable practices, the fund aims to enhance the quality of life for residents while preserving the city's natural beauty for future generations.

This policy not only establishes a financial framework for supporting conservation efforts but also reflects Duncanville's commitment to fostering a sustainable community for all its residents.

RESOLUTION NO. 2025-410

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO CREATE A CONSERVATION FUND AND BE CHARGED WITH THE IMPLEMENTATION OF THE CONSERVATION FUND POLICY THAT WILL ALLOCATE FUNDS FROM THE GENERAL FUND FOR THE ANNUAL EXPENDITURE OF $20,000 AND AUTHORIZING THE CITY MANAGER TO DETERMINE WHICH ENTITY IS RESPONSIBLE FOR THE ALLOCATION AND THE PROCESS OF FUNDING ACCOUNTABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Conservation Fund is to support the conservation and protection of natural land and water resources within the City of Duncanville for current and future generations.

WHEREAS, Through strategic initiatives and community collaboration, we aim to protect water quality, maintain wildlife habitats, and provide accessible recreational opportunities for all residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council hereby authorizes the creation of a Conservation Fund and policy providing an effective date.

SECTION 2. The initial annual transfer from the General Fund will be set at $20,000 to establish the Conservation Fund.

SECTION 3. The City Manager is authorized to determine which entity is responsible for the allocation and process of funding accountability.

SECTION 4. This Resolution shall become effective immediately following its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21 day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a Resolution authorizing the award of RFP #18-107 for the Official Newspaper Designation to Rambler Texas Media, without a competitive process as allowed by Texas Government Code 252.022 (16), in the annual amount not to exceed $16,000, for an initial one-year period, with the option to extend the agreement for two (2) additional one-year periods with not-to-exceed expenditure amount of $48,000.00.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**

STAFF RESPONSIBLE:
Chiquita Taylor, City Secretary

BACKGROUND/HISTORY:
The Focus Daily News informed the City that the business was closing and would no longer be able to service the City's print advertising needs. Staff checked with other sources and consulted with the City's Chief Procurement Officer, Elton Brock. Staff were advised to obtain pricing from all the "qualified" advertising outlets and determine the best-value solution. Staff were advised that the procurement of advertising, other than legal notices, for Texas Municipalities is exempt from competition, and to proceed with the recommendation of the award using the less-than-formal competitive process and the allowed exemption from the competition, as the total contract amount does not exceed $50,000.

POLICY EXPLANATION:
The newspaper provides publication notices for planning and zoning activity, ordinances, elections, budget public hearings, property tax rate information, and bids and proposals; they may vary each year depending upon frequency of the latter. Although our advertising costs are currently less than $16,000 annually, the designation of the official newspaper has previously been made by the City Council.

Texas Government Code, Section 2051, Subchapter C, stipulates the type of newspaper required to publish notices which means any matter, including a proclamation or advertisement, required or authorized by law to be published in a newspaper by a governmental entity or representative. Also, the statute requires that the newspapermust be published once each week and have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes the notice.

The funding source information only includes the mandatory public notices for bids, hearings, and other required legal publications. In the event departments use the paper for advertising and promotions, this expense will come from the department's budget. In the event expenses for legal publications exceed the budget of $11,000, funds will be identified and transferred accordingly.

FUNDING SOURCE:

ORG and Object Number
01088000-700439

Available Budget	**Purchase Amount**	**After Encumber**
$11,000.00	$11,000.00	$0.00

ACTION ALTERNATIVES:

1. Approve
2. Do not approve
3. Other actions as directed by Council

ATTACHMENTS:

Resolution No. - 2025-405 - Official City Newspaper - Pdf
TGC 252 Exemptions - Advertising
procurement_easy 2019
Duncanville Quotation Summary Sheet

RESOLUTION NO. 2025-405

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AUTHORIZING THE AWARD FOR THE OFFICIAL NEWSPAPER DESIGNATION FOR LEGAL NOTICES TO RAMBLER TEXAS MEDIA, OF IRVING, TEXAS, THROUGH THE EXEMPTION TO THE COMPETITIVE BID PROCESS AND THE LESS-THAN-FORMAL COMPETITIVE PROCESS, AS ALLOWED BY TEXAS GOVERNMENT CODE 252 IN THE ESTIMATED ANNUAL EXPENDITURE OF $16,000.00 AND A TOTAL NOT-TO-EXCEED THREE-YEAR AMOUNT OF $48,000; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS; AND, PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, it is desired to provide the legally prescribed notices in accordance with the requirements of the Texas Government Code Section 2051, Subchapter C; and

WHEREAS, the City is not required to obtain competition for advertising services, other than legal notices as allowed by Texas Government Code 252.022(16) and less than formal competition for procurements not exceeding $50,000; and

WHEREAS, the City Council of the City of Duncanville, Texas, desires to award to the Rambler Texas Media and designate the official newspaper pursuant to State Law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. the City Council of the City of Duncanville does hereby award a contract to the Rambler Texas Media and does hereby designate for an initial one-year term with an additional two (2) optional one-year terms, the official newspaper for official notices as provided by state law, and does approve the unit amount bid with an estimated annual expenditure of $16,000.00, with a total not-to-exceed amount of $48,000;

SECTION 2. the City Council of the City of Duncanville hereby authorizes the City Manager, or his designee, to execute the appropriate purchase orders and documents to give effect to this designation.

SECTION 3. This resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

Sec. 252.022. GENERAL EXEMPTIONS. (a) This chapter does not apply to an expenditure for:

(1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

(2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

(3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

(4) a procurement for personal, professional, or planning services;

(5) a procurement for work that is performed and paid for by the day as the work progresses;

(6) a purchase of land or a right-of-way;

(7) a procurement of items that are available from only one source, including:

(A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

(B) films, manuscripts, or books;

(C) gas, water, and other utility services;

(D) captive replacement parts or components for equipment;

(E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and

(F) management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;

(8) a purchase of rare books, papers, and other library materials for a public library;

(9) paving drainage, street widening, and other public improvements, or related matters, if at least one-third

of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;

(10) a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;

(11) a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;

(12) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or

(D) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

(13) services performed by blind or severely disabled persons;

(14) goods purchased by a municipality for subsequent retail sale by the municipality;

(15) electricity; or

(16) advertising, other than legal notices.

(b) This chapter does not apply to bonds or warrants issued under Subchapter A, Chapter 571.

(c) This chapter does not apply to expenditures by a municipally owned electric or gas utility or unbundled divisions of a municipally owned electric or gas utility in connection with any purchases by the municipally owned utility or divisions of a municipally owned utility made in accordance with procurement procedures adopted by a resolution of the body

vested with authority for management and operation of the municipally owned utility or its divisions that sets out the public purpose to be achieved by those procedures. This subsection may not be deemed to exempt a municipally owned utility from any other applicable statute, charter provision, or ordinance.

(d) This chapter does not apply to an expenditure described by Section 252.021(a) if the governing body of a municipality determines that a method described by Chapter 2269, Government Code, provides a better value for the municipality with respect to that expenditure than the procedures described in this chapter and the municipality adopts and uses a method described in that chapter with respect to that expenditure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 47(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1001, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 42, Sec. 1, eff. April 25, 1991; Acts 1993, 73rd Leg., ch. 749, Sec. 7, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 757, Sec. 9, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 207, Sec. 2, eff. May 23, 1995; Acts 1995, 74th Leg., ch. 746, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 125, Sec. 1, eff. May 19, 1997; Acts 1997, 75th Leg., ch. 1370, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 405, Sec. 41, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1409, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.290, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 434 (S.B. 1765), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(3), eff. April 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 4.02, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(21), eff. September 1, 2013.

Sec. 252.023. EXEMPTIONS FROM REFERENDUM PROVISIONS. The referendum provisions prescribed by Section 252.045 do not apply to expenditures that are payable:

(1) from current funds;

(2) from bond funds; or

(3) by time warrants unless the amount of the time warrants issued by the municipality for all purposes during the current calendar year exceeds:

(A) $7,500 if the municipality's population is 5,000 or less;

(B) $10,000 if the municipality's population is 5,001 to 24,999;

(C) $25,000 if the municipality's population is 25,001 to 49,999; or

(D) $100,000 if the municipality's population is more than 50,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 109, Sec. 1, eff. Aug. 26, 1991.

Texas Municipal Procurement Laws Made Easy



2019 Editors

Scott Houston
Deputy Executive Director and General Counsel
Texas Municipal League
www.tml.org

Jeff Chapman
The Chapman Firm
Austin, Texas
www.chapmanfirmtx.com

Jeff Moore
Brown & Hofmeister
Richardson, Texas
www.bhlaw.net

Previous Contributors

Zindia Thomas
Assistant Attorney General
Austin, Texas

(Editor's Note: 2019 updates are highlighted.)

Table of Contents

I. APPLICATION OF MUNICIPAL PROCUREMENT LAWS 1

1. What city purchases must generally be awarded through the use of statutory procurement methods? 1
2. Is an economic development corporation required to comply with municipal procurement laws? 1
3. Are simple leases of personal property such as the lease of autos, office equipment, or other items by a city subject to statutory procurement requirements? 2
4. Are lease/purchase agreements by a city subject to statutory procurement requirements? 2
5. Does a city have to use competitive bids or proposals to lease real property to an entity? 2
6. Are competitive bidding or proposals required if only state or federal funds are used to fund the city expenditure? 3
7. Must a city bid for health insurance coverage or public official liability insurance for its officials or employees? 3
8. Is a city required to bid for excess or surplus insurance? 3
9. Do competitive bidding requirements apply to city purchases of land or right-of-way? ... 4

II. THRESHOLD AMOUNT AT WHICH BIDDING IS REQUIRED 4

10. What is the threshold amount at which competitive bidding or proposals are required? .. 4
11. May a home rule city charter provide a lower threshold for requiring competitive bids? .. 4
12. May a home rule city charter provide a lower threshold for requiring competitive bids? .. 5
13. Can a general law city (under 5,000 population) impose a lower threshold for requiring competitive bids? 5
14. Can a city separate out its purchases over time to avoid the application of competitive bidding or proposal laws? 5
15. If a city does not competitively bid an item because the total expenditure would be below the threshold requiring bids, can it later purchase more of the items if the extra items would take the total purchase over the $50,000 threshold? 6
16. If individual city departments make their own purchases of such commodities as office supplies, gasoline and vehicle parts, and the sum of all purchases exceeds the bidding threshold, must the purchase of those items be bid? 6
17. After a bid contract is awarded, can a city later decrease or increase the amount of its purchase or the quantity of work to be performed? 7
18. If a city seeks competitive bids for an item, can it include a time frame for extra items to be purchased at the same cost? 7
19. May a city seek bids or proposals for incrementally purchased items (such as office supplies) and award the contract to a single vendor for an entire year? 7

III. GENERAL PROCEDURE REQUIREMENTS 8

20. What is the general procedure for requesting competitive bids or proposals? 8

21. What notice must a city provide to announce a request for bids or proposals? 8
22. Can city staff personally call potential vendors and ask them to participate in a bid? 8
23. Can a city require or provide a preference for a particular brand or manufacturer in its bid specifications? 9
24. May a city accept bids or proposals through electronic transmission? 9
25. Is there a special notice requirement if the city intends to issue time warrants to cover the cost of a contract award? 9
26. If a city chooses not to follow statutory procurement requirements for a particular item, should the city create any documentation to note why bidding laws were not applicable to that transaction? 10

IV. CONSIDERATION AND AWARD OF BID OR PROPOSAL REQUESTS 10

27. How are contracts awarded by the city that uses the competitive sealed bid method? 10
28. Can the city take into account the safety record of the bidder in making the award? 10
29. What options does a city have if the lowest bidder has a prior history of poor performance? 11
30. What options does the city have if the city receives no bids in response to a request? 11
31. What options does the city have if the city receives only one bid or proposal in response to a bid request? 11
32. May competitive bids be rejected by a city staff member or must the city council decide which bids to reject? 11
33. What is the general procedure for awarding a contract pursuant to competitive bidding? 11
34. What is the general procedure for awarding a contract pursuant to competitive proposals? 12
35. Is information contained in a bid or proposal confidential under the Public Information Act? 12
36. Is information within a bid request concerning historically underutilized businesses confidential? 14
37. Must bidders be allowed to speak at a city council meeting to explain or defend their bids? 14

V. BIDS FOR THE CONSTRUCTION OR REPAIR OF PUBLIC STRUCTURES OR ROADS 14

38. Is there a special bidding procedure for contracts in excess of $50,000 for the construction or repair of a structure, road or other improvement to real property? 15
39. Are there special rules for the purchase of machinery for road construction or road maintenance? 15
40. Can a city require that bids for a public work or for the purchase of materials, equipment, or supplies be on a unit price basis? 15
41. Must a bidder execute a performance or payment bond if the contract is for the construction of a public work? 16

42. May a city require a performance or payment bond from a bidder even when state law does not require such bonds? 16
43. Is the city required to hire an engineer for the construction of a public work? 16
44. Is the city required to hire an architect if the contract is for the construction of a public work? 17
45. If a contract is for the construction of a public work, is the city required to ensure that all contractors provide workers' compensation coverage? 17
46. If a contract is for the construction of a public work, must a city ensure that the contractors pay their workers according to the local prevailing wage rate for the work that is performed? What about using unions on state-funded contracts? 18
47. Is there express statutory authority for cities to enter into public/private partnerships? .. 19

VI. ALTERNATIVE DELIVERY METHODS FOR THE CONSTRUCTION OF STRUCTURES 19

BACKGROUND AND AUTHORITY 19
48. What are alternative delivery methods for city construction projects? 19
49. What benefits can alternative delivery methods provide cities? 19
50. Where is the statutory authority for cities to use alternative delivery systems? 20
51. What alternative methods are cities currently authorized to use and for what types of projects? 20
52. What are some preliminary matters in selecting which method to use? 20

VII. THE ALTERNATIVE METHODS 21

53. What is the "best value" competitive bidding method? 21
54. What is the competitive sealed proposals method? 21
55. What is the construction manager-agent method? 22
56. What is the construction manager at-risk method? 23
57. What is the design-build method? 25
58. What types of projects can be constructed using the design-build method? 25
59. How does a city solicit design-builders for a building project? 26
60. How does a city select a design-builder after publishing an RFQ? 26
61. How does a city negotiate a contract with the selected design-builder? 27
62. How does the design-build method differ for civil projects? 28
63. Is there a limit on the number of civil projects a city can build using the design-build method? 28
64. Must a city select an independent engineer for civil projects? 28
65. What is the process for selecting a design-build firm for civil projects? 28
66. What is the job order contracting method? 29

VIII. ABILITY TO PROVIDE PREFERENCE IN BID AWARDS 30

67. Can a city provide a preference for local businesses in its bid award? 30
68. Can a city provide a preference for historically underutilized businesses? 31

69. When is a city required to contact historically underutilized businesses? 32
70. How does a city determine whether it has historically underutilized businesses within its area? 32
71. Is a city required to provide a preference for recycled materials in its bid requests? 32

IX. STATUTORY EXCEPTIONS TO THE COMPETITIVE BIDDING OR PROPOSAL REQUIREMENTS: 33

EXCEPTIONS DUE TO PUBLIC HEALTH, SAFETY OR WELFARE 33
72. Is a city required to bid for purchases that are necessary because of a public calamity? . 33
73. Can a city forego bidding or proposals if the purchases are necessary to protect the public health or safety of city residents? 33
74. Can a city forego bidding or proposals for purchases that are necessary because of unforeseen damage to public machinery, equipment or other property? 34

EXCEPTIONS FOR SPECIALIZED SERVICES 34
75. Are contracts for personal services exempt from the requirements for competitive bidding? 34
76. Can a city forego bidding for contracts for professional services? 35
77. How may a city obtain the services of architects, engineers, certified public accountants, land surveyors, physicians, optometrists, landscape architects, geoscientists or state certified real estate appraisers? 35
78. What procedure must cities use to obtain the services of a lawyer or the services of a law firm? 36
79. Are contracts for planning services exempt from competitive bidding requirements? 36
80. Does competitive bidding apply to services performed by blind or severely disabled persons? 37

EXCEPTIONS FOR ITEMS AVAILABLE FROM ONLY ONE SOURCE 37
81. Does competitive bidding apply to the purchase of items that are available from only one source because of copyrights or “natural monopolies”? 37
82. Does competitive bidding apply to the purchase of “captive replacement parts” or components for equipment? 37
83. Does competitive bidding apply to the purchase of electricity, gas, water and other utility services? 38
84. Does competitive bidding apply to the purchase of advertising? 38
85. Does competitive bidding apply to the purchase of books and other materials for a public library? 38

EXCEPTIONS FOR DISTRESS OR AUCTION PURCHASES 38
86. Does a city violate bidding requirements if it purchases personal property at an auction? 38
87. Does a city violate bidding requirements if it purchases property at a going-out-of-business sale? 38

EXCEPTIONS FOR PURCHASES FROM OTHER GOVERNMENTAL ENTITIES 39

88. Does a city violate bidding law if it purchases property or services directly from another political subdivision of this state, a state agency or a federal agency without following competitive bidding procedures? 39

EXCEPTIONS FOR PURCHASES WITH SPECIALIZED FINANCING 40

89. Does competitive bidding apply to a contract for paving, drainage, street widening and other public improvements if at least one-third of the cost is paid through special assessments? 40

90. Does competitive bidding apply to a contract for a previously authorized public improvement that is experiencing a deficiency in funding to complete the project? 40

91. Are developer participation contracts subject to competitive bidding if the city's participation is limited to thirty percent of the total contract price? 41

92. Can a city forego bidding for work that is performed and paid for by the day? 41

X. ETHICAL REQUIREMENTS RELATING TO MUNICIPAL PROCUREMENT 41

93. What is Chapter 176 of the Local Government Code? 41

94. What local government entities are subject to this law? 42

95. What local government officers are subject to this law? 42

96. When is an officer required to file a "conflicts disclosure statement'? 42

97. How does Chapter 176 define a "vendor," and what does it mean to have a "family relationship" with a vendor? 43

98. How does Chapter 176 define a "family member" of an officer? 43

99. To what types of contracts does the law apply? 43

100. When is a vendor required to file a "conflicts of interest questionnaire? 44

101. With whom should the statements and questionnaires be filed? 44

102. What happens if a statement is not filed? 44

103. Where can an officer or vendor obtain the necessary forms? 45

104. What is Chapter 171 of the Local Government Code? 45

105. What does the "contracts disclosure law" require? 46

106. What are the requirements for contracts relating to Israel, Sudan, and/or terrorist organizations? 50

XI. ENFORCEMENT OF BIDDING REQUIREMENTS 52

107. What civil remedies are available to an individual or entity if the competitive bidding laws are not followed? 52

108. What criminal penalties apply if the competitive bidding laws are not followed? 53

109. Can city officials or employees be removed from office for failure to comply with competitive bidding laws? 53

110. Are there different consequences for elected officials, as compared to city staff, for bidding violations? 53

ACKNOWLEDGMENTS 54

Texas Municipal Procurement Laws Made Easy

The following questions and answers provide an introduction to procurement laws that apply to city officials in Texas. It is meant as a guide only, and city officials should consult with their legal counsel regarding the application of the law to the facts of each particular situation.

I. Application of Municipal Procurement Laws

1. What city purchases must generally be awarded through the use of statutory procurement methods?

The Local Government Code provides that, before a city may enter into a contract for the purchase of most goods and services that require an expenditure of more than $50,000 from one or more municipal funds, the city must:

- comply with statutory procedures for competitive sealed bidding or competitive sealed proposals, including high technology items or insurance;
- use the reverse auction procedure for purchasing;[1] or
- comply with certain statutorily prescribed methods of construction procurement.[2]

However, state law provides a number of specific exceptions that relieve the city of the duty to bid or seek proposals on an item. For example, state law does not require cities to follow any specific procedures to purchase real property (land and/or buildings).[3] The major statutory exceptions to the bidding or proposal requirement are discussed later in this article.

For contracts for certain professional services, a city is actually prohibited by law from awarding the contract by competitive bidding. For example, cities may not award contracts for the services of architects, engineers, interior designers,[4] or certified public accountants through competitive bidding. Instead, the Professional Services Procurement Act sets out a different set of procedures that must be followed to contract for these services.[5]

2. Is an economic development corporation required to comply with municipal procurement laws?

The duty to comply with procurement laws is generally derived from some statute that specifically requires an entity to make its purchases through such a procedure. The implementing legislation for economic development corporations (the Development Corporation Act) does not contain a provision that subjects economic development corporations to municipal procurement requirements. Neither the Texas attorney general nor the Texas courts have directly addressed this question.

---

[1] TEX. LOC. GOV'T CODE § 252.021(a)(2).
[2] *Id.* § 252.021.
[3] *Id.* § 272.001.
[4] Added by H.B. 2868 (2019).
[5] TEX. GOV'T CODE § 2254.001 et seq. (Professional Services Procurement Act).

3. Are simple leases of personal property such as the lease of autos, office equipment, or other items by a city subject to statutory procurement requirements?

Competitive bidding or proposal requirements apply to any lease of personal property that will require an expenditure of more than $50,000 in city funds, unless the expenditure is covered by a specific statutory exception that would relieve the city from the duty to bid or seek proposals on the item.[6] For example, if the lease were for an item that was necessary to preserve or protect the public health or safety of the city's residents, the city would not be under a duty to use competitive bidding or proposals for its acquisition.[7]

4. Are lease/purchase agreements by a city subject to statutory procurement requirements?

State law expressly authorizes cities to enter into lease-purchase agreements.[8] However, normal statutory procurement requirements would generally apply to these lease-purchase agreements.[9] That is, when a lease-purchase agreement for personal property will involve an expenditure of more than $50,000 in city funds, the contract must be competitively procured unless the type of item purchased is covered by a specific exception to the statutory procurement requirements.

5. Does a city have to use competitive bids or proposals to lease real property to an entity?

Competitive bidding or proposal requirements under Chapter 252 of the Local Government Code do not apply to the lease of real property. Cities typically enter into leases of city real property through lease agreements with entities as would any other lessor. Additionally, the requirements under Chapter 272 of the Local Government Code that a city advertise the sale of real property do not apply to a normal term lease of a property.

At least one court has held that a city's temporary lease of property is not subject to the notice and bidding requirements in Chapter 272.[10] A recent attorney general opinion suggests that all of the following have a bearing upon the "temporary" status of a lease agreement: (1) the duration of the lease; (2) the city's right to control the land during the lease term; and (3) the city's right to make improvements upon termination of the agreement.[11] An older opinion suggests that the lessee's

[6] TEX. LOC. GOV'T CODE § 252.021
[7] *Id.* § 252.022(a)(2).
[8] *Id.* § 271.005.
[9] *Id.* § 271.006 (Requiring that a contract authorized by Section 271.005 comply with any applicable requirements in chapter 252 of the Local Government Code).
[10] *Walker v. City of Georgetown*, 86 S.W.3d 249, 259 (Tex. App.—Austin 2002, pet. denied) ("[T]he plain language of the statute indicates that the Legislature intended for the notice and bidding requirements to apply to the 'sale or exchange' of land, not the lease of land.").
[11] Op. Tex. Att'y Gen. No. GA-0321 at 9 (2005).

option to purchase the leased property upon expiration of the lease may be indicative of a sale.[12]

Essentially, if the facts of the situation determine that a lease of the real property is for such an extended period that it would almost amount to a sale, the lease may be subject to the requirements for advertising the sale of real property under Chapter 272 of the Local Government Code.[13]

6. Are competitive bidding or proposals required if only state or federal funds are used to fund the city expenditure?

A city expenditure is not necessarily exempt from competitive bidding or proposal requirements because it involves the use of only federal or state funds (e.g., grant funds or loans). Often, state or federal funds are considered city funds once they are acquired by or given to the city. Accordingly, any expenditure of these funds would ultimately be considered an expenditure of city funds and therefore subject to the bidding or proposal requirements. Additionally, many state and federal statutes expressly require that the funds provided to a city under the statute be expended in a manner that complies with local competitive bidding requirements. Cities should review applicable state or federal provisions that relate to any such funding they receive from state or federal programs.

One state law provides that competitive bidding requirements do not apply to certain appropriations, loans, or grants for conducting a community development program established under Chapter 373 of the Local Government Code.[14] Such expenditures must instead use the request for proposals process described in Section 252.042 of the Local Government Code.

7. Must a city bid for health insurance coverage or public official liability insurance for its officials or employees?

Cities must seek competitive bids or proposals when purchasing insurance that will cost more than $50,000.[15]

Chapter 252 of the Local Government Code does not specifically address the need to use competitive bidding or proposals if a city's liability coverage is gained through participation in a group risk pool. Under state law, the coverage provided by risk pools is not considered to be insurance or subject to the traditional requirements applicable to insurance policies. Therefore, most risk pools take the position that statutory procurement requirements do not apply. A city should consult its legal counsel if it wants to acquire coverage in this manner without participating in competitive bidding or proposals.

8. Is a city required to bid for excess or surplus insurance?

Section 252.024 of the Local Government Code states that the statutory procurement requirements do not prohibit a city from selecting a licensed insurance broker as the sole broker of record for the

[12] Tex. Att'y Gen. LO-96-053 at 3.
[13] *Flagship Hotel, Ltd. v. City of Galveston*, 117 S.W.3d 552, 559 (Tex. App.—Texarkana 2003, pet. denied).
[14] TEX. LOC. GOV'T CODE ANN. § 252.021(d) (West Supp. 2011).
[15] *Id.* § 252.021(b).

city.[16] Such brokers obtain proposals and coverages for "excess or surplus insurance." Excess or surplus coverage may include surplus coverage for public official liability, police professional liability, and airport liability. Some legal analysts have suggested that a city may avoid the bidding requirements when purchasing excess or surplus insurance if the city complies with the requirements of Section 252.024. The attorney general, however, has rejected this interpretation of Section 252.024.[17] In regard to whether the actual selection of the broker of record must comply with Chapter 252, the attorney general has allowed for the possibility that if the services to be performed by the broker are professional in nature, the selection of the broker would be exempt from competitive bidding. A city should, therefore, consult with its legal counsel if it wants to select an insurance broker of record without participating in competitive bidding.

9. Do competitive bidding requirements apply to city purchases of land or right-of-way?

A city is not required to use competitive bidding to purchase or lease land or a right-of-way.[18] However, it is important to note that a city is generally required to take bids or – pursuant to legislation passed in 2013 for home rule cities only – hire a broker when it sells a city interest in real property.[19] Additionally, there are certain special statutory provisions that apply to the sale of park lands, municipal building sites, or abandoned roadways.[20] Further, if a city is to purchase real property wholly or partly with bond proceeds, the city must first obtain an independent appraisal of the property's market value.[21]

II. Threshold Amount at which Bidding is Required

10. What is the threshold amount at which competitive bidding or proposals are required?

Generally, a city is required to follow the bidding or proposal procedures outlined in Local Government Code Chapter 252 when it plans to make an expenditure of more than $50,000 in city funds.[22] Recent legislative changes make the above requirement equally applicable to purchases of insurance and high technology items.

11. May a home rule city charter provide a lower threshold for requiring competitive bids?

If there is a conflict between the statutory threshold amount that triggers the requirements of Chapter

[16] *Id.* § 252.024 (West 2005).

[17] Op. Tex. Att'y Gen. No. DM-70 (1991).
[18] *See* TEX. LOC. GOV'T CODE § 252.022(a)(6) (Purchase of land or right-of-way exempt from competitive bidding requirements).
[19] *Id.* § 272.001; S.B. 985 (2013).
[20] *Id.* § 253.001.
[21] *Id.* § 252.051.
[22] *Id.* § 252.021(a)-(b).

252 and the city's charter, the city should follow the lower of the two amounts.[23] Thus, if a city charter sets forth a lower threshold for requiring competitive bids than does state law, the city should follow the charter's requirements. For example, some city charters require the city to use competitive bidding for any purchases that exceed $3,000. Such cities would have to follow bidding procedures as required by state law and as additionally required by the terms of the city charter. A city charter may not provide a higher threshold for bidding than is permitted under state law.

12. May a home rule city charter provide a lower threshold for requiring competitive bids?

A city charter may provide certain different procedural requirements for handling competitive bidding. For example, a city charter may provide different requirements for the notice that must be provided for contracts to be bid, how the notices are advertised, the manner for taking certain sealed bids, the manner of publicly opening bids or reading them aloud, and the manner of awarding the contracts.[24] Such provisions in a city charter are controlling even if they conflict with Chapter 252 of the Local Government Code. However, a majority of the city council may vote to have the bidding provisions of Chapter 252 override any different procedural requirements contained in the city charter. Note that the city council can vote to override its charter only with regard to the *procedures* for handling competitive bids. The council may not override a city charter provision regarding the *threshold amount* at which competitive bidding is required.

13. Can a general law city (under 5,000 population) impose a lower threshold for requiring competitive bids?

A general law city by ordinance or simply by vote of the city council could impose a lower threshold on itself for competitive bidding than would otherwise be required by state law.[25] This is true unless a statute forbids a city from using competitive bidding to obtain a particular type of good or service. As noted earlier, the Professional Services Procurement Act prohibits a city from using competitive bidding procedures to secure the services of certain professionals such as architects, engineers, interior designers, and certified public accountants.[26]

14. Can a city separate out its purchases over time to avoid the application of competitive bidding or proposal laws?

A city may not avoid the application of competitive bidding or proposal laws by purposely dividing a single purchase into smaller components so that each component purchase is less than $50,000. Chapter 252 of the Local Government Code prohibits the use of "separate, sequential, or component purchases" as a means of avoiding bidding requirements.[27]

---

[23] *Id.* § 252.002.
[24] *Id.*
[25] *See* Op. Tex. Att'y Gen. No. DM-106 (1992) (City may procure services through competitive bidding even if those services qualify for an exemption from competitive bidding, unless those services are covered by the Professional Services Procurement Act.).
[26] TEX. GOV'T CODE § 2254.003.
[27] TEX. LOC. GOV'T CODE § 252.062.

It is important to note that the phrases "separate purchases," "sequential purchases" and "component purchases" are all specifically defined by Chapter 252 of the Local Government Code.[28] "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase. "Sequential purchases" means purchases, made over a period of time, of items that in normal purchasing practices would be purchased in one purchase. "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

Some think that by waiting a year or more between purchases they will automatically avoid the problem of separate, sequential or component purchases. However, the competitive bidding laws do not specify any such waiting period. Instead, if the purchases in question would normally have been made in one purchase, then there may be a violation of the bidding laws even though the city waited more than a year between each purchase. Accordingly, a city is well-advised to look at its purchasing practices in terms of whether such purchases are traditionally done all at once or whether it is necessary or prudent to acquire the items over time. If such items are traditionally purchased at one time, the city would not want to separate out the purchase in order to avoid competitive bidding requirements. If a city is not certain how such items are traditionally handled, it should consult the city's legal counsel.

15. If a city does not competitively bid an item because the total expenditure would be below the threshold requiring bids, can it later purchase more of the items if the extra items would take the total purchase over the $50,000 threshold?

A city may purchase items without competitive bidding if the total purchase amount will be below the $50,000 threshold that requires bidding. However, if the city later wants to make additional purchases and these purchases would take the total purchase over the $50,000 threshold, the city should use caution. State law provides criminal penalties if a city makes component, sequential or incremental purchases to avoid the competitive bidding requirements. If such a charge is at issue, the local prosecuting attorney would review the facts surrounding the involved transaction. Cities would be well-advised to look at their purchasing practices over past budget years and consider whether certain items should be purchased through competitive bids.

16. If individual city departments make their own purchases of such commodities as office supplies, gasoline and vehicle parts, and the sum of all purchases exceeds the bidding threshold, must the purchase of those items be bid?

Often individual city departments will make separate purchases of office supplies, gasoline or other items without competitive bidding because each department's purchase amount will be below the $50,000 threshold that requires bidding. If a city's total purchases for these items would be over the $50,000 threshold, the city should use caution. As noted earlier, state law provides that there are

[28] *Id.* § 252.001(2), (6)-(7).

criminal penalties if a city makes component, sequential or incremental purchases to avoid the competitive bidding requirements. If such a charge is at issue, the local prosecuting attorney would review the facts surrounding the involved transaction. Cities would be well-advised to look at their purchasing practices over past budget years and consider whether certain items should be purchased through competitive bids.

17. After a bid contract is awarded, can a city later decrease or increase the amount of its purchase or the quantity of work to be performed?

Even after a bid has been awarded, a city may still increase or decrease the quantity of work to be done or the materials or supplies to be furnished if it is necessary to do so.[29] Such changes may not increase or decrease the original contract price by more than 25 percent. If the city wants to decrease the contract amount by more than 25 percent, it needs to obtain the approval of the contractor for such a change. There is no comparable authority for the city to simply gain contractor approval to increase the amount of the order by *more* than 25 percent. In such a situation, the city would need to seek bids or proposals for the work or products that would be beyond the 25 percent amount.

The city council may also delegate to city staff the authority to approve such change orders if it involves less than a $50,000 decrease or increase in the contract amount.[30] If a change order for a public works contract in a city with a population of 300,000 or more involves a decrease or increase of $100,000 or less, or a lesser amount as provided by ordinance, city council may delegate to city staff the authority to approve such change orders.[31]

18. If a city seeks competitive bids for an item, can it include a time frame for extra items to be purchased at the same cost?

The bidding laws do not specifically address whether it is appropriate for a city to include a time frame within which it may seek to purchase items at an awarded contract bid amount. However, if a city would like to have an extended opportunity to make such purchases at that cost, it should indicate this fact in the bid specifications. In no case can a city increase the total contract amount by more than 25 percent of the original awarded amount. If a city needs to purchase additional items that would result in a purchase of more than 25 percent over the original contract price, it would need to seek bids or proposals for the additional purchase.

19. May a city seek bids or proposals for incrementally purchased items (such as office supplies) and award the contract to a single vendor for an entire year?

Items, such as office supplies, could be bid and awarded to a single vendor for the entire year if the vendor committed to a set of prices for the items and all of the bidding procedures were followed to

[29] *Id.* § 252.048
[30] *Id.* § 252.048(c).
[31] *Id.* § 252.048(c-1).

yield such a contract. The contract would need to have a maximum and a minimum number of items to be purchased so it could be determined under what circumstances a change order was permitted.

III. General Procedure Requirements

20. What is the general procedure for requesting competitive bids or proposals?

To take bids or proposals on a purchase, the city must first publish notice of the time and place at which the bids or proposals will be publicly opened and read aloud.[32] The city should prepare specifications detailing the requirements that must be met by the goods or services the city intends to purchase. The published notice should include either a copy of these specifications or information on how a bidder may obtain a copy of the specifications.

If a city wishes to consider factors other than price in its selection, or other factors such as a bidder's previous performance or safety record in its selection, the city's bid specifications should clearly state that such factors will be considered. Also, the governing body of a city that is considering using a method other than competitive sealed bidding (e.g., competitive sealed proposals) must determine before notice is given the method of purchase that provides the best value for the city.

21. What notice must a city provide to announce a request for bids or proposals?

A city must publish a notice indicating the time and place at which the bids or proposals will be publicly opened and read aloud. The notice must be published at least once a week for two consecutive weeks.[33] The first publication must appear before the 14th day before the date that the bids or proposals are publicly opened and read aloud. The notice must be placed in a newspaper that is published in the city. If there is no newspaper published in the city, the notice must be posted at city hall for 14 days before the date that the bids or proposals are publicly opened and read aloud.

22. Can city staff personally call potential vendors and ask them to participate in a bid?

Nothing in state law explicitly prohibits a city from providing additional notice to potential bidders. In fact, many cities either keep a list of particular vendors or use a list of vendors that has been prepared by another entity, such as the Texas Facilities Commission. These cities then provide direct notice to the listed vendors when an item or project goes out for bids. However, although this is a common practice, cities should be aware that this practice has not been approved by the Texas courts or by an attorney general opinion. In fact, at least one attorney general opinion has concluded that "contact with potential providers outside the statutory notice and bidding process might run afoul of

[32] *Id*. § 252.041

[33] *Id.*

[the competitive bidding notice requirements]."[34] The attorney general based this conclusion on a Texas case in which the court stated that "[c]ompetitive bidding...requires that all bidders be placed upon the same plane of equality...."[35] Thus, a city may wish to discuss any such practice with its legal counsel.

23. Can a city require or provide a preference for a particular brand or manufacturer in its bid specifications?

At least one Texas attorney general opinion has concluded that a city may not require or indicate a preference for a particular brand name or manufacturer as part of the specifications for a bid request.[36] The only exception to this prohibition would be if it were necessary to acquire a particular brand or product because it is a "captive replacement part." In such a case, however, competitive bidding is not required. Nonetheless, it is rare that a particular service or enhancement of a system can be accomplished only by one manufacturer or through one particular brand.

Some legal analysts disagree with the attorney general opinion that addressed this issue. However, as previously noted, it is not common that a particular item, service or enhancement of a system can be supplied by only one manufacturer or supplier or through only one particular brand or process. Because of the legal uncertainties involved, cities that desire to specify particular brands, products or processes should discuss this practice with legal counsel. In addition, a city should consider adding the phrase "or equal" to specifications that require a particular product, brand or process.

24. May a city accept bids or proposals through electronic transmission?

Cities may receive bids or proposals through electronic transmission, provided the city council adopts rules to ensure the identification, security and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.[37]

25. Is there a special notice requirement if the city intends to issue time warrants to cover the cost of a contract award?

Special notice requirements apply if a city intends to issue time warrants to pay for the cost of a contract award. The required newspaper notice must include a statement of the city council's intention to issue time warrants.[38] That notice must also include the maximum amount of the proposed time warrant indebtedness, the rate of interest the time warrants will bear, and the maximum maturity date for the time warrants.

[34] Op. Tex. Att'y Gen. No. DM-70 at 5 (1991).
[35] *Sterrett v. Bell*, 240 S.W.2d 516, 520 (Tex. Civ. App.—Dallas 1951, no writ).
[36] Op. Tex. Att'y Gen. No. C-376 (1965).
[37] TEX. LOC. GOV'T CODE § 252.0415(a).
[38] *Id.* § 252.041(d).

26. If a city chooses not to follow statutory procurement requirements for a particular item, should the city create any documentation to note why bidding laws were not applicable to that transaction?

State law does not indicate any requirement that a city note in its purchasing documentation why bidding laws were not applicable to the involved transaction. Nonetheless, cities should consult local legal counsel regarding whether they would find placing such a justification on the record helpful to the city or the involved staff's legal position.

IV. Consideration and Award of Bid or Proposal Requests

27. How are contracts awarded by the city that uses the competitive sealed bid method?

If competitive sealed bid requirements are used, the city must award most contracts to either the lowest responsible bidder or to the bidder who provides goods or services at the "best value" for the city.[39] To determine the best value for the city, the city may consider the following:[40]

- the purchase price;
- the reputation of the bidder and of the bidder's goods or services;
- the quality of the bidder's goods or services;
- the extent to which the goods or services meet the municipality's needs;
- the bidder's past relationship with the municipality;
- the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- the total long-term cost to the municipality to acquire the bidder's goods or services; and
- any relevant criteria specifically listed in the request for bids or proposals.

28. Can the city take into account the safety record of the bidder in making the award?

When awarding a contract using traditional competitive bidding, the city may only consider a bidder's safety record in regards to the bidder's "responsiveness" if notice has been given that such a criterion is relevant. Specifically, the governing body must have adopted a written definition and criteria for assessing the bidder's safety record and must have given notice in the bid specifications that the safety record will be considered. Of course, any decision that the city makes must not be arbitrary or capricious.[41]

[39] *Id.* § 252.043(a)-(b).
[40] *Id.* § 252.043(b).
[41] *Id.* § 252.0435.

29. What options does a city have if the lowest bidder has a prior history of poor performance?

Under current law, if the city wishes to consider additional criteria, the city's bid specifications should clearly specify the various criteria that will be considered.

Again, the best practice is to clearly indicate in the city's specifications that a bidder's prior performance on similar contracts may be considered in evaluating the bids.

30. What options does the city have if the city receives no bids in response to a request?

If competitive bids or proposals are required by Chapter 252 of the Local Government Code, there is no exception that would allow the city to avoid the statutory requirements due to a lack of bids. If a city receives no response to a request, the city must either re-advertise or decide not to undertake the contract.

31. What options does the city have if the city receives only one bid or proposal in response to a bid request?

If a city receives only one bid or proposal in response to its request, the city may accept the bid or proposal received, reject the bid or proposal and re-advertise, or reject the bid or proposal and decide not to undertake the project.

32. May competitive bids be rejected by a city staff member or must the city council decide which bids to reject?

State law provides that the governing body of the city may reject any and all bids.[42] There is no provision that would allow the delegation of this decision to city staff. However, in certain cities the staff will open the bids and provide a recommendation to the city council on whether the bid is responsive to the bid request and whether it should be accepted as the lowest responsible bid.

33. What is the general procedure for awarding a contract pursuant to competitive bidding?

First, bids must be publicly opened and the bid amounts read aloud at the time and place specified in the bid notice.[43] The city council must then award the contract to the lowest responsible bidder or (if previously noticed) the bidder that provides the best value to the city. In the alternative, the city may reject all bids.[44] Once a bid has been opened, it may not be changed to correct minor errors in the bid

[42] *Id.* § 252.043(f).
[43] *Id.* § 252.041.
[44] *Id.* § 252.043(a), (f).

price.[45] However, under certain circumstances, a bidder may be able to withdraw a bid if it contains a substantial mistake that would cause a great hardship if enforced against the bidder.

34. What is the general procedure for awarding a contract pursuant to competitive proposals?

If a city decides to use the competitive sealed proposal procedures, it must first give notice of the request for proposals in the same manner as required for competitive bids.[46] Generally, this means that the city must publish at least two newspaper notices of the time and place at which the proposals will be opened. These notices must be published at least once a week for two consecutive weeks, and the first notice must be published more than 14 days before the date set for opening the proposals. Requests for proposals must also solicit quotations and specify the relative importance of price and other evaluation factors.[47]

Once proposals have been submitted, the city may conduct discussions with the offeror or offerors whom the city determines to be reasonably qualified for the award of the contract. Such discussions must comply with the request for proposals and with the regulations set by the city council. To obtain the best offers, the city may allow the submission of revisions after proposals are submitted and before the award of the contract. All offerors must be treated fairly and equally with respect to any opportunity for discussion and revision of the proposals.

In the end, the contract must be awarded to the offeror whose proposal is determined to be the most advantageous to the city.[48] The city is to determine which proposal is the most advantageous based on the relative importance of price and the other evaluation factors included in the request for proposals.[49]

35. Is information contained in a bid or proposal confidential under the Public Information Act?

Section 552.104 of the Government Code provides as follows:

(a) Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.
(b) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

The purpose of section 552.104(a) is to protect the interests of a governmental body in situations such as competitive bidding and requests for proposals, where the governmental body may wish to

[45] *Id.* § 252.043(g).
[46] *Id.* § 252.041(b).
[47] *Id.* § 252.042
[48] *Id.* § 252.043(h).
[49] *Id.* §§ 252.021(c), 252.043(h).

withhold information in order to obtain more favorable offers.[50] Significantly, it is not designed to protect the interests of private parties that submit information such as bids and proposals to governmental bodies. Because section 552.104(a) protects only the interests of governmental bodies, it is an exception that a governmental body may waive, for example, by disclosing the information to the public or failing to raise the exception within the ten-day deadline.[51]

Generally, section 552.104(a) protects information from public disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. A general allegation of a remote possibility of harm is not sufficient to invoke section 552.104(a).[52] Section 552.104(a) is frequently raised to protect information submitted to a governmental body in response to a competitive bidding notice or request for proposals. In this context, the protection of section 552.104(a) is temporal in nature. Generally, section 552.104(a) does not except bids from public disclosure after bidding is completed and the contract has been executed.[53] However, bids may continue to be withheld from public disclosure during the period in which the governmental body seeks to clarify bids and bidders remain at liberty to furnish additional information.[54] Section 552.104(a) does not apply when a single individual or entity is seeking a contract as there are no "competitors" for that contract.[55] Note that even when section 552.104(a) does not protect bids from required public disclosure, section 552.110 will require the governmental body to withhold any portions of those bids that contain trade secrets or other commercial or financial information that is made confidential by law.[56] In addition to protecting the actual bid proposals, section 552.104(a) may protect information related to the bidding process that is not part of a bid.[57]

Although early decisions of the attorney general concluded that section 552.104(a) does not protect the interests of governmental bodies when they engage in competition with private entities in the marketplace,[58] this line of opinions has been reexamined. In Open Records Decision No. 593 (1991), the attorney general concluded that a governmental body may claim section 552.104(a) to withhold information to maintain its competitive advantage in the marketplace if the governmental body can demonstrate: (1) that it has specific marketplace interests and (2) the possibility of specific harm to these marketplace interests from the release of the requested information.[59] A governmental body that demonstrates that section 552.104 applies to information may withhold that information even if it falls within one of the categories of information listed in section 552.022(a).[60]

---

[50] Tex. Att'y Gen. ORD-592 at 8 (1991).
[51] TEX. GOV'T CODE § 552.302.
[52] Tex. Att'y Gen. ORD-593 at 2 (1991), ORD-541 at 4 (1990), ORD-514 at 2 (1988), ORD-463 (1987).
[53] Tex. Att'y Gen. ORD-541 at 5 (1990), ORD-514 at 2 (1988), ORD-319 at 3 (1982).
[54] Tex. Att'y Gen. ORD-170 (1977). *See also* Tex. Att'y Gen. ORD-541 at 5 (1990) (Recognizing limited situation in which statutory predecessor to section 552.104 of the Government Code continued to protect information submitted by successful bidder when disclosure would allow competitors to accurately estimate and undercut future bids).
[55] Tex. Att'y Gen. ORD-331 (1982).
[56] Tex. Att'y Gen. ORD-319 (1982), ORD-309 (1982).
[57] *Compare* Op. Tex. Att'y Gen. No. MW-591 (1982) (Identity of probable bidders is protected from public disclosure because disclosure could interfere with governmental body's ability to obtain best bids possible) *with* Tex. Att'y Gen. ORD-453 (1986) (Identities of individuals who receive bid packets are not protected when governmental body fails to show substantial likelihood that these individuals would bid).
[58] Tex. Att'y Gen. ORD-463 (1987), ORD-153 (1977), ORD-99 (1975).
[59] *See, e.g.,* Tex. Att'y Gen. ORL 1997-2516. (City of San Antonio's records of costs various performers pay for use of Alamodome), ORL 1996-2186. (City of Alvin information regarding proposal to provide another city with solid waste disposal services).
[60] TEX. GOV'T CODE ANN. § 52.104(b).

36. Is information within a bid request concerning historically underutilized businesses confidential?

Section 552.128 of the Government Code makes confidential certain information about disadvantaged or historically underutilized businesses.[61] General information about these businesses is confidential if it is submitted to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business. With two exceptions, this information may be disclosed only with the express written consent of the applicant or the applicant's agent.[62]

Without such consent, this information may be disclosed by a state or local governmental entity for one of the following two purposes: (1) to verify an applicant's status as a historically underutilized or disadvantaged business or (2) to conduct a study of public purchasing programs established under state law for historically underutilized or disadvantaged businesses.

It is important to note that this law protects only the information submitted with an *application for certification* as a historically underutilized or disadvantaged business.[63] The business's actual bid is subject to the same rules of disclosure as any other bid. Additionally, information submitted in connection with a specific proposed contractual relationship or within an application to be placed on a bidder's list is not confidential under section 552.128. Thus, this information may be accessible even though it involves data that would be confidential if it were contained in the entity's application for certification as a historically underutilized or disadvantaged business.

37. Must bidders be allowed to speak at a city council meeting to explain or defend their bids?

A bidder does not have any special right to speak at an open meeting of the city council. The attorney general has concluded that the Open Meetings Act does not give members of the public a right to speak at an open meeting.[64] Further, if the city chooses to allow members of the public to speak at a council meeting, the council may make reasonable rules regulating the number of speakers on a particular subject and the length of each presentation.[65] However, the city council should not discriminate between one speaker and another, and the rules should be applied equally to all members of the public. The only situation in which the city council may be required to allow members of the public to speak would be if state law requires a public hearing on an issue or if state law requires that public comment be allowed on a particular subject. However, there is no such public hearing or comment requirement that is applicable to competitive bidding issues.

V. Bids for the Construction or Repair of Public Structures or Roads

[61] *Id.* § 552.128.
[62] *Id.* § 552.128(b).
[63] *Id.* § 552.128(c).
[64] Tex. Att'y Gen. Op. No. H-188 (1973).
[65] Tex. Att'y Gen. Op. No. H-188 (1973); Tex. Att'y Gen. LO-96-111.

38. Is there a special bidding procedure for contracts in excess of $50,000 for the construction or repair of a structure, road or other improvement to real property?

Texas law does not single out cities or dictate special bidding procedures for procurement contracts exceeding $50,000. In the past, Chapter 271, subchapter B, of the Local Government Code dictated a special bidding procedure for cities. However, the legislature exempted cities from that procedure in 1997.

Currently, on expenditures greater than $50,000, cities may follow one of three basic procurement methods: (1) competitive sealed bidding or competitive sealed proposals, (2) the reverse auction procedure, or (3) an alternative procurement method.[66] While each of these procurement methods is authorized for general use by cities, the legislature has precluded the application of some of these methods for specific types of construction projects. These preclusions, as well as other procurement issues, are discussed further in this handbook.

39. Are there special rules for the purchase of machinery for road construction or road maintenance?

As with other procurement efforts, a city seeking to procure machinery for road construction or maintenance should provide notice in the newspaper.[67] The notice for this type of purchase must contain a general description of the type and specifications of machinery required.[68]

For example, a city requiring a bulldozer should specify the minimum size and horsepower of the desired bulldozer. In this way, newspaper notices can be kept reasonably brief and inexpensive, and more detail can be provided in the bid specifications, if necessary.

If, however, the procurement is required to replace unforeseen damage to previously owned equipment, the notice and bidding procedures do not apply.[69]

40. Can a city require that bids for a public work or for the purchase of materials, equipment, or supplies be on a unit price basis?

Yes. Cities may request bids based on unit prices.[70] This type of procurement may be especially helpful in the procurement of equipment and machinery. The city must publish the quantities desired with its notice. If the quantities actually consumed differ from the city's anticipated needs, then the actual purchase shall reflect the quantities supplied or consumed in the procurement.

Cities may ask bidders to indicate both a lump-sum price and a unit price. In fact, some cities specify

[66] TEX. LOC GOV'T CODE § 252.021(a).
[67] *Id*. § 252.041(a).
[68] *Id.* § 252.041(c).
[69] *Id*. § 252.022(a)(3).
[70] *Id*. § 252.047.

that bids may be awarded on a lump-sum basis, a unit price, or on whatever basis best serves the city's interest.

41. Must a bidder execute a performance or payment bond if the contract is for the construction of a public work?

The Government Code mandates that a city contracting for public work in excess of $50,000 shall require its contractor to execute a payment bond solely for the protection of beneficiaries who supply materials or labor to the public works project and have a direct contractual relationship with the contractor.[71] A payment bond is required because material suppliers and laborers do not enjoy the same lien rights on public projects as they do on private projects. Without the benefit of lien rights to secure payments that are not timely received, those suppliers and laborers would lose much of their legal protection regarding payment. The payment bond requirements for public work essentially replace the protections afforded by lien rights with protections guaranteed by a surety.

The Government Code also mandates that a city contracting for public work in excess of $100,000 shall require its contractor to execute a performance bond solely for the protection of the city. The performance bond protects the city in the event of a contractor default and/or termination.

Both the payment and performance bonds must be written for the total contract value and should be executed by a corporate surety in accordance with the Insurance Code prior to commencement of the work.

For more information on payment and performance bonds, a city should review Chapter 2253 of the Government Code and consult legal counsel.

42. May a city require a performance or payment bond from a bidder even when state law does not require such bonds?

Yes. Nothing in state law appears to prohibit a city from requiring a performance bond, a payment bond, or both, from anyone contracting to do work for the city regardless of the amount of the contracts in question. If a city wishes to impose such a requirement, it is advisable that the city make the requirement part of the bid specifications so all potential bidders are informed of the requirement before bidding.

43. Is the city required to hire an engineer for the construction of a public work?

If public health, safety, or welfare and professional engineering issues are involved, the engineering plans, specifications, and estimates for the construction of a public work generally must be prepared by a licensed professional engineer.[72] Further, the engineering for construction usually must be executed under the direct supervision of a licensed professional engineer.

[71] TEX. GOV'T CODE § 2253.021.

[72] TEX. OCC. CODE § 1001.407.

There are two circumstances in which the above requirements do not apply to the construction of a public work by a city. First, they do not apply to a public work that involves a total expenditure of $8,000 or less, even if the work involves structural, electrical or mechanical engineering. If the expenditure for such a public work will amount to or exceed $8,000, the use of an engineer is required as noted above. Second, if the work does not involve structural, electrical or mechanical engineering, then the use of an engineer is not required as long as the total contemplated expenditure on the project will not exceed $20,000.[73]

44. Is the city required to hire an architect if the contract is for the construction of a public work?

A registered architect must prepare the architectural plans and specifications for constructing a new city building if:

- the building will be used for education, assembly or office occupancy; and
- the construction costs exceed $100,000.[74]

Also, for any alteration or addition to an existing city building, a registered architect must prepare the architectural plans and specifications if all three of the following circumstances are present:

- the building is used or will be used for education, assembly or office occupancy;
- the construction costs for the alteration or addition exceed $50,000; and
- the alteration or addition requires the removal, relocation, or addition of any walls or partitions or requires the alteration or addition of an exit.[75]

45. If a contract is for the construction of a public work, is the city required to ensure that all contractors provide workers' compensation coverage?

Any city "building or construction" contract must require the general contractor to certify in writing that the contractor provides workers' compensation insurance to all of the contractor's employees involved in the project.[76] Additionally, each subcontractor must certify in writing to the general contractor that the subcontractor's employees are covered by workers' compensation insurance. The general contractor, in turn, must provide each subcontractor's written certification to the city.

The phrase "building or construction" is defined to include any of the following:

- Erecting or preparing to erect a structure, including a building, bridge, road, public utility facility or related structure;
- remodeling, extending, repairing or demolishing a structure; or

[73] *Id.* § 1001.053. In addition, H.B. 1999, passed in 2019, provides detailed procedures that must be followed in construction defect lawsuits.
[74] *Id.* § 1051.703(a)(2).
[75] *Id.* § 1051.73(a)(3).
[76] TEX. LAB. CODE § 406.096.

- otherwise improving real property or a structure related to real property through similar activities

Thus, a city must require contractors and subcontractors to provide workers' compensation insurance in any contract involving one or more of these activities. However, the contractor may provide this coverage through a group plan or through another method that is satisfactory to the city council.

State law specifies that the employment of a maintenance worker does not generally constitute engaging in "building or construction." State statutes do not appear to provide any other clear exceptions to the requirement that public works contractors provide workers' compensation insurance.

46. If a contract is for the construction of a public work, must a city ensure that the contractors pay their workers according to the local prevailing wage rate for the work that is performed? What about using unions on state-funded contracts?

Texas law requires that any worker employed on a public work contract be paid at least the general prevailing daily wage rate for work of a similar character performed in the same locality.[77] If a worker works overtime or on legal holidays, the worker must be paid at least the general daily wage rate for overtime or legal holiday work. The city council must determine the general prevailing daily wage rate for each craft or type of worker needed to execute a public works contract and the prevailing rate for legal holiday and overtime worked.[78] This determination must be based on either a survey conducted by the city or on the prevailing wage rate in the city as determined by the U.S. Department of Labor (if that department's figures are considered to be current). Further, both the call for bids and the contract itself must specify the applicable wage rates as determined by the city.

The prevailing wage rate requirement applies to any public work that is paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction.[79] However, the requirement does not apply to work done directly by a public utility company under an order of a public authority. The prevailing wage requirement also does not apply to maintenance work.[80]

For more information on the prevailing wage rate requirements, a city should review Chapter 2258 of the Government Code and consult legal counsel.

In addition, H.B. 985, passed in 2019, provides that: (1) a governmental entity, including a city, awarding a public work contract funded with state money, including the issuance of debt guaranteed by the state, may not: (a) prohibit, require, discourage, or encourage a person bidding on the public work contract, including a contractor or subcontractor, from entering into or adhering to an agreement with a collective bargaining organization relating to the project; or (b) discriminate against

[77] TEX. GOV'T CODE ANN. § 2258.021.
[78] *Id.* § 2258.022.
[79] *Id.* § 2258.002.
[80] *Id.* § 2258.021(b).

a person described by (1) based on the person 's involvement in the agreement, including the person's: (i) status or lack of status as a party to the agreement; or (ii) willingness or refusal to enter into the agreement; and (2) the bill may not be construed to: (a) prohibit activity protected by the National Labor Relations Act, including entering into an agreement with a collective bargaining organization relating to the project; or (b) permit conduct prohibited under the National Labor Relations Act.

47. Is there express statutory authority for cities to enter into public/private partnerships?

Yes. In 2011, Chapters 2267 and 2268 of the Government Code were passed by the Texas Legislature to encourage the use of public/private partnerships to develop "qualifying projects," which include various infrastructure projects as defined by the new law (essentially any improvements necessary or desirable to unimproved real estate owned by a governmental entity). The new law requires an opt-in by resolution of the governing body of a political subdivision, including a city, to elect to operate under its terms. It provides detailed procedures for the procurement and implementation of a qualifying project.[81]

VI. Alternative Delivery Methods for the Construction of Structures

Background and Authority

48. What are alternative delivery methods for city construction projects?

The alternatives to the basic competitive bidding model of construction procurement are best-value competitive bidding, competitive sealed proposals, design-build, construction management-agent, construction management at-risk, and job order contracting.

49. What benefits can alternative delivery methods provide cities?

Alternative delivery methods have some advantages over traditional competitive bidding. In the traditional competitive bidding process, a contract must be awarded to the lowest responsible bidder. Subjective considerations such as the contractor's track record on a particular type of project, anticipated use of minority and local contractors, and other factors generally cannot be taken into account. When subjective criteria are used in the selection process, cities have greater flexibility to choose contractors that can provide maximum quality on every project.

Further, alternative delivery systems are particularly advantageous on projects where time, flexibility

[81] Subtitle F, Title 10, TEX. GOV'T CODE Chapters 2267 and 2268. The 82nd Legislature created two chapters of Chapter 2267 of the Government Code. Public and Private Facilities and Infrastructure was added by Senate Bill 1048. Question 47 concerns this version of Chapter 2267. Contracting and Delivery Procedures for construction projects was added by House Bill 628. Section VI of this handbook concerns this version of Chapter 2267, which was re-designated as Chapter 2269 in 2013 by S.B. 1093.

and/or innovation is critical. Using alternative delivery methods such as design-build, the design and construction phases can overlap, allowing portions of work to begin before other final design decisions are made by the owner. The time savings are clear. For example, land can be cleared before the foundation is fully designed, and pier holes can be drilled before the interior colors are picked. Increased flexibility throughout the process allows the number of offices or rooms in a building to be changed relatively easily during the construction. Instead of following the old method of having an engineer design a project in the traditional way, alternative delivery systems can and do encourage innovation. A city can present a request for proposals with an end in mind and allow a firm to develop a plan whereby the most efficient and innovative materials and procedures are used.

50. Where is the statutory authority for cities to use alternative delivery systems?

In 2011, the Texas Legislature consolidated statutes in various codes and created chapter 2267 of the Government Code. In 2013, the chapter was re-designated as Chapter 2269. All authorizations and requisite procedures for the use of alternative delivery systems can be found in Chapter 2269 of the Government Code. (Prior to 2011, cities found their authority for these methods in chapter 271, subchapter H, of the Local Government Code.)

51. What alternative methods are cities currently authorized to use and for what types of projects?

Under current law, cities may use the best-value competitive bidding process, competitive sealed proposal method, construction manager-agent method, construction manager-at-risk method, design-build method, and the job order contract method for public procurement in place of the standard competitive bidding method that is also allowed under Chapter 2269 of the Government Code or Chapters 252 and 271 of the Local Government Code.

With a limited exception, cities may use any of the alternative delivery methods for any project involving an improvement to real property. The exception involves the design-build method. Under Chapter 2269, the design-build method has been separated into two sections—one for vertical structures and a second one for certain types of civil projects. After the passage of H.B. 1050 in 2013, the use of design-build for civil projects is limited in availability to cities whose population is between 100,000 and 500,000 (limited to four projects per fiscal year up) and greater than 500,000 (limited to six projects per fiscal year).[82]

52. What are some preliminary matters in selecting which method to use?

A city must choose which, if any, of the alternative methods will produce the best value for the city.[83] In many circumstances, traditional competitive bidding may remain the most appropriate choice.

[82] TEX. GOV'T CODE ANN. § 2269.354(1) (West Supp. 2011).
[83] *Id*. § 2269.056(a).

VII. The Alternative Methods

53. What is the "best value" competitive bidding method?

Under Chapter 2269, the competitive bidding method is a procurement method by which the city contracts with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.[84] However, because Chapter 2269 gives certain criteria that the city can consider that applies to all procurement methods in Chapter 2269, the city may consider more factors than just price in awarding a contract based on competitive bids that the city would by using competitive bidding under Section 252.043 of the Local Government Code.[85] The criteria that the city may consider are:

1. the price;
2. the offeror's experience and reputation;
3. the quality of the offeror's goods or services;
4. the impact on the ability of the city to comply with rules relating to historically underutilized businesses;
5. the offeror's safety record;
6. the offeror's proposed personnel;
7. whether the offeror's financial capability is appropriate to the size and scope of the project; and
8. any other relevant factor specifically listed in the request for bids, proposals, or qualifications

Also, the city shall apply any existing laws and criteria related to historically underutilized business and the use of woman, minority, small, or disadvantaged business.[86] Even though this competitive bidding method employs more flexibility for the city to determine the lowest responsible bidder, the city can still elect to use the competitive bidding procedure in Section 252.043 of the Local Government Code.

54. What is the competitive sealed proposals method?

The competitive sealed proposal method is a procurement method by which a city requests proposals, ranks the offerors, negotiates as prescribed, and then contracts with a general contractor for the construction, rehabilitation, alterations, or repairing of facility.[87] In the competitive sealed proposal method, the city must first hire an architect or engineer to prepare construction documents.[88] Selection of an architect or engineer must be in accordance with the process required by section 2254.004 of the Government Code if the city does not employ, as a full time employee, its own architect or engineer to perform this service.[89] Once the construction documents have been completed, the city prepares a Request for Competitive Sealed Proposals (RFCSP).[90] The RFCSP should include construction documents, estimated budget, project scope, schedule and other

[84] *Id.* § 2269.101.
[85] *Id.* § 2269.055.
[86] *Id.* § h2269.055(b).
[87] *Id.* § 2269.151.
[88] *Id.* § 2269.152.
[89] *Id.* § 2269.057(b).
[90] *Id.* § 2269.153.

information contractors may require in order to respond to the RFCSP. The city must also state the selection criteria and the relative weighting of the criteria that the city will employ in selecting the successful offeror. Unlike an RFQ under the design-build method, price information may be requested in the RFCSP and may be a selection criterion.

The city must publicly open and read aloud the proposals, including price information if such was required.[91] The city must also evaluate and rank the proposals in relation to the published selection criteria within 45 days after the opening. The city then selects the proposal that offers the best value based on the published selection criteria and its ranking evaluation.[92]

Following the selection, the contract negotiation process begins. The city negotiates first with the highest ranked offeror.[93] At this stage, the city and its architect or engineer may discuss modifications to the proposed scope, time and price. Modifications are not required, and if they are discussed but not agreed to by the city and the offeror, a final contract may still be negotiated and agreed upon based on the original response to the RFCSP. If the two parties are unable to reach a final agreement, the city must inform that offeror in writing that negotiations are ended.[94] The city may then negotiate with the next ranked offeror. This continues in the order of the selection ranking until a contract is reached or all proposals are rejected. In this form of contract procurement, the city is not restricted to considering price alone in its selection, but may consider any other factor from among the established selection criteria to determine which offeror offers the city the best value.[95]

55. What is the construction manager-agent method?

The construction manager-agent method allows cities which may not have the in-house expertise and/or sufficient staff to effectively oversee a construction project to employ an agent to oversee a project on their behalf. The party hired by the city to act on its behalf in overseeing the project is known as a Construction Manager-Agent (CMA).[96]

A CMA is defined as a legal entity that provides consultation to the city regarding construction, during and after the design or repair of a facility.[97] Practically speaking, the CMA will almost always be a general contractor or architect or engineer with experience constructing the type of project the city is building. The CMA manages the project for the city both during the procurement process and after a contract has been executed. A CMA represents the city in a fiduciary capacity.[98] Therefore, the CMA may not perform any portion of the actual design or construction of the project, with the exception of the general field conditions as provided by the contract.[99] General field conditions, when used in the context of a facilities construction contract, customarily include on-site management, administrative personnel, insurance, bonds, equipment, utilities and incidental work, including minor field labor and materials.[100]

---

[91] *Id.* § 2269.154.
[92] *Id.* § 2269.155(a).
[93] *Id.* § 2269.155(b).
[94] *Id.* § 2269.155(c).
[95] *See Id*. § 2269.055(a)(1).
[96] *Id.* § 2269.201(a).
[97] *Id.* § 2269.201(b).
[98] *Id*. § 2269.204.
[99] *Id*. § 2269.203, 202.
[100] *Id*. § 2269.001(4).

Prior to or concurrent with the selection of a CMA, the city must hire an architect or engineer according to the requirements of section 2254.004 of the Government Code, to design the project if the city does not utilize for the design an architect or engineer which it employs on a full-time basis.[101] The architect or engineer may not serve, alone or in combination with any other person, as the CMA, unless hired as the CMA in a separate or concurrent CMA procurement process.[102] This does not prevent the architect or engineer from providing customary construction phase services under the original professional services agreement and applicable licensing laws.

Either after or concurrent with the selection of an architect or engineer, the city selects a CMA based on the same professional services procurement rules provided for the selection of an architect or engineer under section 2254.004 of the Government Code.[103]

Under the CMA method, the city may engage a single prime contractor or multiple trade contractors to serve as prime contractors for their respective portions of the work in any manner authorized by the statutes governing the particular city.[104]

56. What is the construction manager at-risk method?

A construction manager-at-risk (CMAR) assumes the risk for construction, rehabilitation, alteration or repair of a facility at the contracted price in the same manner as a general contractor, but also provides consultation to the city regarding construction during and after the design of the facility.[105] A CMAR may be hired by the city in either case by a one-step or two-step process that is outlined below.[106]

Prior to or concurrently with selecting a CMAR, the city must select or designate an architect or engineer who will be responsible for preparing the design and construction documents for the project.[107] This architect or engineer, if not a full-time employee of the city, must be selected according to section 2254.004 of the Government Code.[108] The city's architect or engineer, or an entity related to the city's architect or engineer, may not serve, either alone or in combination with another, as the CMAR.[109]

In the one-step selection process, the city issues a request for proposals (RFP). This RFP should include general information on the project site, scope, schedule, selection criteria, the weighted value of selection criteria, estimated budget, time/place for receipt of the proposal, whether a one or two-step selection process will be used, and any other information that would assist the city in its selection of a CMAR. In the one-step process, the city may request, as part of the requested proposals, information regarding proposed fees and prices for the fulfillment of the general field

[101] *Id*. § 2269.205. *See Id*. § 2269.057(b).
[102] *Id*. § 2269.205(b)-c).
[103] *Id*. § 2269.207.
[104] *Id*. § 2269.206.
[105] *Id*. § 2269.251.
[106] *See Id*. § 2269.253
[107] *Id*. § 2269.252(a).
[108] *Id*. § 2269.057.
[109] *Id*. § 2269.252(b).

conditions. In other words, both qualifications and pricing are evaluated in one process.[110]

In the two-step selection process the city first produces a Request for Qualifications (RFQ), which is identical to the RFP as described above, except that no cost or price information may be requested of offerors in the initial RFQ. In the second step, the city selects a maximum of five offerors who responded to the RFQ to provide additional information. That information may include proposed fees and prices for the completion of the CMAR's general field conditions. The two-step CMAR process is similar to the two-step method for selecting a design-build firm discussed later in this paper.[111]

In both the one and two-step processes all proposals must be publicly opened and read aloud in their entirety, including pricing information included in the proposal at the appropriate step.[112] The city must evaluate and rank the offers according to its published selection criteria within 45 days of the responses having been opened.[113] The city then selects the proposal that offers the best value for the city according to the published selection criteria and the ranking evaluation.[114] Following the selection of the offeror that offers the best value for the city, the contract negotiation process begins. The city negotiates first with the selected offeror. If the two parties cannot reach an agreement, the city must give formal written notice to that offeror that negotiations are ended. The city may then negotiate with the next ranked offeror. This process continues until the city and an offeror reach an agreement on a contract or negotiations with all ranked offerors end.[115]

The CMAR is required to properly advertise for bids or proposals from trade contractors or subcontractors for all work, except minor work that may be included in the general field conditions. The CMAR administers this process and selects the contract procurement method determined to provide the best value from among the various methods available to the city. The CMAR may seek to perform any part of the work on the project as long as the CMAR presents its bid or proposal in the same manner as any trade contractor or subcontractor and the CMAR's bid or proposal is determined by the city to provide the best value.[116]

The CMAR, city and its representative architect or engineer review the bid and proposals and select the various trade contractors or subcontractors in a manner so as not to disclose the price of the bids or proposals to the public. Ultimately, however, all bids or proposals shall be made public once the related contract has been awarded or seven days after the final selection of bids, whichever is later.[117]

The CMAR may recommend the acceptance of a particular bid or proposal, but the city has the right to require another bid or proposal be accepted. If the city overrides the CMAR's recommendation in selection of any trade contractor or subcontractor, it must compensate the CMAR for any changes in price, time, guaranteed maximum cost, or any additional cost or risk associated with the city's choice

[110] *Id.* § 2269.253.
[111] *Id.*
[112] *Id.* § 2269.253(f).
[113] *Id.* § 2269.253(g).
[114] *Id.* § 2269.254(a).
[115] *Id.* § 2269.254(b)-(c).
[116] *Id.* § 2269.255.
[117] *Id.* § 2269.256(a).

that differs from that recommended by the CMAR.[118]

The CMAR contracts directly with the selected trade contractors and subcontractors. If any trade contractor or subcontractor defaults, the CMAR may complete the work, without advertising for completion bids, or may select a replacement trade contractor or subcontractor.[119]

If no fixed contract amount or guaranteed maximum price has been determined when the CMAR's contract is executed, the performance and payment bonds shall be in the amount of the estimated budget of the project as set out in the RFQ or RFP. The CMAR must deliver the required bonds not later than the tenth day after the CMAR executes the contract unless the CMAR furnishes a bid bond or other financial security acceptable to the city to ensure that the CMAR will provide the performance and payment bonds once the price is fixed.[120]

57. What is the design-build method?

The design-build method differs from traditional design-bid-build models in that the city contracts with one firm to perform both pre-construction design and post-design construction activities.[121] This method can save time and money if employed correctly. This method can facilitate multi-phased projects without the time consuming process of putting each phase out to bid separately. Also, it may allow work to begin before all decisions regarding the design or finish-out are made by the owner. The design-build method may alleviate the problems that cities often encounter related to project inefficiencies when dealing with items such as change orders or requests for information.

Under the design-build method of construction contract procurement, the city awards a single contract to a firm who both designs and constructs the facility.[122] A design-build firm, as that term is commonly defined, consists of a team that includes an architect or engineer and a builder qualified to engage in building construction in Texas.[123] However, the city must designate an independent architect or engineer to act as its representative for the duration of the project.[124] The design-build team may construct the work itself or it may subcontract out all or portions of the work. In so doing, the designer-builder contracts directly with its subcontractors and assumes complete responsibility for both the design and construction of the project.

58. What types of projects can be constructed using the design-build method?

The design-build method can be used for both buildings and associated structures,[125] as well as, in limited circumstances and by certain cities, some civil projects such as roads, bridges, water supply projects and water plants.[126] When using the design-build method, cities must follow Subchapter G

[118] *Id.* § 2269.256(b).
[119] *Id.* § 2269.257.
[120] *Id.* § 2269.258.
[121] *Id*. § 2269.301.
[122] *Id*. § 2269.303.
[123] *Id.* § 2269.304.
[124] *Id.* § 2269.305.
[125] *Id.* § 2269.302.
[126] *Id.* § 2269.352, .353.

of Chapter 2269 of the Government Code for vertical structures or buildings and Subchapter H of Chapter 2269 for horizontal or civil projects.

59. How does a city solicit design-builders for a building project?

If a city determines that the design-build method will provide the best value, it must prepare a request for qualifications (RFQ) that includes general information about a project, including the project site, project scope, budget, selection criteria, weighted value of selection criteria and other helpful information for bidders.[127] In addition to the RFQ, the city must publish a Design Criteria Package that includes more detailed information about the project.[128] The Design Criteria Package must specify both the criteria for selecting the design-build firm and the aspects or qualities the city considers necessary to design the project. The criteria may include the following information:

- a legal description of the project site,
- survey information,
- interior space requirements,
- special material requirements,
- material quality standards,
- conceptual criteria,
- special equipment requirements,
- cost and budget estimates,
- schedules,
- quality assurance and control requirements,
- site development requirements,
- applicable codes and ordinances,
- utility provisions,
- parking requirements, and
- other requirements as applicable.[129]

However, the city may not require offerors to submit architectural or engineering designs as part of a proposal or a response to a RFQ.[130]

60. How does a city select a design-builder after publishing an RFQ?

After preparing its RFQ and Design Criteria Package and advertising for proposals, the city evaluates statements of qualifications submitted by the potential offerors. The city may evaluate qualifications according to the following criteria: offeror's experience, technical competence, capability to perform, and past performance of offeror's team and members thereof.[131] The city may also consider other appropriate factors submitted by the offeror in response to the RFQ. However, the city may not consider cost-related or price-related evaluation factors. In their responses, the design-build offerors must certify that each architect or engineer that is a member of its team was selected on the basis of

[127] *Id.* § 2269.306(a).
[128] *Id.* § 2269.306(b), (c).
[129] *Id.* § 2269.306(c).
[130] *Id.* § 2269.306(d).
[131] *Id.* § 2269.307(a).

demonstrated competence and qualifications in the manner provided by section 2254.004 of the Government Code.[132]

After initially reviewing the responses to the Design Criteria Package and the RFQ, the city must select up to five responders to submit additional information. If the city chooses, it may interview these responders.[133]

The city evaluates the additional information from the selected offerors based on the criteria in the RFQ and the results of any interviews that occurred.[134] Additionally, the city may request information on the offeror's demonstrated competence, safety and durability considerations, the feasibility of the project as proposed, the offeror's ability to meet scheduling requirements, cost methodology and other appropriate factors.[135]

After evaluations, the city ranks the offerors according to the RFQ and selects the design-build firm that offers the best value for the city based on the published selection criteria and its ranking evaluations.[136]

61. How does a city negotiate a contract with the selected design-builder?

After selecting the design-build firm that offers the best value for the city, the contract negotiation process begins. The city first negotiates with the selected offeror. If the parties cannot reach an agreement, the city must formally, and in writing, inform the offeror that it is ending the negotiations. The city may then negotiate with the next offeror in the order of the selection ranking process. The same negotiation process will continue until an agreement is reached that culminates in an executed contract or negotiations with all ranked offerors ends.[137]

Following selection and contract award, the chosen design-build firm completes the design and submits all design elements to the city or its architect or engineer representative for review and determination of scope compliance. The city's review may be done prior to or during construction.[138]

The design-build firm has the responsibility to provide the city with a signed and sealed set of construction documents (as-built drawings) at the project's conclusion.[139]

The design-build firm's payment and performance bonds are not required to provide, and may not provide, coverage for that portion of the design-build contract that includes design services only. If no guaranteed maximum price or fixed price has been established when the contract is awarded, the performance and payment bonds are required to be in the penal sum of the estimated budget for the project as specified in the Design Criteria Package. The design-build firm must deliver the

[132] *Id.* § 2269.307(b).
[133] *Id.* § 2269.307(c).
[134] *Id.* § 2269.307(d).
[135] *Id.* § 2269.307(e).
[136] *Id.* §§ 2269.307(f), .308(a).
[137] *Id.* § 2269.308(b)-(c).
[138] *Id.* § 2269.309.
[139] *Id.* § 2269.310.

performance and payment bonds not later than the 10th day after the firm executes the contract. However, if the design-build firm provides a bid bond or other financial security acceptable to the city to ensure it will provide the performance and payment bonds, the delivery of those bonds can be postponed until construction begins.[140]

62. How does the design-build method differ for civil projects?

For civil projects, cities do not have the same requirements to weigh and select up to five offerors prior to selection and negotiation of a contract for civil works.[141] However, at the outset of a decision to use the design-build method, the city must determine that the design-build method is appropriate for a civil project.[142]

63. Is there a limit on the number of civil projects a city can build using the design-build method?

After the passage of H.B. 1050 in 2013, for cities with a population of 500,000 or more, the limit on civil design-build projects is six per fiscal year.[143] For cities with a population of 100,000 or more but less than 500,000, the limit is four per fiscal year.[144] [145]

Cities with a population of less than 100,000 may not use the design build method for civil projects.[146]

64. Must a city select an independent engineer for civil projects?

Yes. An engineer that is independent of the design-build firm must be selected to serve as the city's representative.[147]

65. What is the process for selecting a design-build firm for civil projects?

The first step is to issue a request for qualifications that includes information about the project scope, budget, schedule, criteria for selection, weighting of the criteria and other information that may assist potential design firms in submitting proposals.[148] Also, the city must prepare a Design Criteria Package that may include:

- additional budget or cost estimating;
- information on the site;

[140] *Id.* § 2269.311.
[141] *Id.* § 2269.359.
[142] *Id.* § 2269.353(c),(d).
[143] *Id.* § 2269.354(a)(1).
[144] *Id.* § 2269.354(b).
[145] *Id.* § 2269.354 (c).
[146] *See Id.* § 2269.352.
[147] *Id.* § 2269.355.
[148] *Id.* § 2269.357.

- performance criteria;
- special material requirements;
- critical design calculations;
- known utilities;
- capacity requirements;
- quality assurance and quality control requirements;
- type, size, and location of start-ups, and
- notice of any ordinance, rules, or goals adopted by the governmental entity relating to awarding contracts to historically underutilized business.[149]

The primary difference in selection criteria for civil projects and facilities is that the technical data required by the statute in the initial submission phase is higher for civil projects. Like other projects, price cannot be considered at the initial phase.[150] In the second step of the process, the pricing can be considered and then negotiations occur in much the same way as other projects.[151]

66. What is the job order contracting method?

The job order method for procurement may be used for the maintenance, repair, alteration, renovation, remediation or minor construction of a facility when the work is recurring in nature and the time or quantities required are indefinite.[152] Examples of the type of work that would qualify for job order procurement would be ceiling tile replacement, door hanging, sidewalk construction and repainting.

The city must properly advertise for and publicly open competitive sealed proposals for job order contracts.[153] The base term of the job order contract may not exceed two years. The city may renew the contract annually for not more than three additional years.[154]

The city may award job order contracts to one or more of the offerors in the same solicitation. The city is not required to award a contract to whoever submits the lowest rates.[155]

Under a job order contract, specific work projects are authorized by the execution of a job order by the city and the contractor. The order may be a fixed price, lump sum order contract based on contractual unit pricing applied to estimated quantities, or a unit price order based on the quantities and line items delivered.[156]

If the amount or estimated amount of the job order is in excess of $25,000, then the contractor must post a payment bond on the job order. If the job order is $100,000 or more, a performance bond is also required.[157] However, note that the bonds are provided on each specific job order and not on the overall job order contract. Given the nature of job order work, it is possible that many job orders may

[149] *Id.* §§ 2269.357(b), .358.
[150] *Id.* § 2269.359(a).
[151] *Id.* §§ 2269.359-.362.
[152] *Id.* § 2269.401.
[153] *Id.* § 2269.405.
[154] *Id.* § 2269.409.
[155] *Id.* § 2269.406.
[156] *Id.* § 2269.410.
[157] *Id.* § 2269.411. *See Id.* § 2253.021(a).

not be of a size that would require performance bonds. However, it also means that a contractor may be required to post multiple bonds for multiple job orders during the same time period.

VIII. Ability to Provide Preference in Bid Awards

67. Can a city provide a preference for local businesses in its bid award?

State law allows a city to provide a preference for local businesses when awarding bids only in specifically authorized situations.[158]

In the first situation, if two or more bidders have bids that are identical in nature and amount, with one bidder being a resident of the city and the other bidder or bidders being non-residents, the city council must select the resident bidder.[159]

Another provision geared towards purchases of tangible items allows the consideration of a bidder's principal place of business when a city awards a contract.[160] The statute states that:

> "In purchasing under this title any real property or personal property that is not affixed to real property, if a local government receives one or more bids from a bidder whose principal place of business is in the local government and whose bid is within three percent of the lowest bid price received by the local government from a bidder who is not a resident of the local government, the local government may enter into a contract with [either]…the lowest bidder; or…the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government."[161]

A third provision authorizes cities that are purchasing real property, personal property not affixed to real property, or services (with the exception of certain telecommunications services) to enter into a contract with either: (1) the lowest bidder; or (2) a bidder whose principal place of business is in the city and whose bid is within five percent of the lowest bid price, if the governing body determines that the local bidder offers the city the best combination of contract price and additional economic development opportunities, including the employment of residents of the local government and increased tax revenues.[162] This is now limited to contracts for construction services for less than $100,000.[163]

Finally, cities must give a preference to local businesses if there are out-of-state bidders that have bid

[158] Op. Tex. Att'y Gen. No. DM-113 (1992); Tex. Att'y Gen. LO-93-073.
[159] TEX. LOC. GOV'T CODE § 271.901(b).
[160] *Id.* § 271.905.
[161] *Id*. § 271.905(b).
[162] *Id.* § 271.9051.
[163] *Id*.

on the contract and the out-of-state bidder or manufacturer is located in a state that discriminates against out of-state bidders in its bid awards in favor of local bidders.[164] For example, some states have laws that require an out-of-state bidder to underbid an in-state bidder by a certain minimum amount. In response to such requirements by other states, the Texas Legislature included a provision in Chapter 2252 of the Government Code. That chapter requires that Texas cities determine if a Texas bidder would be required to underbid the non-Texas bidder for a comparable contract in the non-Texas bidder's own state.[165] If such a preference is provided in that state, the non-Texas bidder is then required to underbid the lowest responsible Texas bidder by at least that amount. Thus, if a Texas city receives a bid from a non-Texas bidder, Chapter 2252 will give the lowest responsible Texas bidder the same advantage as the non-Texas bidder would have in its home state. If the non-Texas bidder is from a state where in-state bidders are not given preference over Texas bidders, then Chapter 2252 will not give the Texas bidder any advantage over the non-Texas bidder.

There are several important points to note with regard to the requirements of Chapter 2252 of the Government Code. First, a bidder's home state is determined by the location of its principal place of business or manufacturing. A contractor whose ultimate parent company or majority owner has its principal place of business in Texas would be considered a Texas bidder.[166] Second, information on the relevant bidding laws of other states is compiled by the comptroller's office. In ascertaining the relevant bidding laws of a particular state for purposes of meeting the requirements of Chapter 2252, a city must use the information provided by the Comptroller's Office.[167] Finally, Chapter 2252 does not apply to a contract involving federal funds.[168]

Additionally, some attorneys believe that a city may include under "best value" criteria a local preference component. That opinion has not been tested in court. Finally, legislation enacted in 2017[169] mandates the use of U.S. steel in certain contracts between the state (e.g., the Water Development Board) and a city, with some exceptions.

68. Can a city provide a preference for historically underutilized businesses?

A city that chooses to award a competitive bid or competitive proposal based on "best value" criteria may consider "the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities" or "any other relevant criteria" listed by the city in the specifications.[170] Some cities have used these provisions to continue seeking to procure services from historically underutilized businesses. In any case, a city may consider a factor that is not related to the bidder's capacity to fulfill the contract only when state law specifically authorizes the city to take that factor into account.[171]

[164] TEX. GOV'T CODE § 2252.001 et seq.
[165] *Id.* § 2252.002.
[166] *Id.* § 2252.001(4).
[167] *Id.* § 2252.003.
[168] *Id.* § 2252.004.
[169] TEX. GOV'T CODE chapter 2252, subchapter F, added by S.B. 1289.
[170] *See Id.* § 2267.358(10) ; TEX. LOC. GOV'T CODE §§ 252.0215, .043.
[171] Op. Tex. Att'y Gen. No. DM-113 (1992); Tex. Att'y Gen. LO-93-073.

69. When is a city required to contact historically underutilized businesses?

A city must contact at least two historically underutilized businesses if the city makes an expenditure of between $3,000 and $50,000.[172] If the expenditure is for less than $3,000 or for more than $50,000, this special notification requirement would not apply. To determine what businesses within the county are classified as historically underutilized businesses, the city should use the list of such businesses provided by the Comptroller's Office.[173] If there are more than two such businesses in the county, the city can contact the listed businesses on a rotating basis. Even if the historically underutilized businesses in the county do not provide the goods or services that the city needs, at least two of those businesses must be contacted.[174] The city is only excused from this notification requirement if there are no such businesses located in the county in which the city is located. State law does not indicate the manner of individual notice that must be provided to the historically underutilized businesses. In any case, it may be advisable to use a manner of notice such as certified mail that would provide a record of contact with the listed businesses.

70. How does a city determine whether it has historically underutilized businesses within its area?

To determine what businesses within the county are classified as historically underutilized businesses, the city should use the list of such businesses provided by the Comptroller's Office.[175] A city may obtain information about historically underutilized businesses from the Comptroller's Office website www.window.state.tx.us/procurement/prog/hub/. (Note that, in 2013, H.B. 194 added a veteran with at least a 20-percent service-connected disability as eligible to be listed as a historically underutilized business by the state. A legal challenge to that addition is likely.)

71. Is a city required to provide a preference for recycled materials in its bid requests?

Yes, a city must "give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality."[176] Furthermore, a city is required to regularly review and revise its procurement procedures and specifications to eliminate procedures and specifications that explicitly discriminate against products made of recycled materials. Cities are required to make sure their procurement procedures and specifications encourage the use of products made of recycled materials. The Texas Commission on Environmental Quality may order an exemption from these requirements for a city of less than 5,000 people if the commission finds that compliance would work a hardship on the city.[177]

---

[172] TEX. LOC. GOV'T CODE § 252.0215.
[173] *Id.*, TEX. GOV'T CODE § 2161.061 (Comptroller's Office shall certify underutilized businesses.).
[174] ALAN J. BORJORQUEZ, TEXAS MUNICIPAL LAW AND PROCEDURE MANUAL ' 13.12 (2005).
[175] TEX. LOC. GOV'T CODE § 252.0215 (City to contact historically underutilized businesses based on list provided by Comptroller's Office); TEX. GOV'T CODE § 2161.061 (Comptroller's Office shall certify underutilized businesses.).
[176] TEX. HEALTH & SAFETY CODE § 361.426; TEX. LOC. GOV'T CODE § 252.003 (Requiring that a city follow the requirements set forth in section 361.426).
[177] TEX. HEALTH & SAFETY CODE § 361.426(d).

IX. Statutory Exceptions to the Competitive Bidding or Proposal Requirements:

Exceptions Due to Public Health, Safety or Welfare

72. Is a city required to bid for purchases that are necessary because of a public calamity?

A city is not required to follow the competitive procurement requirements of Local Government Code Chapter 252 when making an expenditure because of a public calamity.[178] In order to qualify for this exception from the bidding requirements, the public calamity must be one that requires the immediate appropriation of money to relieve the necessity of the city's residents or to preserve the property of the city. For example, a city may need to purchase medicines or blankets to be dispersed at a temporary city shelter for victims of flooding or tornadoes. Such a purchase would arguably fall under this exception to the competitive bidding requirements. However, this practice does not appear to have been reviewed by the Texas courts or by the attorney general. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive procurement requirements.

73. Can a city forego bidding or proposals if the purchases are necessary to protect the public health or safety of city residents?

A city may forego the competitive bidding procedures of Chapter 252 of the Local Government Code when making a purchase that is necessary to preserve or protect the public health or safety of the city's residents.[179] Chapter 252 does not define or give examples of what constitutes a purchase that is "necessary to preserve or protect... public health or safety...." The following activities have been found to fall within the health and safety exception (and thus do not require competitive bidding): 1) building a sanitary sewage system and disposal plant;[180] 2) establishing a county ambulance service;[181] and 3) awarding a contract for collection, hauling and disposal of solid waste (garbage).[182] Cities have also used this exception for the purchase of emergency equipment for city personnel, such as self-contained breathing apparatus for firefighters or bullet-proof vests for police officers. However, these practices have not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

---

[178] TEX. LOC. GOV'T CODE § 252.022(a)(1).
[179] *Id.* § 252.022(a)(2).
[180] *Hoffman v. City of Mt. Pleasant*, 89 S.W.2d 193 (Tex. 1936).
[181] Op. Tex. Att'y Gen. No. M-806 (1971).
[182] *Browning-Ferris, Inc., v. City of Leon Valley*, 590 S.W.2d 729 (Tex. Civ. App—San Antonio 1979, writ ref'd n.r.e.); Op. Tex. Att'y Gen. No. JM-908 (1988).

74. Can a city forego bidding or proposals for purchases that are necessary because of unforeseen damage to public machinery, equipment or other property?

A city is not required to follow the competitive bidding procedures when making a purchase that is necessary because of unforeseen damage to public machinery, equipment or other property.[183] For example, cities have used this exception to justify not taking bids for the purchase of parts for emergency equipment, such as firefighting equipment, when the equipment was unexpectedly damaged or broken. However, parts needed for the routine maintenance of firefighting equipment are generally purchased through the competitive bidding process. In addition, these practices have not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

Exceptions for Specialized Services

75. Are contracts for personal services exempt from the requirements for competitive bidding?

Texas law specifically exempts contracts for personal services from the competitive bidding requirements.[184] The Texas Supreme Court has defined "personal services" to include only those services which are performed personally by the individual who contracted to perform them.[185] Further, for a contract to qualify as a contract for personal services, the compensation in the contract should mainly pay for the labor of the individual providing the service, not for such things as insurance or materials.[186]

For example, the attorney general held that a contract for the services of a construction manager was a contract for "personal services" and therefore not subject to competitive bidding requirements.[187] The attorney general has also concluded that a contract for janitorial services would constitute a contract for personal services if a specific person is required to perform those services.[188] However, the following have been found not to be exempt from bidding under the exemption for "personal services": the provision of advertising space by a newspaper,[189] a contract for microfilming records,[190] an insurance contract,[191] a contract to operate container terminal facilities in a port,[192] and a contract for janitorial services that did not specify the particular person who was to perform the janitorial services.[193] Thus, these contracts were all subject to the competitive bidding requirements of Chapter 252 of the Local Government Code.

---

[183] TEX. LOC. GOV'T CODE § 252.022(a)(3) .
[184] *Id.* § 252.022(a)(4).
[185] *Van Zandt v. Fort Worth Press*, 359 S.W.2d 893, 895-896 (Tex. 1962).
[186] Op. Tex. Att'y Gen. No. MW-344 at 1137 (1981).
[187] Op. Tex. Att'y Gen. No. MW-530 (1983).
[188] Op. Tex. Att'y Gen. No. JM-486 (1986).
[189] *Van Zandt v. Fort Worth Press*, 359 S.W.2d 893, 896 (Tex. 1962).
[190] Op. Tex. Att'y Gen. No. JM-890 (1988).
[191] Op. Tex. Att'y Gen. No. MW-494 (1982).
[192] Op. Tex. Att'y Gen. No. MW-344 (1981).
[193] Op. Tex. Att'y Gen. No. JM-486 (1986).

76. Can a city forego bidding for contracts for professional services?

Texas law specifically exempts contracts for professional services from the competitive bidding requirements.[194] Professional services have been described as those services which are mainly mental or intellectual rather than physical or manual. That is, professional services are those disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence.[195] For example, cities have used this exception to justify not taking bids for the services of an attorney. Some cities have also used this exception to justify employing outside consultants, such as insurance consultants, without competitively bidding those services. However, these practices have not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult with its legal counsel before relying on this exception in order to avoid the application of competitive bidding requirements.

Additionally, it should be noted that a city is specifically prohibited under state law from obtaining certain professional services through competitive bidding. The Professional Services Procurement Act states that a city may not use traditional competitive bidding procedures to obtain the services of architects, engineers, certified public accountants, land surveyors, physicians, optometrists or state-certified real estate appraisers.[196] If the professional services desired by the city do not fall under the Professional Services Procurement Act, they may generally be obtained with or without the use of competitive bidding, as the city desires.[197] Legislation passed in 2019 provides an additional step when litigating claims with professionals. Senate Bill 1928: (1) defines "claimant" to mean a party, including a plaintiff or third-party plaintiff, seeking recovery for damages, contribution, or indemnification; (2) provides that, in any action or arbitration proceeding for damages arising out of the provision of professional services by a licensed or registered professional, a claimant shall be required to file with the complaint an affidavit of a third-party licensed architect, licensed professional engineer, registered landscape architect, or registered professional land surveyor who: (a) is competent to testify; (b) holds the same professional license or registration as the defendant; and (c) practices in the area of practice of the defendant and offers testimony based on the person's knowledge, skill, experience, education, training, and practice; and (3) provides for certain exceptions to (2).

77. How may a city obtain the services of architects, engineers, certified public accountants, land surveyors, physicians, optometrists, landscape architects, geoscientists or state certified real estate appraisers?

Cities are prohibited from using competitive bidding procedures to obtain the services of architects, engineers, certified public accountants, land surveyors, physicians, optometrists, landscape architects, geoscientists or state-certified real estate appraisers.[198] Instead, for contracts involving architectural,

[194] TEX. LOC. GOV'T CODE § 252.022(a)(4).
[195] Op. Tex. Att'y Gen. Nos. JM-1038 (1989), JM-940 (1988), MW-344 (1981) (Quoting with approval the definition of "profession" from Black's Law Dictionary 1089-90 (5th ed. 1979)).
[196] TEX. GOV'T CODE § 2254.003.
[197] Op. Tex. Att'y Gen. No. DM-106 (1992).
[198] TEX. GOV'T CODE §§ 2254.002(2), 2254.003.

engineering or land surveying services, a city must first select the most highly qualified provider and then attempt to negotiate a fair and reasonable price.[199] If the city is unable to negotiate a contract with the most highly qualified provider, the city must then formally end negotiations with that provider. After negotiations have formally ended, the city must select the next most highly qualified provider and attempt to negotiate a contract with that provider. If necessary, the city must continue the process of formally ending negotiations with one provider and selecting another provider for negotiations until a contract is obtained.

The Professional Services Procurement Act does not specify the exact process by which a city may procure accounting, medical, optometrist or real estate appraisal services. The law merely prohibits obtaining these services through competitive bidding and requires that such services be selected on the basis of demonstrated competence and qualifications. Cities will want to consult their own counsel for advice on how best to proceed.

78. What procedure must cities use to obtain the services of a lawyer or the services of a law firm?

With the exception of certain bond counsel and contingent fee legal contracts, state law does not specify any particular procedures for obtaining the services of a lawyer or of a law firm. The Professional Services Procurement Act does not apply to attorneys,[200] and the selection of an attorney is exempt from competitive bidding requirements as a "professional service."[201] Thus, a city may choose to obtain the services of an attorney with or without the use of competitive bidding. Many cities simply hire their legal counsel by majority vote of the city's governing body and then execute a contract for such services.[202] Cities should consult their current counsel for advice about this issue. When procuring the services of bond counsel, a city should review and comply with, if necessary, section 1201.027 of the Government Code, which requires that the selection of bond counsel shall be made in accordance with the provisions of the Professional Services Procurement Act that apply to the selection of an engineer. Section 2254.1036, added by H.B. 2826 in 2019, provides numerous procedures for the procurement of contingent fee legal services, including approval by the attorney genera's office.

79. Are contracts for planning services exempt from competitive bidding requirements?

Texas law specifically exempts contracts for planning services from the competitive bidding requirements.[203] However, it is important to note that the phrase "planning services" is specifically defined by Chapter 252. That term means "services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan or regional land areas."[204] In order to be eligible for the planning services exception to the

[199] *Id.* § 2254.004.
[200] *See id.* § 2254.002 (Definition of "professional services" within the meaning of the Professional Services Procurement Act).
[201] *See* TEX. LOC. GOV'T CODE § 252.022(a)(4) ; Op. Tex. Att'y Gen. No. JM-940 at 3 (1988), MW-344(1981).
[202] Op. Tex. Att'y Gen. No. DM-106 (1992).
[203] TEX. LOC. GOV'T CODE § 252.022(a)(4).
[204] *Id*. § 252.001(5).

competitive bidding requirements, the planning services to be procured must fit this definition.

80. Does competitive bidding apply to services performed by blind or severely disabled persons?

Competitive bidding does not apply to the purchase of services performed by blind or severely disabled persons.[205]

Exceptions for Items Available from Only One Source

81. Does competitive bidding apply to the purchase of items that are available from only one source because of copyrights or "natural monopolies"?

Competitive bidding requirements do not apply to items that are available from only one source due to "patents, copyrights, secret processes, or natural monopolies."[206] For example, at least one city has used this exception to avoid the bidding requirements when purchasing a special type of surveillance camera for police work. The camera in question was able to transmit pictures directly to a lap-top computer using a patented process. The entity that owned the patenet for this process was the sole source for this type of camera. However, it should be noted that this transaction has not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

82. Does competitive bidding apply to the purchase of "captive replacement parts" or components for equipment?

Competitive bidding requirements do not apply to the purchase of captive replacement parts or components for equipment if those parts or components are available from only one source.[207] For example, cities have used this exception to justify not taking bids for the purchase of parts for specialized heavy equipment, such as fire trucks, sewer-cleaning equipment, and certain equipment for road building and maintenance. Frequently, only specialized parts manufactured by the vendor will properly fit such a piece of heavy equipment. It is important to note, though, that this use of the "captive replacement parts" exception has not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

---

[205] *Id.* § 252.022(a)(13). *See* Op. Tex. Att'y Gen. No. JM-444 (1986) (General statutes that require counties, cities, hospital districts, and school districts to engage in competitive bidding in order to make certain purchases do not apply to purchases of services or produce produced by persons with disabilities pursuant to section 122.014 [now section 122.017] of the Human Resources Code.).

[206] TEX. LOC. GOV'T CODE § 252.022(a)(7)(A).

[207] *Id.* § 252.022(a)(7)(D).

83. Does competitive bidding apply to the purchase of electricity, gas, water and other utility services?

Competitive bidding is not required for the purchase of gas, water and other utility services if those services are available from only one source.[208] The competitive bidding requirements do not apply to an expenditure for electricity.[209]

84. Does competitive bidding apply to the purchase of advertising?

Competitive bidding is not required for advertising by a city, other than legal notices.[210]

The definition of advertising is discussed in a number of court cases. Thus, city officials should consult with legal counsel (regarding *Edwards v. Lubbock County*, 33 S.W.2d 482; *Bay Electric Supply v. Travelers Lloyds*, 61 F.Supp.2d 611; and *Smith v. Baldwin*, 611 S.W.2d 611) prior to utilizing this exemption.

85. Does competitive bidding apply to the purchase of books and other materials for a public library?

Competitive bidding is not required for the purchase of books, papers and other materials for a public library if those books, papers or materials are available only from the persons holding exclusive distribution rights to the materials.[211] Additionally, competitive bidding requirements do not apply to the purchase of rare books, papers and other rare library materials for a public library.[212]

Exceptions for Distress or Auction Purchases

86. Does a city violate bidding requirements if it purchases personal property at an auction?

A city is not required to comply with competitive bidding procedures when purchasing personal property at an auction by a state licensed auctioneer.[213] Currently, it does not appear that cities use this exception with any great frequency.

87. Does a city violate bidding requirements if it purchases property at a going-out-of-business sale?

A city is not required to comply with the competitive bidding procedures when purchasing personal property at a going-out-of-business sale.[214] However, for this exception to apply, the sale must

[208] *Id.* § 252.022(a)(7)(C).
[209] *Id.* § 252.022(a)(15).
[210] *Id.* § 252.022(a)(16).
[211] *Id.* § 252.022(a)(7)(E).
[212] *Id*. § 252.022(a)(8).
[213] *Id.* § 252.022(a)(12)(A).
[214] *Id.* § 252.022(a)(12)(B).

comply with the requirements of subchapter F in Chapter 17 of the Business and Commerce Code. This practice has not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

Exceptions for Purchases from Other Governmental Entities

88. Does a city violate bidding law if it purchases property or services directly from another political subdivision of this state, a state agency or a federal agency without following competitive bidding procedures?

There are a number of statutes that allow a city to purchase either property or services from other governmental entities or agencies without following competitive bidding procedures.

The Interlocal Cooperation Act[215] generally allows a city to enter into an agreement with another local governmental entity, such as a county or another city, to perform specific governmental functions and services, such as solid waste collection, fire protection, planning and administrative services. The Act further provides that a city may agree with another local government, a state agency (including the Comptroller's Office), or a council of governments to purchase goods (and services reasonably related to the operation and maintenance of the goods) from that entity.[216]

Chapter 271, subchapter D, of the Local Government Code allows a city, by resolution of its governing body, to participate in cooperative purchasing programs established by the Comptroller's Office for the purchase of goods at prices established through purchase contracts of the Comptroller. The city must agree to be solely responsible for, among other things, submitting the proper requisitions to the Comptroller under the contract in question, direct payment to the vendor and enforcement of the vendor's compliance with conditions for delivery and quality of the purchased goods.[217]

Sections 252.022(a)(12)(C) and (12)(D) of the Local Government Code exempt purchases of personal property sold by a political subdivision of the state, a state agency, an entity of the federal government, or a regional planning commission (e.g., a regional council of governments) under an interlocal contract for cooperative purchasing from competitive bidding.

Finally, Chapter 271, subchapter F, of the Local Government Code allows local governments (including cities) to enter into cooperative purchasing agreements with each other for goods and services.[218] Subchapter G allow local governments to purchase goods and services available under federal supply schedules established by the U.S. General Services Administration, without following

[215] TEX. GOV'T CODE ANN. § 791.001 et seq. (West 2004 & Supp. 2011).
[216] *Id.* § 791.025 (West Supp. 2011).
[217] TEX. LOC. GOV'T CODE ANN. § 271.083 (West Supp. 2011); Op. Tex. Att'y Gen. No. DM-350 (1995).
[218] *Id*. § 271.102 (S.B. 1281, passed in 2015, allows agreements with local governments and cooperatives in other states).

competitive bidding procedures.[219]

Compliance with the requirements of any of the cooperative or interlocal agreement purchasing statutes described above automatically satisfies the competitive bidding requirements of state law. Many specific interlocal purchasing practices have not been reviewed by the Texas courts or the attorney general's office. For example, H.B. 1050 (2013) prohibits a local government from entering into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than $50,000 unless a person designated by the local government certifies in writing that: (a) the project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications by an architect or engineer under current law; or (b) if current law requires plans and specifications to be prepared by an architect or engineer, that has been done.

Therefore, a city will want to consult its legal counsel before relying on any of the exceptions noted above to avoid competitive bidding requirements.

Exceptions for Purchases with Specialized Financing

89. Does competitive bidding apply to a contract for paving, drainage, street widening and other public improvements if at least one-third of the cost is paid through special assessments?

A city is not required to comply with competitive bidding requirements when expending money for paving, drainage, street widening and other public improvements if at least one-third of the cost is to be paid by special assessments levied on the benefited property.[220] Currently, it does not appear that cities use this exception with any great frequency.

90. Does competitive bidding apply to a contract for a previously authorized public improvement that is experiencing a deficiency in funding to complete the project?

Competitive bidding requirements do not apply to expenditures for a public improvement that is already in progress if there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters.[221] This exception to the competitive bidding requirement only applies to a project that was authorized by the voters of the city. Currently, it does not appear that cities use this exception with any great frequency.

[219] *Id.* § 271.103.
[220] *Id.* § 252.022(a)(9).
[221] *Id.* § 252.022(a)(10).

91. Are developer participation contracts subject to competitive bidding if the city's participation is limited to thirty percent of the total contract price?

A "developer participation contract" is a contract between the city and a developer for the developer to be responsible for the construction of public improvements (other than buildings). Under such a contract, the city agrees to pay for part of the cost of the public improvements. A city of 5,000 or more in population may enter into such a contract without following competitive bidding procedures if the contract meets all the requirements of Local Government Code Chapter 212, subchapter C.[222] Among the requirements of that subchapter is that the city's level of participation in the contract must not exceed 30 percent of the contract price if the city has a population of less than 1.8 million.[223] Additionally, the developer must execute a performance bond.[224] If a developer participation contract does not meet these requirements as well as all the other requirements contained in Chapter 212, subchapter C, then the contract is subject to all of the normal rules regarding competitive bidding.[225]

92. Can a city forego bidding for work that is performed and paid for by the day?

Yes, Chapter 252 of the Local Government Code specifically excepts from the bidding requirements "a procurement for work that is performed and paid for by the day as the work progresses."[226] Nearly identical language is found in the County Purchasing Act.[227] An attorney general opinion interpreting the County Purchasing Act concluded that a contract for work performed and paid for by the day is a contract only for the day.[228] The fact that payment on a contract is made on a daily basis does not make it into a contract for work performed and paid for by the day. Thus, a contract obligating the county to pay for all future work or obligating a party to provide day labor to do the future work on a project is not a contract for work performed and paid by the day. This is true even if the contract stipulates that payment must be made on a daily basis. Since a contract for work performed and paid for by the day rarely reaches the $50,000 bidding threshold, this exception is used very infrequently.

X. Ethical Requirements Relating to Municipal Procurement

93. What is Chapter 176 of the Local Government Code?

Chapter 176 is an ethics law. Originally enacted by H.B. 914 in 2005, Chapter 176 requires local government officers to disclose certain relationships with vendors who conduct business with local

[222] *Id.* § 212.071.
[223] *Id.* § 212.072(b)(1).
[224] *Id.* § 212.073.
[225] *Id.* § 212.071.
[226] *Id*. § 252.022(a)(5).
[227] *Id.* § 262.024(a)(5).
[228] Tex. Att'y Gen. LO-98-015.

government entities. After the law was implemented, city officials and others realized that the law created several unintended consequences. Consequently, the bill's author sought an opinion from the Texas attorney general to clarify many provisions of Chapter 176. The attorney general's office released Opinion Number GA-0446, which concluded that legislative changes to the law were necessary. In response, the legislature passed H.B. 1491 during the 2007 regular legislative session. More recent amendments were made to Chapter 176 with the passage of H.B. 23 in the 2015 regular legislative session.

94. What local government entities are subject to this law?

The requirements of chapter 176 apply to most political subdivisions, including a city.[229] The chapter also applies to a local government corporation, board, commission, district, or authority whose members are appointed by a mayor or the city council.

95. What local government officers are subject to this law?

A "local government officer" (officer) under Chapter 176 includes: (1) a mayor or city councilmember; (2) a director, superintendent, administrator, president, or any other person who is designated as the executive officer of the local government entity; and (3) an agent (including an employee) of the local government entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor.[230]

96. When is an officer required to file a "conflicts disclosure statement'?

An officer is required to file a conflicts disclosure statement ("statement") in at least three situations.

1. An officer must file a statement if the officer or officer's family member has an employment or other business relationship with a vendor that results in the officer or officer's family member receiving taxable income of more than $2,500 in the preceding twelve months.[231] An officer who receives investment income, regardless of amount, is not required to file a disclosure statement. Investment income includes dividends, capital gains or interest income gained from a personal or business checking or savings account or other similar account, a personal or business investment, or a personal or business loan.[232]

2. An officer is required to file a statement if the officer or officer's family member accepts one or more gifts from a vendor with an aggregate value of more than $100 in the preceding twelve months.[233] (A "gift" includes transportation, lodging, and entertainment, even as a guest.)

3. An officer is required to file a statement if the officer has a family relationship with the

[229] TEX. LOC. GOV'T CODE § 176.001(3).
[230] *Id.* § 176.001(1), .001(4).
[231] *Id.* § 176.003(a)(2)(A).
[232] *Id.* § 176.001(2-d).
[233] *Id.* § 176.003(a)(2)(B).

vendor. [234]

There is at least one exception to the three situations set out above. A local government officer does not have to file a statement if the vendor is an administrative agency supervising the performance of an interlocal agreement.[235]

(Note: An officer is required to file a statement no later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of facts that require the filing of the statement.)[236]

97. How does Chapter 176 define a "vendor," and what does it mean to have a "family relationship" with a vendor?

A vendor is any person who enters or *seeks to enter into* a contract with a city.[237] The term includes: (1) an agent of a vendor; (2) an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract; and (3) Texas Correctional Industries (but no other state agency).

An officer has a family relationship with a vendor if they are related within the third degree by consanguinity (blood) or second degree by affinity (marriage).[238] An officer's family relationships within the third degree by blood include the officer's: mother, father, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, great-grandfather, great-grandmother, aunt, uncle, nephew, niece, great-grandson and great-granddaughter. An officer's family relationships within the second degree by marriage include the officer's: spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepchild, sister-in-law (brother's spouse or spouse's sister), brother-in-law (sister's spouse or spouse's brother), spouse's grandmother, spouse's grandfather, spouse's granddaughter, and spouse's grandson.

98. How does Chapter 176 define a "family member" of an officer?

An officer's family member is a person related to the officer within the first degree of consanguinity (blood) or affinity (marriage).[239] An officer's family member includes the officer's: father, mother, son, daughter, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law or step child.

99. To what types of contracts does the law apply?

The law applies to any written contract for the sale or purchase of real property, goods (personal property) or services.[240] A contract for services would include one for skilled or unskilled labor, as well as for professional services.[241]

---

[234] *Id.* § 176.003(a)(2)(C).
[235] *Id.* § 176.003(a-2).
[236] *Id.* § 176.003(b).
[237] *Id.* § 176.001(7).
[238] *Id.* § 176.001(2-a).

[239] *Id.* § 176.001(2).
[240] *Id.* § 176.001(1-d), (2-c).
[241] *Id.* § 176.001(6).

100. When is a vendor required to file a "conflicts of interest questionnaire?

A vendor is required to file a "conflicts of interest questionnaire" ("questionnaire") if the vendor has a business relationship with the city and: (1) has an employment or other business relationship with an officer or an officer's family member that results in the receipt by the officer or family member of taxable income of more than $2,500 in the preceding twelve months; (2) has given an officer or an officer's family member one or more gifts totaling more than $100 in the preceding twelve months; or (3) has a family relationship with an officer.[242]

A vendor is required to file a questionnaire not later than the seventh business day after the latter of the following: (1) the date the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or (2) the date the vendor becomes aware of a relationship or gives a gift to an officer or officer's family member.

101. With whom should the statements and questionnaires be filed?

The statements and questionnaires must be filed with the records administrator of the city.[243] A records administrator includes a city secretary, a person responsible for maintaining city records, or a person who is designated by the city to maintain the statements and disclosures filed under the chapter.[244]

A city that maintains a website is required to post on that website statements and questionnaires that are required to be filed under the chapter. However, a city that does not have a website is not required to create or maintain one.[245]

(Note: A vendor is required to file a questionnaire not later than the seventh business day after the later of the following: (1) the date the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or (2) the date the vendor becomes aware of a employment or business relationship with an officer of officer's family members, gives a gift to an officer or officer's family member, or becomes aware of a family relationship with an officer.[246])

102. What happens if a statement is not filed?

An officer or vendor who knowingly fails to file a statement or a questionnaire when required to do so commits either a Class A, B, or C misdemeanor, depending on the amount of the contract.[247] A Class C misdemeanor is punishable by a fine of up to $500. A Class B misdemeanor is punishable by a fine up to $2,000, confinement in jail for a term not to exceed 180 days, or both. A Class A Misdemeanor is punishable by a fine up to $4,000, confinement in jail for a term not to exceed one

[242] *Id.* § 176.006(a).
[243] *Id.* §§ 176.003(b), .006(a-1).
[244] *Id.* § 176.001(5).
[245] *Id.* § 176.009.
[246] *Id.* § 176.006(a-1).
[247] *Id.* §§ 176.013.

year, or both. It is an exception to an offense if the officer or vendor files the statement or questionnaire not later than the seventh business day after receiving notice from the city of the alleged violation.[248]

In addition to possible criminal punishment, a city may reprimand, suspend, or terminate an employee who knowingly fails to comply with the requirements of Chapter 176.[249] And the city council may declare a contract void if the council determines the vendor failed to file a questionnaire.[250]

(Note: The validity of a contract between a city and a vendor is not affected solely because an officer or vendor fails to file a questionnaire.)[251]

103. Where can an officer or vendor obtain the necessary forms?

The Texas Ethics Commission is charged with creating statement and questionnaire forms.[252] The forms can be found at www.ethics.state.tx.us or by contacting the TML Legal Department at 512-231-7400 or legalinfo@tml.org.

104. What is Chapter 171 of the Local Government Code?

Chapter 171 of the Local Government Code regulates local public officials' conflicts of interest.[253] It prohibits a local public official from voting or participating in a matter involving a business entity or real property in which the official has a substantial interest if an action on the matter will result in a special economic effect on the business that is distinguishable from the effect on the public or, in the case of a substantial interest in real property, it is reasonably foreseeable that the action will have a special economic effect on the value of the property, distinguishable from its effect on the public.[254]

A public official who has such interest is required to file, before a vote or decision on any matter involving the business entity or real property, an affidavit with the city's official record keeper, stating the nature and extent of the interest.[255] In addition, a local public official is required to abstain from further participating in the matter. However, a local public official who is required to file an affidavit is not required to abstain from participating in the matter if a majority of the members of the governing body have a substantial interest and are required to file and do file affidavits of similar interests on the same official matter.[256]

More detailed information on Chapter 171 is available in a separate attorney general publication known as "*Conflicts of Interest Laws Made Easy*" located online at www.texasattorneygeneral.gov.

---

[248] *Id.* §§ 176.013(f)-(g).
[249] *Id.* § 176.013(d).
[250] *Id.* § 176.013(e).
[251] *Id.* § 176.006(i).
[252] *Id.* §§ 176.003(e), 176.006(b).

[253] *Id.* §§ 171.001-.010.
[254] *Id.* § 171.004(a).
[255] *Id.* § 171.004(a)-(b).
[256] *Id.* § 174.004(c).

105. What does the "contracts disclosure law" require?

The following Q&A details the requirements of the contracts disclosure law.

Q: What is Section 2252.908 of the Government Code?

A: Section 2252.908 is a governmental transparency law that was enacted by House Bill 1295 in 2015 and amended by Senate Bill 255 in 2017. It prohibits a governmental entity or state agency from entering into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (i.e., discloses persons with a financial or business interest in the contract). TEX. GOV'T CODE § 2252.908(d).

Q: What role does the Texas Ethics Commission have in the implementation of Section 2252.908?

A: The Texas Ethics Commission (Commission) is charged with adopting rules to implement the statute, developing the disclosure of interested parties form, and posting a copy of the form on its website. *Id.* § 2252.908(g).

Q: What local governmental entities are subject to this law?

A: The term "governmental entity" is defined to include a city, county, public school district, or special-purpose district or authority. *Id.* § 2252.908(a)(2).

While there is no attorney general opinion, Commission rule, or reported case that specifically addresses the issue, the League does not believe public nonprofit corporations like housing finance corporations and economic development corporations are governmental entities under Section 2252.908. TEX. LOC. GOV'T CODE chs. 394, 501-505.

Q: To what types of city contracts does Section 2252.908 apply?

A: This new disclosure law applies to contracts that: (1) require an action or vote by the city council before the contract may be signed; (2) have a value[257] of at least $1 million; or (3) are for services that would require a person to register as a lobbyist under Chapter 305. TEX. GOV'T CODE § 2252.908(b). Pursuant to the Commission's rules, a contract does not require an action or vote by the city council if:

(1) The governing body has legal authority to delegate to its staff the authority to execute the contract;
(2) The governing body has delegated to its staff the authority to execute the contract; and

[257] The term "value" is defined as "the amount of consideration received or to be received by the business entity from the governmental entity or state agency under the contract." 1 T.A.C. § 46.3(g). Although a plain reading of this definition does not make it clear, at the time it was adopted, the Commission indicated that the term also encompasses an amount of consideration received by a city from a business entity.

(3) The governing body does not participate in the selection of the business entity with which the contract is entered into.

1 T.A.C. § 46.1(c).

It is important to note that the Commission defines the term "contract" to include an amended, extended, or renewed contract. *Id.* § 46.3(a). There is a new rule, effective January 1, 2017, that further clarifies when a change to an existing contract will trigger the filing of a disclosure form. *Id.* § 46.4.

The Commission also defines the term "contract" to mean "a contract between a governmental entity . . . and a business entity at the time it is voted on by the governing body or at the time it binds the governmental entity." *Id.* 46.3(a). The League understands this temporal requirement to mean that a city would not have to get a disclosure form from some downstream third party who is ultimately assigned to carry out an obligation under a contract.

Q: Are any contracts expressly excepted from Section 2552.908's requirements?

A: Yes. Section 2252.908 does not apply to:

(1) a sponsored research contract of an institution of higher education;
(2) an interagency contract of a state agency or an institution of higher education;
(3) a contract related to health and human services if:
  (A) the value of the contract cannot be determined at the time the contract is executed; and
  (B) any qualified vendor is eligible for the contract;
(4) a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;
(5) a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code; or
(6) a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.

TEX. GOV'T CODE § 2252.908(c).

Q: To what types of business entities does Section 2252.908 apply?

A: The term "business entity" is defined to mean "any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation." TEX. GOV'T CODE § 2252.908(a)(1). The Commission's rules clarify that the term "business entity" includes nonprofits, but does not include a governmental entity. 1 T.A.C. § 46.3(b). That means, for instance, that if a city executes an interlocal agreement with another city the disclosure requirements of Section 2252.908 are not triggered.

Q: What types of interested parties must a business entity disclose when it enters into a contract with a city?

A: A business entity must disclose "(1) a person who has a controlling interest in a business entity with whom a governmental entity . . . contracts; or (2) an intermediary." 1 T.A.C. § 46.3(d) (defining "interested party"); *see also* TEX. GOV'T CODE § 2252.908(a)(3).

The Commission defines the terms "controlling interest" and "intermediary" as follows:

> "Controlling interest" means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.[258]
>
> "Intermediary," . . . means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:
> (1) receives compensation from the business entity for the person's participation;
> (2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
> (3) is not an employee of the business entity or of an entity with a controlling interest in the business entity.

1 T.A.C. § 46.3(c),(e).

It is possible that, although a business entity is subject to Section 2252.908, no interested parties will exist. Thus, a business entity may end up filing a form that has very little information on it.

Q: How is the Certificate of Interested Parties Form (Form 1295) completed and submitted to the city?

A: The Commission has available on its website an electronic filing application that must be used to file Form 1295. The process, as implemented by the Commission, is as follows:

1. A business entity must use the Commission's online filing application to enter the required information on Form 1295. The business entity must then print a copy of the form, which will contain a unique certification number. 1 T.A.C. § 46.5.

2. The completed Form 1295 must be filed with the city by "the time the business entity submits the signed contract" to the city. TEX. GOV'T CODE § 2252.908(d).

[258] Subsection (3) does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries. 1 T.A.C. § 46.3(c).

3. The city must use the Commission's online filing application to acknowledge that the city has received the Form 1295 not later than the 30th day after the date the city receives the form. *Id*. § 2252.908(f); 1 T.A.C. § 46.5(c). The city should not send a copy of the Form 1295 to the Commission.

Instructional videos and a FAQ about how to register and file/acknowledge a Form 1295 are available on the Commission's website: https://www.ethics.state.tx.us/.

Q: What type of transaction triggers the disclosure requirement?

A: This remains unclear. The statute broadly prohibits a city from "enter[ing] into a contract described by Subsection (b) with a business entity unless the business entity" submits the disclosure. TEX. GOV'T CODE § 2252.908(d). The Commission rules provide that Form 1295 should describe "the services, goods, or other property [such as real property] *used b*y the [city] under the contract." 1 T.A.C. § 46.5(a)(4) (emphasis added). Form 1295 (box 3) directs the business entity to "provide a description of the services, goods, or other property to be *provided under* the contract." (emphasis added). Cities should consult their local legal counsel in deciding whether any particular transaction triggers the requirements of Section 2252.908.

Q: Will the city have to provide any of the information that the business entity needs to include on Form 1295?

A: Yes. Although not required by Section 2252.908, the Commission's rules provide that the business entity must include on Form 1295 an "identification number used by the [city] . . . to track or identify the contract for which the form is being filed." *Id*. Even though the rules provide for such a number, nothing in the rules requires a city to create a numbering system of any type.

Q: How will the public access a Form 1295 that is completed by a business entity?

A: The Commission is required to post the completed Form 1295 on its website within seven business days after receiving notice from the city that the city has received the filed Form 1295 and certification of filing. TEX. GOV'T CODE § 2252.908(g); 1 T.A.C. § 46.5(d). The database of acknowledged forms is available on the Commission's website here: https://www.ethics.state.tx.us/dfs/search_1295.htm. In addition, cities must provide the completed forms in accordance with the Public Information Act.

Q: What happens if a city or business entity fails to comply with Section 2252.908?

A: All the possible ramifications for a city are unclear at this time. According to the Commission's website, the Commission does not have any authority (beyond rulemaking and adoption of the form) to enforce or interpret the statute. *See https://www.ethics.state.tx.us/tec/1295-Info.htm*; *cf., e.g.,* TEX. GOV'T CODE §§ 571.061 (listing the laws that the Commission administers and enforces), 571.091 (listing the statutes about which the Commission may issue advisory opinions).

As for a business entity, the statute requires a Form 1295 disclosure contain "a written, unsworn declaration subscribed by the authorized agent of the contracting business entity as true under penalty of perjury." *See* TEX. GOV'T CODE § 2252.908(e)(2); *see also* TEX. PENAL CODE ch. 37 (providing for offense of perjury).

Q: If a business entity has already filed the CIQ Form required by Local Government Code Chapter 176 could it also have to file Form 1295?

A: Yes. In the past decade, the number and type of interests that must be disclosed by city officials, employees, and vendors have increased. The various state conflicts/disclosure laws come with their own separate legal requirements. Thus, complying with one does not fulfill the obligations imposed by the other. In some circumstances, the same financial interest may require a business entity to file more than one disclosure form. A discussion of the various conflicts and disclosure laws that apply to city officials, employees, and vendors is available on the League's website here: https://www.tml.org/legal_topics-legal_ethics.

106. What are the requirements for contracts relating to Israel, Sudan, and/or terrorist organizations?

During the 2017 regular session, the legislature passed three bills that require additional steps when a city enters into a contract. None of the bills are particularly clear as to implementation, but city officials with purchasing responsibility should be aware of them. The following are brief summaries of their requirements:

- **H.B. 89[259] (King/Creighton)** is a bill relating to government contracts with and investments in companies that boycott Israel. It provides that a governmental entity, including a city, may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

  The written verification could be as simple as a contract term providing that:

  > *In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.*
  >
  > *The signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.*

  The bill does not define "contract." Questions have arisen as to whether the bill applies to oral contracts or basic purchase orders and similar purchasing documents.

[259] TEX. GOV'T CODE chapters 808 and 1270.

Texas law does not require that a contract be in writing. In fact, just about every purchase of a good or service, regardless of whether paper is involved, forms a contract. That being said, it would appear that the only reasonable interpretation would be that the bill applies only to written contracts.

In May 2018, a federal district court granted a preliminary injunction enjoining the enforcement of the law. The issue in *Amawi v. Pflugerville Independent District, et al.* is whether H.B. 89 (codified as Chapter 2270 of the Government Code) may prohibit boycotting Israel as a condition of public employment or contracting.

The plaintiffs in this case are five sole proprietors who refused to sign contracts with certain governmental entities on the grounds that requiring the plaintiffs to certify that they do not boycott Israel violated their First Amendment rights. As a result, the plaintiffs were either denied employment with or their contractual relationships were terminated by the governmental entities.

Granting the preliminary injunction, the court concluded that the plaintiffs were likely to succeed on the merits of their First Amendment claims, were likely to suffer irreparable harm in the absence of preliminary relief, and that an injunction is in the public interest. As of the printing date of this paper, an appeal to the United States Court of Appeals for the Fifth Circuit has been filed.

H.B. 793 was passed in 2019. The bill modifies H.B. 89 by providing that: (1) "company" does not include a sole proprietorship; and (2) the law applies only to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees; and (b) has a value of $100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. It appears that it was meant to address the issues in the lawsuit mentioned above, but the injunction stands as of the printing of this paper.

Each city official who makes purchases should consult with their city attorney to decide how to interpret the bill.

- **S.B. 252[260] (V. Taylor/S. Davis)** is a bill relating to government contracts with terrorists. The bill provides that**:** (1) a governmental entity, including a city, may not enter into a governmental contract with a company that is identified on a list prepared and maintained by the comptroller and that does business with Iran, Sudan, or a foreign terrorist organization; and (2) a company that the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, its federal sanctions regime relating to Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to the contract prohibition under the bill.

  The bill requires that the comptroller prepare and maintain, and make available to each governmental entity, a list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization. The list is available on the comptroller's website.

[260] TEX. GOV'T CODE chapter 2252, subchapter F.

- **S.B. 253[261] (V. Taylor/S. Davis)** is a long and complex bill relating to government investments.

  Of particular interest to cities, the bill does two things: (1) on page 6, it changes the definition of "investing entity" in current law to mean any entity subject to Government Code Chapter 2256 (the "Public Funds Investment Act"), which includes a city; and (2) on pages 28-29, it requires an investing entity, not later than December 31 of each year, to: (a) file a publicly-available report with the presiding officer of each house of the legislature and the attorney general that: (i) identifies all investments sold, redeemed, divested, or withdrawn in compliance with the bill; (ii) identifies all prohibited investments under the bill; and (iii) summarizes any changes made to actively managed or private equity funds; and (b) file a report with the United States presidential special envoy to Sudan that identifies investments in Sudan identified in the report as required by (a) and (b), above.

  What action should a city actually take in response to S.B. 253? That is still very unclear. In accordance with the Public Funds Investment Act, most cities invest only in certificates of deposit, government obligations, an investment pool such as TexPool, and certain mutual funds. With regard to investment pools, it would appear more logical for the investment pool to file any required report based on its investments, although the bill clearly seems to impose that requirement on the city. With regard to mutual funds, the bill seems to provide an exception for "actively managed funds." Thus, if the mutual fund is actively managed, a city may not be required to file a report in relation to it, but would have to notify the fund manager and request that prohibited companies be divested.

Some question remains as to the effect of federal law on the bills above. The United States Code, 50 U.S.C.A. § 4607, governs foreign boycotts. Some argue that the preemption language in that provision overrides state laws on the same subject. Even if that's the case, a city should arguably comply with the state law unless a court directs otherwise.

XI. Enforcement of Bidding Requirements

107. What civil remedies are available to an individual or entity if the competitive bidding laws are not followed?

If a city enters into a contract without complying with the requirements of Chapter 252 of the Local Government Code, the contract is void.[262] Any property tax paying resident of the city may bring suit in district court to stop the performance or payment of the contract. However, the Austin court of appeals held in 2017 that the language in Chapter 252 waives a city's immunity from suit.[263] Further, if the contract is for the construction of public works, a person who submitted a bid for a contract for

[261] TEX. GOV'T CODE chapter 2270.

[262] *Id*. § 252.061.

[263] *City of Austin v. Util. Assocs., Inc.*, 517 S.W.3d 300 (Tex. App.- Austin, 2017), *pet. denied.*

which the competitive sealed bidding requirement applies, regardless of residency, may bring suit in district court to stop the performance or payment of the contract.[264]

108. What criminal penalties apply if the competitive bidding laws are not followed?

If a person fails to comply with the competitive bidding or competitive proposal procedures required by Chapter 252, that person may be convicted of a Class B misdemeanor.[265] This includes a situation in which a person makes or authorizes separate, sequential or component purchases in an attempt to avoid competitive bidding requirements. A Class B misdemeanor may be punished by a fine of up to $2,000, confinement in jail for up to 180 days, or both the fine and confinement.[266]

109. Can city officials or employees be removed from office for failure to comply with competitive bidding laws?

Under Texas law, an individual is automatically removed from his or her position if that person is finally convicted of failing to comply with the competitive bidding or competitive proposal procedures required by Local Government Code Chapter 252.[267] Once removed from office, such a person may not hold any public office in this state for four years after the date of final conviction. Also, for four years after the date of final conviction, the convicted person may not be employed by the city where the person was serving when the offense occurred and may not receive any compensation through a contract with the city. The convicted person may, however, continue to receive any retirement or workers' compensation benefits.

110. Are there different consequences for elected officials, as compared to city staff, for bidding violations?

There are not different consequences for elected officials or city staff for bidding violations.[268]

[264] *Id.*
[265] *Id.* § 252.062.
[266] TEX. PENAL CODE ANN. § 12.22.
[267] TEX. LOC. GOV'T CODE ANN. § 252.063.
[268] *Id.* §§ 252.062, .063.

Acknowledgments

This paper has come about through the efforts of many attorneys over the years. It began as a publication of the Texas attorney general's office, where it was edited by Zindia Thomas and Julian Grant, based on previous work by Jeff Moore with Brown and Hofmeister (www.bhlaw.net) and others. The more recent updates have been provided by Jeff Chapman of Ford, Nassen, and Baldwin, and Scott Houston, Deputy Executive Director and General Counsel, Texas Municipal League.

Quotation Summary Worksheet

City of Duncanville, Texas
Procurement and Contracting

INSTRUCTIONS FOR COMPLETION:

1) Per City Policy, purchases between $3,000 and $25,000 require at least three (3) vendor quotes preferably from minority-women owned businesses (MWBE).

2) Vendor quotes must be in writing (i.e. Vendor Quotation form; Vendor email; Internet Quote, etc.).

3) If you have contacted a vendor, and the vendor does not respond in an adequte time period (5 days), then include the vendor's name and record that as a "no bid"
3) All awards should be made to the vendor whose proposal offers the "best value" to the City.
4) Awards based on "best value" may consider various factors, including but not limited to:
(a) Price / Total Cost of Ownership, (b) Product/Service Quality, (c) Availability, (d) Vendor/Product Reputation, (e) Vendor's Ability to Meet City's Needs,
(f) Client References, (g) Cooperative Contract, (h)Past Experience with City, and/or (i) any other relevant factor that ensures best value to the City.
5) Upon consideration of all factors, if all bids meet the City's needs, the award should be made to the lowest bidder, and most responsible.
6) Purchases in excess of $25,000 shall be emailed to Purchasing for evaluation assistance.

Informal Bids Tabulation Summary	Requistion #:			VENDOR #1		VENDOR #2		VENDOR #3		HUB #1		HUB #2	
	Vendor Name:			Irving Rambler		Daily Commercial Record							
	Quoted By (Contact Name):			John Starkey		Barbra DeCupa							
	Enter "X" for selected vendor			X									
PRODUCT/SERVICE DESCRIPTION	ITEM	QTY	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE	UNIT PRICE	EXTENDED PRICE	UNIT PRICE	EXTENDED PRICE	UNIT PRICE	EXTENDED PRICE	UNIT PRICE	EXTENDED PRICE
Per line	1	1	ea	$2.08	$2.08		$0.00		$0.00		$0.00		$0.00
Display per column inch(Black/White)	2	1	ea	$11.69	$11.69		$0.00		$0.00		$0.00		$0.00
Display per column inch (Color)	3	1	ea	$14.71	$14.71		$0.00		$0.00		$0.00		$0.00
1/4 page display (Black/white)	4	1	ea	$374.08	$374.08		$0.00		$0.00		$0.00		$0.00
1/4 page display (Color)	5	1	ea	$470.72	$470.72		$0.00		$0.00		$0.00		$0.00
1/2 page display (black/white)	6	1	ea	$736.47	$736.47		$0.00		$0.00		$0.00		$0.00
1/2 page display (Color)	7	1	ea	$926.73	$926.73		$0.00		$0.00		$0.00		$0.00
Per Column inch - 1 time publication	8	1	ea	$11.69	$11.69	$18.00	$18.00		$0.00		$0.00		$0.00
Per Column inch - 2 time publication	9	1	ea		$0.00	$23.00	$23.00		$0.00		$0.00		$0.00
Per Column inch - 3 time publication	10	1	ea		$0.00	$28.00	$28.00		$0.00		$0.00		$0.00
	11		ea		$0.00		$0.00		$0.00		$0.00		$0.00
	12		ea		$0.00		$0.00		$0.00		$0.00		$0.00
	13		ea		$0.00		$0.00		$0.00		$0.00		$0.00
	14		ea		$0.00		$0.00		$0.00		$0.00		$0.00
	15		ea		$0.00		$0.00		$0.00		$0.00		$0.00
	16		ea		$0.00		$0.00		$0.00		$0.00		$0.00
	17		ea		$0.00		$0.00		$0.00		$0.00		$0.00
* DISCLOSURE NOTICE: By signing below, I hereby certify that all quotes recorded include all the firms that have been contacted for bids and their replies are reflected accurately on this form.			SUBTOTAL		$2,548.17		$69.00		$0.00		$0.00		$0.00
			SHIPPING COST										
			TOTALS		$0.00		$0.00		$0.00		$0.00		$0.00
	PAYMENT TERMS												
	F.O.B. SHIPPING TERMS												
	DELIVERY DATE												

All awards should be made based on"Best Value" to the City. Please write a short summary below of why the vendor chosen is the best value if it is not the lowest bid.

_____

_____

_____

_____

*** Name of Person Completing this Form:** _____ *** Signature:** _____

NOTE: THE COMPLETED & SIGNED TABULATION FORM AND COPIES OF ALL QUOTES OR OTHER DOUCMENTATION MUST BE ATTACHED TO THE PURCHASE REQUISITION.

Form version 7.18.2023

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a Resolution authorizing Change Order 1 for the FY23 Pipebursting Project in an expenditure amount of $59,429.15, not exceeding a total contract amount of $507,693.65.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Develop: Infrastructure Improvement Strategy**
  - **Ensure the viability and adaptability of the city's infrastructure, facilities, and transportation network through thoughtful financial and long-term planning.**

STAFF RESPONSIBLE:
Matt Bryant, Director of Public Works

BACKGROUND/HISTORY:
On December 6, 2022, the City of Duncanville City Council awarded the FY23 Pipebursting Project to Vortex Companies, LLC (Attachment 1), for pipebursting approximately 3,700 linear feet of substandard 6-inch sanitary sewer main with new High-Density Polyethylene (HDPE) sewer pipe, wastewater pipeline, and adjacent private sewer lateral replacements, appurtenances, landscaping, adding additional manholes, manhole replacement, and manhole lining along Johnson Street, Flamingo Way, E. Cherry Street, and other streets in the Forest Hills Addition. This authorization included a contract award of $448,264.50 with a $44,826.45 contingency for a contract amount not to exceed $493,090.95.

To complete the project, the following changes were required:

Item/Description of Changes	Unit	Quantity	Unit Price	Increase
Extra length 4" service lateral	LF	572	$28.00	$16,016.00
Remove and replace asphalt paving	SY	263.11	$165.00	$43,413.15

POLICY EXPLANATION:
Unfortunately, the available contingency ($44,826.45) is insufficient to execute the change order. Staff requests additional funds ($14,602.70) and authorization to execute Change Order 1 to finalize and close the project. Pending approval of the change order, the project accounting will be as follows:

Contract Award: $448,264.50
Contingency: $44,826.45
Change Order 1: $59,429.15
Difference (Additional Funds Requested): $14,602.70
Final Contract Amount: $507,693.65

FUNDING SOURCE:

ORG and Object Number
17100000-708102 (Utility CIP Water Projects/Construction)

Available Budget	**Purchase Amount**	**After Encumber**
$2,931,555.83	$14,602.70	$2,916,953.13

ACTION ALTERNATIVES:
1. Approve.
2. Do not approve.
3. Other actions as directed by Council.

ATTACHMENTS:
Attachment 1 - Resolution No. 2022-112 - Vortex
Resolution No. - 2025-401 - FY23 Pipe Bursting Change Order Authorization with Exhibit

Attachment 1

RESOLUTION NO. 2022-112

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AUTHORIZING A COOPERATIVE PURCHASING AGREEMENT WITH VORTEX COMPANIES VORTEX INFRASTRUCTURE HOLDINGS, LLC, USING THE INTERLOCAL PURCHASING SYSTEM (TIPS) CONTRACT 20110401, FOR PIPE BURSTING WASTEWATER IMPROVEMENTS, WITH A CONTRACT AMOUNT OF $448,264.50 AND AN ADDITIONAL APPROPRIATION OF $44,826.45, A CONTINGENCY EQUALING TEN (10) PERCENT OF THE ORIGINAL CONTRACT PRICE, FOR A TOTAL AMOUNT NOT TO EXCEED $493,090.95 AND, AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary to maintain a safe and efficient water and sewer system; and

WHEREAS, the City has allocated funds for pipe bursting wastewater improvements this fiscal year; and

WHEREAS, the City Council of the City of Duncanville, Texas, desires to authorize a Cooperative Purchasing Agreement with Vortex Companies Vortex Infrastructure Holdings, LLC, using The Interlocal Purchasing System (TIPS) Contract 20110401, for pipe bursting wastewater improvements and authorizes the execution of the necessary documents to procure said services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of the City of Duncanville, Texas, hereby awards a bid and authorizes an agreement for the procurement of pipe bursting wastewater improvements with Vortex Companies Vortex Infrastructure Holdings, LLC, using TIPS Contract 20110401, with a contract amount of $448,264.50, based on the pricing outlined in Exhibit "A," attached hereto and incorporated herein.

SECTION 2. The City Council of the City of Duncanville, Texas, hereby appropriates $44,826.45 for a contingency equaling ten (10) percent of the original contract price.

SECTION 3. The City Council of the City of Duncanville hereby authorizes the City Manager, or her designee, to execute the appropriate and necessary documents and/or purchase orders.

SECTION 4. This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 6th day of December, 2022.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Janie Willman, City Secretary

CITY OF DUNCANVILLE TEXAS

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

Exhibit A



CONTRACTOR PRICING WORKSHEET

JOB ORDER CONTRACTING NO: **20110401**

PROJECT NAME: Duncanville - FY23

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to Contract Administration @ 281-901-5336.
Please type or carefully print; thank you.

				LIST PRICING		PROJECT SPECIFIC DISCOUNT	
Item	Description of Item	Est. Quant.	Unit	Unit Price	Total	Unit Price	Total
	BASE BID ITEMS						
1	Mobilization, Bond, Insurance	1	LS	$ 60,000.00	$ 60,000.00	$48,000.00	$ 48,000.00
2	Pipe Burst Existing 4,6, or 8" Sanitary Sewer With A 8.625" Sdr-19 'Ips' Gray Hdpe, Up To 10-Feet Deep	3703	LF	$ 65.00	$ 240,695.00	$52.00	$ 192,556.00
3	Reconnection Of 4-Inch Sanitary Sewer Service At The Main	73	EA	$ 375.00	$ 27,375.00	$300.00	$ 21,900.00
4	Reconnection Of 6-Inch Sanitary Sewer Service At The Main	0	EA	$ 500.00	$ -	$400.00	$ -
5	Extra Length 4" Service Lateral Beyond Connection	1168	LF	$ 35.00	$ 40,880.00	$28.00	$ 32,704.00
6	Extra Length 6" Service Lateral Beyond Connection	0	LF	$ 50.00	$ -	$40.00	$ -
7	Install Sanitary Sewer Double Cleanout	73	EA	$ 812.50	$ 59,312.50	$650.00	$ 47,450.00
8	Furnish & Install New 4' Diameter Manholes, 0' To 6' Depth, no coating	0	EA	$ 8,125.00	$ -	$6,500.00	$ -
9	Remove & Replace 4' Diameter Manholes, 0' To 6' Depth, no coating	3	EA	$ 8,500.00	$ 25,500.00	$6,800.00	$ 20,400.00
10	Furnish & Install Extra Depth For 4' Diameter Manholes, no coating	0	VF	$ 500.00	$ -	$400.00	$ -
11	Furnish & Install Wastewater Access Device	3	EA	$ 2,250.00	$ 6,750.00	$1,800.00	$ 5,400.00
12	Pre-Tv And Clean 6, 8, 10 & 12" Sanitary Sewer	3703	LF	$ 5.00	$ 18,515.00	$4.00	$ 14,812.00
13	Post Tv 8-12" Sanitary Sewer, Mainline Only	3703	LF	$ 3.13	$ 11,571.88	$2.50	$ 9,257.50
14	Sprayline New Or Existing Manholes Using Spectrashield	40	VF	$ 500.00	$ 20,000.00	$440.00	$ 17,600.00
15	Flow Control Measures	1	LS	$ 9,100.00	$ 9,100.00	$7,000.00	$ 7,000.00
16	Standard Traffic Control	1	LS	$ 32,500.00	$ 32,500.00	$15,000.00	$ 15,000.00
17	Remove & Replace Asphalt Paving	70	SY	$ 195.00	$ 13,650.00	$165.00	$ 11,550.00
18	Remove & Replace Concrete Paving	6	SY	$ 266.50	$ 1,599.00	$235.00	$ 1,410.00
	Proposal BASE Total				**$ 567,448.38**		**$ 445,039.50**



CONTRACTOR PRICING WORKSHEET

JOB ORDER CONTRACTING NO: **20110401**

PROJECT NAME: Duncanville - FY23

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to Contract Administration @ 281-901-5336.
Please type or carefully print; thank you.

				LIST PRICING		PROJECT SPECIFIC DISCOUNT	
Item	Description of Item	Est. Quant.	Unit	Unit Price	Total	Unit Price	Total
	SUPPLEMENTAL ITEMS						
19	Furnish & Install Point Repairs To Remove Major Sags By Open Cut	1	LF	$ 227.50	$ 227.50	$175.00	$ 175.00
20	Obstruction Removal/Pot-Holing By Excavation, Up To 10 Feet Deep	1	EA	$ 455.00	$ 455.00	$350.00	$ 350.00
21	Point Repair, 8- Inch Sanitary Sewer, Up To 8 Feet Deep	1	EA	$ 2,200.00	$ 2,200.00	$1,550.00	$ 1,550.00
22	Install / Replace Standard Ring & Cover	1	EA	$ 1,045.00	$ 1,045.00	$800.00	$ 800.00
23	Adjust Manhole Ring And Cover To Grade	1	EA	$ 425.00	$ 425.00	$350.00	$ 350.00
	Proposal SUPPLEMENTAL ITEMS Total				**$ 4,352.50**		**$ 3,225.00**
	TOTAL BASE + SUPPLEMENTAL (incl Bonds)				**$ 571,800.88**		**$ 448,264.50**

Items NOT included in quote unless expressly noted:

Manhole Removal/Replacement or Coatings, Point Repairs,
Dewatering, Traffic Control outside of typical cones and signage,
Heavy Bypass Pumping, Surface Restoration beyond Sodding, SWPPP, Compaction Testing, Vibration Monitoring,
Smoke Testing, Bonds, Mechanical Pipe Cleaning

REVISION 1

Pricing Date: **11/7/2022**

TOTAL w/ Bonds: $ 448,264.50

Buying Agency:	City of Duncanville
Contact Person:	Jacqueline Culton
Phone:	972.780.5016
Fax:	
Email:	jculton@duncanville.com

Contractor:	Vortex Services
Prepared By:	Jedidiah Brewer
Phone:	615.495.9500
Fax:	
Email:	jbrewer@vortexcompanies.com

NOTE: **The Customer shall be responsible for providing:**

- Access to hydrants or free water source as necessary (including meters)
- All Heavy Traffic Control
- All Permits and Permissions which may be necessary (Federal, State, Local, etc.)

Exhibit B

TIPS VENDOR AGREEMENT

PART 1 ONLY

Between Vortex Companies, LLC **and**

(Company Name)

THE INTERLOCAL PURCHASING SYSTEM (TIPS),
a Department of Texas Education Service Center Region 8 for
TIPS RFP 201104 Pipe Bursting PART 1 ONLY

General Information

The Vendor Agreement ("Agreement") made and entered into by and between The Interlocal Purchasing System (hereinafter "TIPS") a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686 and the TIPS Vendor. This Agreement consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control unless otherwise agreed by the parties in writing and by signature and date on the attachment.

A Purchase Order ("PO"), Agreement or Contract is the TIPS Member's approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed between the Vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some, but not all, of the possible addendums.

Terms and Conditions

Freight
All quotes to Members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating "No Charge", "$0", "included in price" or other similar indication. Otherwise, all shipping, freight or delivery changes shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award.

Warranty Conditions
All new supplies equipment and services shall include ***manufacturer's minimum standard warranty*** unless otherwise agreed to in writing. Vendor shall be legally permitted to sell all products offered for sale to TIPS Members if the offering is included in the Request for Proposal ("RFP") category. All goods proposed and sold shall be new unless clearly stated in writing.

Customer Support
The Vendor shall provide timely and accurate customer support for orders to TIPS Members as agreed by the Parties. Vendors shall respond to such requests within a commercially reasonable time after receipt of

the request. If support and/or training is a line item sold or packaged with a sale, support shall be as agreed with the TIPS Member.

Agreements
Agreements for purchase will normally be put into effect by means of a purchase order(s) executed by authorized agents of the TIPS Member participating government entities, but other means of placing an order may be used at the Member's discretion.

Tax exempt status
Most TIPS Members are tax exempt and the related laws and/or regulations of the controlling jurisdiction(s) of the TIPS Member shall apply.

Assignments of Agreements
No assignment of this Agreement may be made without the prior notification of TIPS. Written approval of TIPS shall not be unreasonably withheld. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company.

Disclosures

- Vendor and TIPS affirm that he/she, or any authorized employees or agents, has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this Agreement.

- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.

- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

Term of Agreement and Renewals
The Agreement with TIPS is for approximately three (3) years with an option for renewal for an additional one (1) consecutive year. If TIPS offers the renewal extension year, the Vendor will be notified by email to the primary contact of the awarded Vendor and shall be deemed accepted by the Vendor unless the awarded Vendor notifies TIPS of its objection to the additional term. TIPS may or may not exercise the available extension(s) provided in the original solicitation beyond the base three-year term. Whether or not to offer the extension is at the sole discretion of TIPS.

"Start Date" for Term Calculation Purposes Only: Regardless of actual award/effective date of Contract, for Agreement "term" calculation purposes only, the Agreement "start date" is the last day of the month that Award Notifications are anticipated as published in the Solicitation
Example: *If the anticipated award date published in the Solicitation is May 22, but extended negotiations delay award until June 27, The end date of the resulting initial "three-year" term Agreement, (which is subject to an extension(s)) will still be May 31, 2023.*

"Termination Date": The scheduled Agreement "termination date" shall be the last day of the month of the month of the Original Solicitation's Anticipated Award Date plus three years.
Example: *If the original term is approximately three years, and the solicitation provides an anticipated award date of May 22, 2020, the expiration date of the original three-year term shall be May 31, 2023.*

Extensions: Any extensions of the original term shall begin on the next day after the day the original term expires.
Example Following the Previous Example: *If TIPS offers a one-year extension, the expiration of the extended term shall be May 31, 2024*.

TIPS may offer to extend Vendor Agreements to the fullest extent the original Solicitation permits.

Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.
No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order, executed Agreement or other written instruction issued by the TIPS Member for any renewal period. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

Shipments
The Vendor shall ship, deliver or provide ordered products or services within a commercially reasonable time after the receipt of the order from the TIPS Member. If a delay in said delivery is anticipated, the Vendor shall notify TIPS Member as to why delivery is delayed and shall provide an estimated time for completion of the order. TIPS or the requesting entity may cancel the order if estimated delivery time is not acceptable or not as agreed by the parties.

Invoices
Each invoice or pay request shall include the TIPS Member's purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request.

Payments
The TIPS Member will make payments directly to the Vendor, the Vendor Assigned Dealer or as agreed by the Vendor and the TIPS Member after receiving invoice and in compliance with applicable payment statute(s), whichever is the greater time or as otherwise provided by an agreement of the parties.

Pricing
Price increases will be honored according to the terms of the solicitation. All pricing submitted to TIPS shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to TIPS Member customer.

Participation Fees and Reporting of Sales to TIPS by Vendor

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned Dealer. Vendor, Reseller or Vendor Assigned Dealer agrees that the participation fee is due to TIPS for all Agreement sales immediately upon receipt of payment including partial payment, from the Member Entity and must be paid to TIPS at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently, or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is immediately due to TIPS from the Vendor and fees due to TIPS should be paid at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently.

Reporting of Sales to TIPS by Vendor

Vendor is required to report all sales under the TIPS contract to TIPS. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract number on any communications and related sales documents exchanged with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at https://www.tips-usa.com/vendors_form.cfm and click on the PO's and Payments tab. Pages 3-7 of the Vendor Portal User Guide will walk you through the process of reporting sales to TIPS. Please refer to the TIPS Accounting FAQ's for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to render the participation fee to TIPS shall constitute a breach of this agreement with our parent governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a Vendor will be refunded to the Vendor within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

Indemnity

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's performance under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. **NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED BY TIPS/ESC REGION 8.** Per

Texas Education Code §44.032(f), and pursuant to its requirements only, reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation.

State of Texas Franchise Tax
By signature hereon, the Vendor hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

Miscellaneous
The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS or TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

Purchase Order Pricing/Product Deviation
If a deviation of pricing/product on a Purchase Order or contract modification occurs between the Vendor and the TIPS Member, TIPS must be notified within five (5) business days of receipt of change order.

Termination for Convenience of TIPS Agreement Only
TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty (30) days prior written notice. Termination for convenience is conditionally required under Federal Regulations 2 CFR part 200 if the customer is using federal funds for the procurement. All purchase orders presented to the Vendor, but not fulfilled by the Vendor, by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded Vendor may terminate the agreement with ninety (90) days prior written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686. The vendor will be paid for goods and services delivered prior to the termination provided that the goods and services were delivered in accordance with the terms and conditions of the terminated agreement. This termination clause does not affect the sales agreements executed by the Vendor and the TIPS Member customer pursuant to this agreement. TIPS Members may negotiate a termination for convenience clause that meets the needs of the transaction based on applicable factors, such as funding sources or other needs.

TIPS Member Purchasing Procedures
Usually, purchase orders or their equal are issued by participating TIPS Member to the awarded vendor and should indicate on the order that the purchase is per the applicable TIPS Agreement Number. Orders are typically emailed to TIPS at tipspo@tips-usa.com.

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.
- Awarded Vendor receives payment directly from the participating member.
- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

Licenses
Awarded Vendor shall maintain, in current status, all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded Vendor. Awarded Vendor shall remain reasonably fully informed of and in compliance with all ordinances and regulations pertaining to the lawful

provision of goods or services under the Agreement. TIPS and TIPS Members reserves the right to stop work and/or cancel an order or terminate this or any other sales Agreement of any awarded Vendor whose license(s) required for performance under this Agreement have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statue or regulation.

Novation

If awarded Vendor sells or transfers all assets, rights or the entire portion of the assets or rights required to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor. TIPS will consider Contract Assignments on a case by case basis. TIPS must be notified within five (5) business days of the transfer of assets or rights.

Site Requirements (*only when applicable to service or job*)

Cleanup: When performing work on site at a TIPS Member's property, awarded Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

Preparation: Awarded Vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

Registered sex offender restrictions: For work to be performed at schools, awarded Vendor agrees that no employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Awarded Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge. **Safety measures:** Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Safety Measures

Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Smoking

Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes or policies.

Marketing

Awarded Vendor agrees to allow TIPS to use their name and logo within TIPS website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the

Solicitation. The Vendor may submit an acceptable use directive for Vendor's names and logos with which TIPS agrees to comply. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to TIPS@TIPS-USA.COM.

Supplemental Agreements

The TIPS Member entity participating in the TIPS Agreement and awarded Vendor may enter into a separate Supplemental Agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement such as but not limited to, invoice requirements, ordering requirements, specialized delivery, etc. Any Supplemental Agreement or contract developed as a result of this Agreement is exclusively between the TIPS Member entity customer and the Vendor. TIPS, its agents, TIPS Members and employees not a party to the Supplemental Agreement with the TIPS Member customer, shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a Vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, those agreements shall comply with the award made by TIPS to the Vendor. Supplemental Vendor's Agreement documents may not become part of TIPS' Agreement with Vendor unless and until an authorized representative of TIPS reviews and approves it. TIPS review and approval may be at any time during the life of this Vendor Agreement. TIPS permits TIPS Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's TIPS Agreement so long as they do not materially conflict with this Agreement.

Survival Clause

All applicable sales, leases, Supplemental Agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

Legal obligations

It is the responding Vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in the applicable Solicitation that resulted in this Vendor Agreement and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

Audit rights

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Awarded Vendor's pricing or TIPS transaction documentation with TIPS Members with 30 days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third- party auditing

firm to investigate any possible non- compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format and at the location acceptable to Region 8 ESC or TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member.

Force Majeure
If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

Choice of Law
The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

Venue, Jurisdiction and Service of Process
Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

Project Delivery Order Procedures
The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded Vendor under this Agreement when the TIPS Member desires goods or services awarded to the Vendor. Notification may occur via phone, the web, courier, email, fax, or in person. Upon notification of a pending request, the awarded Vendor shall acknowledge the TIPS Member's request as soon as possible, but must make contact with the TIPS Member within two working days.

Status of TIPS Members as Related to This Agreement
TIPS Members stand in the place of TIPS as related to this agreement and have the same access to the proposal information and all related documents. TIPS Members have all the same rights under the awarded Agreement as TIPS.

Vendor's Resellers as Related to This Agreement
Vendor's Named Resellers ("Resellers") under this Agreement shall comply with all terms and conditions of this agreement and all addenda or incorporated documents. All actions related to sales by Authorized Vendor's Resellers under this Agreement are the responsibility of the awarded Vendor. If Resellers fail to report sales to TIPS under your Agreement, the awarded Vendor is responsible for their contractual failures and shall be billed for the fees. The awarded Vendor may then recover the fees from their named reseller.

Support Requirements
If there is a dispute between the awarded Vendor and TIPS Member, TIPS or its representatives may, at TIPS sole discretion, assist in conflict resolution if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded Vendor's TIPS project files, documentation and correspondence related to the requesting TIPS Member's order. If there are confidentiality requirements by either party, TIPS shall comply to the extent permitted by law.

Incorporation of Solicitation
The TIPS Solicitation which resulted in this Vendor Agreement, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, are hereby incorporated by reference into this Agreement as if copied verbatim.

SECTION HEADERS OR TITLES
THE SECTON HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITES OF THE PARTIES TO THIS DOCUMENT.

STATUTORY REQUIREMENTS
Texas governmental entities are prohibited from doing business with companies that fail to certify to this condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and does not and will not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within three (3) business day of the change by a letter on Vendor's letterhead from and signed by an authorized representative of the Vendor stating the non-compliance decision and the TIPS Agreement number and description at:

Attention: General Counsel
ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX,75686
And by an email sent to bids@tips-usa.com

Insurance Requirements

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders:

General Liability	$1,000,000 each Occurrence/ Aggregate
Automobile Liability	$300,000 Includes owned, hired & non-owned
Workers' Compensation	Statutory limits for the jurisdiction in which the Vendor performs under this Agreement.
Umbrella Liability	$1,000,000

When the Vendor or its subcontractors are liable for any damages or claims, the Vendor's policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the Member. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member.

Special Terms and Conditions

- **Orders:** All Vendor orders received from TIPS Members must be emailed to TIPS at tipspo@tips-usa.com. Should a TIPS Member send an order directly to the Vendor, it is the Vendor's responsibility to forward a copy of the order to TIPS at the email above within 3 business days and confirm its receipt with TIPS.
- **Vendor Encouraging Members to bypass TIPS agreement:** Encouraging TIPS Members to purchase directly from the Vendor or through another agreement, when the Member has requested using the TIPS cooperative Agreement or price, and thereby bypassing the TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Order Confirmation**: All TIPS Member Agreement orders are approved daily by TIPS and sent to the Vendor. The Vendor should confirm receipt of orders to the TIPS Member (customer) within 3 business days.
- **Vendor custom website for TIPS**: If Vendor is hosting a custom TIPS website, updated pricing when effective. TIPS shall be notified when prices change in accordance with the award.
- **Back Ordered Products**: If product is not expected to ship within the time provided to the TIPS Member by the Vendor, the Member is to be notified within 3 business days and appropriate action taken based on customer request.

The TIPS Vendor Agreement Signature Page is inserted here.

TIPS Vendor Agreement Signature Form

RFP 201104 Pipe Bursting
PART 1 ONLY

Company Name Vortex Companies, LLC

Address 18150 Imperial Valley Drive

City Houston State TX Zip 77060

Phone 713-750-9081 Fax

Email of Authorized Representative nbanchetti@voetxcompanies.com

Name of Authorized Representative Nick Banchetti

Title Chief Operating Officer

Signature of Authorized Representative

Date 11/03/20

TIPS Authorized Representative Name Meredith Barton

Title Chief Operating Officer

TIPS Authorized Representative Signature Meredith Barton

Approved by ESC Region 8 David Wayne Fitts

Date 1/26/2021

NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES

TIPS VENDORS RESPOND TO ATTRIBUTE QUESTIONS AS PART OF TIPS COMPETITIVE SOLICITATION PROCESS. THE VENDOR'S RESPONSES TO ATTRIBUTE QUESTIONS ARE INCLUDED HEREIN AS "SUPPLIER RESPONSE." PLEASE BE ADVISED THAT DEVIATIONS, IF ANY, IN VENDOR'S RESPONSE TO ATTRIBUTE QUESTIONS MAY NOT REFLECT VENDOR'S FINAL ATTRIBUTE RESPONSE, WHICH IS SUBJECT TO NEGOTIATIONS PRIOR TO AWARD. PLEASE CONTACT THE TIPS OFFICE AT 866-839-8477 WITH QUESTIONS OR CONCERNS REGARDING VENDOR ATTRIBUTE RESPONSE DEVIATIONS. PLEASE KEEP IN MIND THAT TIPS DOES NOT PROVIDE LEGAL COUNSEL TO MEMBERS. TIPS RECOMMENDS THAT YOU CONSULT YOUR LEGAL COUNSEL WHEN EXECUTING CONTRACTS WITH OR MAKING PURCHASES FROM TIPS VENDORS.



201104
Vortex Companies
Supplier Response

Event Information

Number: 201104
Title: Pipe Bursting -2 Part with JOC
Type: Request for Proposal
Issue Date: 11/5/2020
Deadline: 12/11/2020 03:00 PM (CT)
Notes: This is a 2 PART solicitation. PART 1 is for projects that are not considered construction or a public work. It includes, but is not limited to, parts, supplies, maintenance services and repairs. PART 2 Job Order Contract (JOC) is for projects considered construction or public work projects. The determination of whether or not a project requires a PART 2 JOC is the responsibility of the TIPS member entity. Vendors are encouraged to respond to BOTH PARTS 1 and 2 to meet the needs of our members, but responses to both parts is not required.

Contact Information

Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477
Email: bids@tips-usa.com

Vortex Companies Information

Contact: Ryan Graham
Address: 18150 Imperial Valley Drive
Houston, TX 77060
Phone: (713) 750-9081
Email: rellison@vortexcompanies.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Ronnie Ellison — *Signature*
rellison@vortexcompanies.com — *Email*

Submitted at 12/11/2020 2:11:15 PM

Requested Attachments

Vendor Agreement part 1 — 201104 Vendor Agreement PART 1 ONLY Signed.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

Agreement Signature Form part 1 — Vendor Agreement Signature Pages Part 1 Signed.pdf

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGREEMENT SIGNATURE FORM from the "ATTACHMENTS" tab. This PDF document is a fillable form. Download the document to your computer, fill in the requested company information, print the file, SIGN the form, SCAN the completed and signed AGREEMENT SIGNATURE FORM, and upload here.
If you have taken exception to any of the agreement language and noted the exception in the deviations section of the attributes for the agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been negotiated and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

Vendor Agreement Part 2 — 201104 Vendor_Agreement_JOC_PART 2 ONLY Signed.pdf

If proposing on Part 2, the vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

Agreement Signature Form Part 2 — Vendor Agreement Signature Pages Part 2 Signed.pdf

If proposing on Part 2, the vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

Part 1 Pricing Spreadsheet #1 — TIPS Pricing - VTK (TIPS 1171105) NEW FOR BID.pdf

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

Part 1 Pricing Spreadsheet #2 — TIPS Pricing - VTK (TIPS 1171105) NEW FOR BID.pdf

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

JOC Pricing of Itemized list of Means non-prepriced items — JOC Pricing of Itemized List of Means Non-Prepriced Items.xlsx

If you have items listed on the form titled "JOC Pricing of Itemized list of Means non-prepriced items" please complete the form and upload. If you have nothing to offer in this price sheet, just upload the form blank and put Not Applicable on the form.

References VaughtRef_VS12.2020.pdf

Valid Reference Email addresses are REQUIRED on the spreadsheet. The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

Proposed Goods and Services Vortex Companies S&P.pdf

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR list links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. I does not have to be exhaustive but should, at a minimum tell us what you are offering. It could be as simple as a sheet with your link to your online catalog of goods and services.

D/M/WBE Certification OPTIONAL *No response*

D/M/WBE Certification documentation may be scanned and uploaded if you desire to claim your status as one of the identified enterprises. (Disadvantaged Business Enterprise, Minority Business Enterprise and/or Woman Business Enterprise) If vendor has more than one certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Warranty *No response*

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Supplementary Vortex Companies S&P 2.pdf

Supplementary information can be scanned and uploaded. (Company information, brochures, catalogs, etc.) (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

All Other Certificates *No response*

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Logo and Other Company Marks Unknown.png

Conflict of Interest Form CIQ- ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS *No response*

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS
Conflict of Interest Form for Vendors that are required to submit the form. The Conflict of Interest Form is included in the Base documents or can be found at https://www.tips-usa.com/assets/documents/docs/CIQ.pdf.

Certificate of Corporate Offerer - COMPLETE ONLY IF OFFERER IS A CORPORATION *No response*

COMPLETE AND UPLOAD FORM IN ATTACHMENTS SECTION ONLY IF OFFERER IS A CORPORATION

Lobbying Report Standard Form-LLL, “disclosure Form to Report Lobbying,” *No response*

If you answered "I HAVE Lobbied per above" to attribute #66, please download and complete and upload the Standard Form-LLL, “disclosure Form to Report Lobbying,” in the Response attachments section.

Confidentiality Form Confidentiality Form Signed.pdf

REQUIRED CONFIDENTIALITY FORM. Complete the form according to your company requirements, make any desired attachments and upload to the appropriate section under "Response Attachments" THIS FORM DETERMINES HOW ESC8/TIPS RESPONDS TO LEGAL PUBLIC INFORMATION REQUESTS.

Bonding Capacity Letter from Surety/Insurance Company Vortex GGL 12-9-20.pdf

REQUIRED IF YOU ARE PROPOSING ON PART 2 -Attach the Bonding Capacity Letter from Surety/Insurance Company. if you do not have one available at time of proposal, attached a letter stating it will be submitted when received to prove bonding capacity. No award can be made until official bonding capacity letter is received by TIPS.

Current W-9 Tax Form Vortex Companies LLC W-9 (2020).pdf

You are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. Additionally, if not designated “Confidential” in your proposal response, this W-9 may be accessed by TIPS Members for the purpose of making TIPS purchases from you in the event that you are awarded. If you wish to designate your required W-9 confidential, please do so according to the terms of the Confidentiality Claim Form which is an attachment to this solicitation.

Bid Attributes

1	**Yes - No** Disadvantaged/Minority/Women Business Enterprise - D/M/WBE (Required by some participating governmental entities) Vendor certifies that their firm is a D/M/WBE? Vendor must upload proof of certification to the ”Response Attachments” D/M/WBE CERTIFICATES section. No
2	**Yes - No** Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at https://comptroller.texas.gov/purchasing/vendor/hub/ or in a HUBZone as defined by the US Small Business Administration at https://www.sba.gov/offices/headquarters/ohp Proof of one or both may be submitted. Vendor must upload proof of certification to the “Response Attachments” HUB CERTIFICATES section. No
3	**Yes - No** The Vendor can provide services and/or products to all 50 US States? Yes
4	**States Served:** If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX) *No response*
5	**Company and/or Product Description:** This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.) At Vortex we repair, service and rehabilitate municipal and industrial water and sewer infrastructure using best-in-class trenchless technologies including bypass pumping (Sewer Bypass, Lift Station Backup, Pumping, Sludge Removal, Pre-treatment Sand Trap Pumping, Flood or Stormwater Drainage, Site Dewatering, Pump Watch), spin-cast pipe lining (Pipes, Culverts, and Tunnels, Manholes, Boxes and more), internal pipe seals, pipe coatings and pipe bursting.
6	**Primary Contact Name** Primary Contact Name Ryan Graham
7	**Primary Contact Title** Primary Contact Title Vice President, Sales
8	**Primary Contact Email** Primary Contact Email rgraham@vortexcompanies.com

9	**Primary Contact Phone** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 7137509081
10	**Primary Contact Fax** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 18332477943
11	**Primary Contact Mobile** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 2816393237
12	**Secondary Contact Name** Secondary Contact Name Ronnie Ellison
13	**Secondary Contact Title** Secondary Contact Title Sales Support
14	**Secondary Contact Email** Secondary Contact Email rellison@vortexcompanies.com
15	**Secondary Contact Phone** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 7137509081
16	**Secondary Contact Fax** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 18332477943
17	**Secondary Contact Mobile** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 2816863111
18	**Admin Fee Contact Name** Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS. Nick Banchetti

19	**Admin Fee Contact Email** Admin Fee Contact Email nbanchetti
20	**Admin Fee Contact Phone** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 7137509081
21	**Purchase Order Contact Name** Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS. Ryan Graham
22	**Purchase Order Contact Email** Purchase Order Contact Email rgraham@vortexcompanies.com
23	**Purchase Order Contact Phone** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 7137509081
24	**Company Website** Company Website (Format - www.company.com) www.vortexcompanies.com
25	**Federal ID Number** Federal ID Number also known as the Employer Identification Number (EIN). Numeric only. (Format: 123456789) 364879397
26	**Primary Address** Primary Address 18150 Imperial Valley Drive
27	**Primary Address City** Primary Address City Houston
28	**Primary Address State** Primary Address State (2 Digit Abbreviation) TX
29	**Primary Address Zip** Primary Address Zip 77060

30 **Search Words:**

Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)

Vortex, Vortex Services, Pipe Bursting, CIPP, Cured in place Pipe, Pipe Rehabilitation, Trenchless Rehabilitation, Trenchless Construction, Culvert Rehabilitation, Sewer Rehab, Wastewater Rehab, Sanitary Sewer Rehab, Quadex, Quadex Lining Systems, Geokrete, Geopolymer, Manhole Rehab, Manhole Rehabilitation, Epoxy Lining, Cementitious Lining, Vortex Companies, Underground Infrastructure, Sewer Rehabilitation, Manhole Lining,

31 **Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?**

Most of our members receive Federal Government grants and they make up a significant portion of their budgets. The members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that are provisions from the federal regulations in 2 CFR part 200. Your answers will determine if your award will be designated as Federal or Education Department General Administrative Regulations (EDGAR)compliant.

Do you want TIPS Members to be able to spend Federal grant funds with you if awarded and is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?

Yes

32 **Yes - No**

Certification of Residency - The vendor's ultimate parent company or majority owner:

(A) has its principal place of business in Texas;

OR

(B) employs at least 500 persons in Texas?

This question is required as a data gathering function for information to our members making purchases with awarded vendors. Does not affect scoring with TIPS.

Yes

33 **Company Residence (City)**

Vendor's principal place of business is in the city of?

Houston

34 **Company Residence (State)**

Vendor's principal place of business is in the state of?

TX

35 **Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION**

Remember this is a MINIMUM discount percentage so, be sure the discount percentage inserted here can be applied to ANY OFFERING OF GOODS OR SERVICES THROUGH OUT THE LIFE OF THE CONTRACT

CAUTION: BE CERTAIN YOU CAN HONOR THIS MINIMUM DISCOUNT PERCENTAGE ON ANY OFFERED SERVICE OR GOOD NOW OR DURING THE LIFE OF THE CONTRACT.

What is the MINIMUM percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the solicitation specifications document), website, store or shelf pricing or when adding new goods or services to your offerings during the life of the contract? The resulting price of any goods or services Catalog list prices after this discount is applied is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale.
Must answer with a number between 0% and 100%.

5%

36 **Yes - No**

If awarded on Part 1 of the TIPS Contract, for the duration of the Contract, Vendor agrees to provide catalog pricing, as defined in the solicitation and below, to TIPS upon request for any goods and services offered on PART 1 of the Vendor's TIPS Contract, if any.

"Catalog" means the available list of tangible personal property or services, in the most current listing, regardless of date, during the life of the contract, that takes the form of a catalog, price list, schedule, shelf price or other form that:

A. is regularly maintained by the manufacturer or Vendor of an item; and
B. is either published or otherwise available for inspection by a customer during the purchase process;
C. to which the minimum discount proposed by the proposing Vendor may be applied.

YES

37 **TIPS administration fee**

By submitting a proposal, I agree that all pricing submitted to TIPS shall include the participation fee, as designated in the solicitation or as otherwise agreed in writing and shall be remitted to TIPS by the Vendor or the vendor's named resellers and as agreed in the Vendor agreement. I agree that the fee shall not and will not be added by the vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member.

38 **REQUIRED FOR PART 2 JOC - PRICING OF Regular Hours Coefficient**

What is your regular hours coefficient for the RS Means Price Book? (FAILURE TO RESPOND PROHIBITS PART 2 JOC EVALUATION)

Remember that this is a ceiling price proposed. You can discount lower than your proposed contract coefficient, but not higher.

This is one of three pricing questions that are required for consideration for award on this solicitation. Please consider your answer carefully. An explanation of the TIPS scoring of pricing is included in the attachments for your information.

The below is an Example of how pricing model works (not intended to influence your proposed coefficient, you should propose a coefficient that you determine is right for your business):

To propose the exact pricing as the RS Means Unit Price Book, you would insert a 1.0 and to propose a 5% discount for the RS Means Price Book would be a .95 regular hours coefficient and so on.

0.95

39 **REQUIRED FOR PART 2 JOC - PRICING OF After Hours Coefficient**

What is your after hours coefficient for the RS Means Price Book for work performed after normal working hours? (FAILURE TO RESPOND PROHIBITS PART 2 JOC EVALUATION)

Remember that this is a ceiling price proposed. You can discount to any TIPS Member customer a lower coefficient than your proposed contract coefficient, but not higher.

This is one of three pricing questions that are required for consideration for award on this solicitation. Please consider your answer carefully. An explanation of the TIPS scoring of pricing titled "Pricing Coefficient Instruction" is included in the attachments for your information.

The below is an EXAMPLE of how the pricing model works (It is not intended to influence your proposed coefficient, you should propose a coefficient that you determine is reasonable for your business for the life of the contract): The most common after hours coefficient is time and a half of the RS Means Unit Price Book prices. To illustrate this coefficient, if your regular hours coefficient is .95, your after hours coefficient would be 1.45.

1

40 **REQUIRED FOR 2 PART JOC - PRICING for Markup of Non-Prepriced Items in RS Means Unit Price Book**

What is your proposed Markup Percentage on materials not found in the RS Means Price Book? (FAILURE TO RESPOND PROHIBITS PART 2 JOC EVALUATION)

If any materials being utilized for a project cannot be found in the RS Means Price Book, this question is what is the markup percentage on those materials?

When answering this question please insert the number that represents your percentage of proposed markup. Example: if you are proposing a 30 percent markup, please insert the number "30".

Remember that this is a ceiling markup. You may markup a lesser percentage to the TIPS Member customer when pricing the project, but not a greater percentage.

EXAMPLE: You need special materials that are not in the RS Means Unit Price Book for a project. You would buy the materials and mark them up to the TIPS Member customer by the percentage you propose in this question. If the materials cost you, the contractor, $100 and you proposed a markup on this question for the material of 30 percent, then you would charge the TIPS Member customer $130 for the materials.

20%

41	**Yes - No** Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, guarantee the fee remittance by or for the reseller named by the vendor? TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered. Agreed
42	**Yes - No** Do you offer additional discounts to TIPS members for large order quantities or large scope of work? No
43	**Years experience in this category of goods or services.** Company years experience in this category of goods or services? 6
44	**Resellers:** Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, as the awarded vendor of TIPS. EXAMPLE: BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller. (If applicable, Vendor should add all Authorized Resellers within the TIPS Vendor Portal upon award). Yes
45	**Right of Refusal** Does the proposing vendor wish to reserve the right not to perform under the awarded agreement with a TIPS member at vendor's discretion? No

46 **NON-COLLUSIVE BIDDING CERTIFICATE**

By submission of this bid or proposal, the Bidder certifies that:

1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;

2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor:

3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;

4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

47 **CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ -Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?**

Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO

If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS.

You may find the Blank CIQ form on our website at:

Copy and Paste the following link into a new browser or tab:

https://www.tips-usa.com/assets/documents/docs/CIQ.pdf

There is an optional upload for this form provided if you have a conflict and must file the form.

No

48 **Filing of Form CIQ**

If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above?

No response

49 **Regulatory Standing**

I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.

Yes

50 **Regulatory Standing**

Regulatory Standing explanation of no answer on previous question.

No response

51	**Antitrust Certification Statements (Tex. Government Code § 2155.005)** By submission of this bid or proposal, the Bidder certifies that: I affirm under penalty of perjury of the laws of the State of Texas that: (1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below; (2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law; (4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

52	**Suspension or Debarment Instructions** Instructions for Certification: 1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions. 2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment. 3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participants,” “person,” “primary covered transaction,” “principal,” “proposal” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. 5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions. 7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List. 8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings. 9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

53	**Suspension or Debarment Certification** By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above. 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 exclusions 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. By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above. Yes
54	**Non-Discrimination Statement and Certification** In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. (Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities) All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender. Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations. Yes

55 **2 CFR PART 200 Contract Provisions Explanation**

Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members:

The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.

The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

56 **2 CFR PART 200 Contracts**

Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, 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.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

Yes

57 **2 CFR PART 200 Termination**

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of $10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of $10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?

Yes

58	**2 CFR PART 200 Clean Air Act** Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein. Does vendor agree? Yes
59	**2 CFR PART 200 Byrd Anti-Lobbying Amendment** Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein. Does vendor agree? Yes
60	**2 CFR PART 200 Federal Rule** Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000) Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of $100,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). Does vendor certify that it is in compliance with the Clean Air Act? Yes

61 **2 CFR PART 200 Procurement of Recovered Materials**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with
maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?

Yes

62 **Certification Regarding Lobbying**

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding $100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. 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.

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 any 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 a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a 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 grant 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 covered subawards exceeding $100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

I HAVE NOT Lobbied per above

63 **Lobbying Report Standard Form-LLL, “disclosure Form to Report Lobbying,”**

ONLY IF you answered "I HAVE Lobbied per above" to attribute above titled "**Certification Regarding Lobbying**", please download and complete and upload the Standard Form-LLL, “disclosure Form to Report Lobbying,” in the Response attachments section.

64 **Subcontracting with small and minority businesses, women's business enterprises, and labor surplus area firms.**

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

IF NO, DO NOT ANSWER THE NEXT ATTRIBUTE QUESTION. . IF YES, and ONLY IF YES, you must answer the next question YES if you want a TIPS Member to be authorized to spend Federal Grant Funds for Procurement.

YES

65	**ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements?** ONLY IF YES TO THE ABOVE QUESTIONS OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements? Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (b) Affirmative steps must include:(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 and the Minority Business Development Agency of the Department of Commerce ; and (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section. YES
66	**If proposing on PART 2, Davis-Bacon Act compliance.** IF proposing on PART 2, Texas Statute requires compliance with Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part S, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act {40 U.S.C. 314S), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. BY SUBMITTING A PROPOSAL FOR PART 2 OF THIS SOLICITATION, the Vendor agrees, AS REQUIRED BY LAW, to comply with the Davis Bacon Act, IF APPLICABLE and if proposing on PART 2 of this solicitation.

67 **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**

Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

By submitting a proposal to PART 2 of this solicitation and IF the customer is utilizing federal funds as described above, the Vendor agrees to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

68 **Indemnification**

The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified with "to the extent permitted by the Constitution and laws of State of Texas."

Do you agree to these terms?

Yes

69 **Remedies**

The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any issues not resolved hereunder MAY be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Do you agree to these terms?

Yes, I Agree

70 **Remedies Explanation of No Answer**

No response

71 Choice of Law

The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.
THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.

Do you agree to these terms?

Agreed

72 Venue, Jurisdiction and Service of Process

Any proceeding, involving Region 8 ESC or TIPS, arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.

Do you agree to these terms?

Agreed

73 Alternative Dispute Resolution Explanation of No Answer

No response

74 Infringement(s)

The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor’s performance of contracts awarded and approved.

Do you agree to these terms?

Yes, I Agree

75 Infringement(s) Explanation of No Answer

No response

76 Acts or Omissions

The successful vendor will be expected to indemnify and hold harmless the TIPS, its officers, employees, agents, representatives, contractors, assignees and designees from and against any and all liability, actions, claims, demands or suits, and all related costs, attorney's fees and expenses arising out of, or resulting from any acts or omissions of the vendor or its agents, employees, subcontractors, or suppliers in the execution or performance of any agreements
ultimately made by TIPS and the vendor.

Do you agree to these terms?

Yes, I Agree

77	**Acts or Omissions Explanation of No Answer** *No response*
78	**Contract Governance** Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language. Yes
79	**Payment Terms and Funding Out Clause** Payment Terms: TIPS or TIPS members shall not be liable for interest or late payment fees on past due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member. Funding Out Clause: Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body. See statute(s) for specifics or consult your legal counsel. Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms? Yes

80	**Insurance and Fingerprint Requirements Information** Insurance If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance. Fingerprint It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834. Statutory language may be found at: http://www.statutes.legis.state.tx.us/ If the vendor has staff that meet both of these criterion: (1) will have continuing duties related to the contracted services; and (2) has or will have direct contact with students Then you have ”covered” employees for purposes of completing the attached form. TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at NCJU@txdps.state.tx.us and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474. See form in the next attribute to complete entitled: Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

81	**Texas Education Code Chapter 22 Contractor Certification for Contractor Employees** Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district. Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state. I certify that: **NONE (Section A)** of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided. **OR** **SOME (Section B)** or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that: (1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history. (2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days. (3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees. (4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District. Noncompliance or misrepresentation regarding this certification may be grounds for contract termination. None

82	**Texas Business and Commerce Code § 272 Requirements as of 9-1-2017** SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a “construction contract” includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. “Construction contracts” are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES.
83	**Texas Government Code 2270 Verification Form** Texas Government Code 2270 Verification Form If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of $100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to Chapter 2270 of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, subsidiary, or parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Our company is not listed on and we do not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf I swear and affirm that the above is true and correct. YES
84	**Logos and other company marks** Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the “Response Attachment” tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred Potential uses of company logo: * Your Vendor Profile Page of TIPS website * Potentially on TIPS website scroll bar for Top Performing Vendors * TIPS Quarterly eNewsletter sent to TIPS Members * Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing)

85 **Solicitation Deviation/Compliance**

Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?

Yes

86 **Solicitation Exceptions/Deviations Explanation**

If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.
TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.
In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.

No response

87 **Agreement Deviation/Compliance**

Does the vendor agree with the language in the Vendor Agreement?

Yes

88 **Agreement Exceptions/Deviations Explanation**

If the proposing Vendor desires to deviate form the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.

No response

89 **Long Term Cost Evaluation Criterion on PART 1 EVALUATION ONLY**

READ CAREFULLY and see in the RFP document under "Proposal Scoring and Evaluation".
Points will be assigned to this criterion based on your answer to this Attribute. Points are awarded if you agree not increase your catalog prices (as defined herein) more than X% annually over the previous year for years two and three and potentially year four, unless an exigent circumstance exists in the marketplace and the excess price increase which exceeds X% annually is supported by documentation provided by you and your suppliers and shared with TIPS, if requested. If you agree NOT to increase prices more than 5%, except when justified by supporting documentation, you are awarded 10 points; if 6% to 14%, except when justified by supporting documentation, you receive 1 to 9 points incrementally. Price increases 14% or greater, except when justified by supporting documentation, receive 0 points.

price increases will be <7% annually per question

90 **Felony Conviction Notice**

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.” Subsection (b) states “a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.” (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question.
Select A., B. or C.
A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.
OR B.My firm is not owned nor operated by anyone who has been convicted of a felony, OR
C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C below, you are required to provide information in the next attribute.

B. Firm not owned nor operated by felon; per above

91 **If you answered C. My Firm is owned or operated by a felon to the previous question, you are REQUIRED TO ANSWER THE FOLLOWING QUESTIONS.**

If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information.

1. Name of Felon(s)

2. The named person's role in the firm, and

3. Details of Conviction(s).

No response

92 **Required Confidentiality Claim Form**

Required Confidentiality Claim Form
This form is required by TIPS. By submitting a response to this solicitation you agree to download from the “Attachments” section, complete according to the instructions on the form, then uploading the completed form, with any confidential attachments, if applicable, to the “Response Attachments” section titled “Confidentiality Form” in order to provide to TIPS the completed form titled, “CONFIDENTIALITY CLAIM FORM”. By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for award, until TIPS has an accurate, completed form from you.
Read the form carefully before completing and if you have any questions, email Rick Powell at TIPS at rick.powell@tips-usa.com

93 **Choice of Law clauses for TIPS Members**

If the vendor is awarded a contract with TIPS under this solicitation, the vendor agrees to make any Choice of Law clauses in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "Choice of law shall be the laws of the state where the customer resides" or words to that effect.

Agreed

94 **Venue of dispute resolution with a TIPS Member**

In the event of litigation or use of any dispute resolution model when resolving disputes with a TIPS member entity as a result of a transaction between the vendor and TIPS or the TIPS member entity, the Venue for any litigation or other agreed upon model shall be in the state and county where the customer resides unless otherwise agreed by the parties at the time the dispute resolution model is decided by the parties.

Agreed

95	**Indemnity Limitation with TIPS Members** Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation limit the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clauses in any agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member entity with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, ". **Agreement is a required condition to award of a contract resulting from this Solicitation.** Agreed
96	**Arbitration Clauses** Except for certain circumstances, TIPS forbids a mandatory arbitration clause in any contract or agreement entered into between the awarded vendor with TIPS or a TIPS member entity. Does the vendor agree to exclude any arbitration requirement in any contracts or agreement entered into between TIPS or a TIPS member entity through an awarded contract with TIPS? **Agreement is a required condition to award of a contract resulting from this Solicitation.** Agreed
97	**Upload of Current W-9 Required** Please note that you are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. Additionally, if not designated “Confidential” in your proposal response, this W-9 may be accessed by TIPS Members for the purpose of making TIPS purchases from you in the event that you are awarded. If you wish to designate your required W-9 confidential, please do so according to the terms of the Confidentiality Claim Form which is an attachment to this solicitation.

TIPS RFP # 201104

Required Confidential Information Status Form

Vortex Companies, LLC

Name of company

Nick Banchetti, Chief Operating Officer

Printed Name and Title of authorized company officer declaring below the confidential status of material

18150 Imperial Valley Drive	Houston	TX	77060	713-750-9081
Address	**City**	**State**	**ZIP**	**Phone**

ALL VENDORS MUST COMPLETE THE ABOVE SECTION

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS (ESC8) IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential information and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s), **you must attach a copy of all claimed confidential materials within your proposal and put this COMPLETED form as a cover sheet to said materials then scan, name "CONFIDENTIAL" and upload with your proposal submission.** (You must include all the confidential information in the submitted proposal. The copy uploaded is to indicate which material in your proposal, if any, you deem confidential in the event the receives a Public Information Request.) ESC8 and TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law. Upon your claim and your defense to the Office of Texas Attorney General is required to make the final determination whether the information submitted by you and held by ESC8 and TIPS is confidential and exempt from public disclosure.

ALL VENDORS MUST COMPLETE ONE OF THE TWO OPTIONS BELOW.

OPTION 1:

I DO CLAIM parts of my proposal to be confidential and *DO NOT* desire to expressly waive a claim of confidentiality of all information contained within our response to the solicitation. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials.

IF CLAIMING PARTS OF YOUR PROPOSAL CONFIDENTIAL, YOU MUST ATTACH THE SHEETS TO THIS FORM AND LIST THE NUMBER OT TOTAL PAGES THAT ARE CONFIDENTIAL.

ATTACHED ARE COPIES OF_____PAGES OF CLAIMED CONFIDENTIAL MATERIAL FROM OUR PROPOSAL THAT WE DEEM TO BE NOT PUBLIC INFORMATION AND WILL DEFEND THAT CLAIM TO THE TEXAS ATTORNEY GENERAL IF REQUESTED. WE ALSO REQUEST THAT NOTICE OF ANY REQUEST IS MADE FO

Signat

OR

OPTION 2:

I DO NOT CLAIM any of my proposal to be confidential, complete the section below.

Express Waiver: I desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Signature_____ Date 12/10/20

Confidentiality Claim Form rev 10012020RP

VORTEX companies

CIVIL INFRASTRUCTURE SOLUTIONS

Vortex Companies Services: https://www.vortexcompanies.com/services/

Vortex Companies Products: https://www.vortexcompanies.com/products/

Vortex Companies Catalog & Brochures: https://www.vortexcompanies.com/catalog/

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

► **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

Give Form to the requester. Do not send to the IRS.

Print or type. See **Specific Instructions** on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Vortex Companies LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☑ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► P

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
18150 Imperial Valley Drive

Requester's name and address (optional)

6 City, state, and ZIP code
Houston, TX 77060

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
			–			–				

or

Employer identification number
3	6	–	4	8	7	9	3	9	7

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here **Signature of U.S. person** ► Bailey Carroll **Date** ► 2020

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

RESOLUTION NO. 2025-401

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AUTHORIZING CHANGE ORDER 1 FOR THE FY23 PIPEBURSTING PROJECT IN AN EXPENDITURE AMOUNT OF $59,429.15, NOT EXCEEDING A TOTAL CONTRACT AMOUNT OF $507,693.65; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Duncanville, Texas, desires to continue its commitment to making infrastructure improvements to the quality and capacity of the overall utility infrastructure; and

WHEREAS, on December 6, 2022, the City Council of the City of Duncanville, Texas, awarded the FY23 Pipebursting Project to Vortex Companies, LLC (Reso. No. 2022-112); and

WHEREAS, Change Order 1 is proposed to finalize the project; and

WHEREAS, the City Council of the City of Duncanville, Texas, desires to authorize Change Order 1 for the FY23 Pipebursting Project in an expenditure amount of $59,429.15, not exceeding a total contract amount of $507,693.65.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of the City of Duncanville, Texas, hereby authorizes Change Order 1 for the FY23 Pipebursting Project in an expenditure amount of $59,429.15, not exceeding a total contract amount of $507,693.65; and authorizes the City Manager to execute the necessary documents related to said change order.

SECTION 2. This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

EXHIBIT A

CITY OF DUNCANVILLE
CHANGE ORDER REQUEST FORM

Bid/RFP No:	**TIPS 201104**	Date:	**December 5, 2024**
Project Location:	**Various Streets**	City Project Manager:	**Alan Brown**
Contractor:	**Vortex Turnkey Solutions**	Engineer:	**City Staff Engineer**
Account #:	**17400000-708102-PBU23**	CIP #:	
Munis Contract #:	**3220025**	Change Order #:	**1**
Change Order Initiated by:	**Jed Brewer** (Name, Title, Firm)	Purchase Order #:	2300478

ITEM No.	ITEM & DESCRIPTION OF CHANGES	UNIT	QTY (+/-)	UNIT PRICE	EXTENDED ($) DECREASE	EXTENDED ($) INCREASE
5	Extra Length 4" Service Lateral	LF	572	$ 28.00		$ 16,016.00
17	Remove and Replace Asphalt Paving	SY	263.11	$ 165.00		$ 43,413.15

Additional Contract Time Required by Change: **0** Calendar Days
Revised Completion Date: _____ (MM/DD/YYYY)

SUMMARY OF BUDGET & CONTRACT VALUE IS CHANGED AS FOLLOWS

Project Budget:	$ **493,090.95**
Original Contract Price:	$ **448,264.50**
Contract Price prior to this change order:	$ **448,264.50**
Net Increase/Decrease resulting from this change order:	$ **59,429.15**
Contract Price after this change order:	$ **507,693.70**
Project Budget Balance after this change order:	$ **-14,602.70**

JUSTIFICATION	SIGNATURE	DATE
Approved, **Contractor**		**12/11/24**
Recommended, **Contract/Project Manager**		
Approved, **Director of Public Works**		
Approved, **Chief Procurement Officer**		
Approved, **Managing Director of Fiscal Services**		
Approved, **City Manager**		

Page 3 of 3

All Change Orders that are requested with this format shall be within and not to exceed CIP budget or $49,999.99.
Any Change Order that exceeds the budget and/or $49,999.99 must be formally approved by Mayor and Council.

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a Resolution authorizing the City Manager to execute Change Order 1 in an expenditure amount of $66,375.00 for the FY22 Pipebursting Project with Vortex Companies, LLC, using the previously authorized contingency of $99,999.63, not exceeding a total contract amount of $1,099,995.88.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Develop: Infrastructure Improvement Strategy**
  - **Ensure the viability and adaptability of the city's infrastructure, facilities, and transportation network through thoughtful financial and long-term planning.**

STAFF RESPONSIBLE:
Matt Bryant, Director of Public Works

BACKGROUND/HISTORY:
On December 21, 2021, the City Council of the City of Duncanville, Texas, awarded the FY22 Pipebursting Project to Vortex Companies, LLC, for pipebursting approximately 9,076 linear feet of substandard 6-inch and 10-inch sanitary sewer main with new High-Density Polyethylene (HDPE) sewer pipe, wastewater pipeline, and adjacent private sewer lateral replacements, appurtenances, landscaping, adding additional manholes, manhole replacement, and manhole lining along Johnson Street, Flamingo Way, E. Cherry Street, and other streets in the Forest Hills Addition. This authorization included a contract award of $999,996.25 with a $99,999.63 contingency for a total amount not to exceed $1,099,995.88.

To complete the project, the following changes were required:

Item/Description of Changes	Unit	Unit Quantity	Unit Price	Increase
Sprayline of existing and new manholes	VF	177	$375.00	$66,375.00

POLICY EXPLANATION:
The available contingency amount of $99,999.63 can be utilized to execute the change order. However, the authorizing resolution did not include language granting the City Manager the authority to approve change orders. Therefore, staff requests the City Council's approval to authorize the City Manager to execute the sole change order to finalize and close the project.

Pending authorization of the change order, the project accounting will be as follows:

Contract Award: $999,996.25
Contingency: $99,999.63
Change Order 1: $66,375.00
Final Contract Amount: $1,063,371.25

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	**Purchase Amount**	**After Encumber**
N/A	N/A	N/A

ACTION ALTERNATIVES:
1. Approve.
2. Disapprove.
3. Other actions as directed by Council.

ATTACHMENTS:
Attachment 1 - Reso No 2021-086 - FY22 Pipebursting with Vortex Companies
Resolution No. 2025-400 - FY22 Pipebursting Authorization for the City Manager to Execute Change Order 1 with Exhibit

Attachment 1

RESOLUTION NO. 2021-086

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AUTHORIZING A COOPERATIVE PURCHASING AGREEMENT WITH VORTEX COMPANIES VORTEX INFRASTRUCTURE HOLDINGS, LLC, USING THE INTERLOCAL PURCHASING SYSTEM (TIPS), CONTRACT #20110401 FOR WASTEWATER IMPROVEMENTS - PIPEBURSTING, FOR THE PUBLIC WORKS DEPARTMENT WITH AN ESTIMATED EXPENDITURE AMOUNT OF $999,996.25; AND AN APPROPRIATION OF $99,999.63 FOR A CONTINGENCY EQUALING TEN (10) PERCENT OF THE ORIGINAL CONTRACT PRICE FOR AN AMOUNT NOT TO EXCEED $1,099,995.88 AND; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary to maintain a safe and efficient water and sewer system; and

WHEREAS, the City has allocated funds for pipebursting wastewater improvements this fiscal year; and

WHEREAS, the City Council of the City of Duncanville, Texas, desires to authorize a Cooperative Purchasing Agreement with Vortex Companies Vortex Infrastructure Holdings, LLC, using The Interlocal Purchasing System (TIPS), Contract 20110401 Wastewater Improvements – Pipebursting and authorizes the execution of the necessary documents to procure said services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. That the City Council of the City of Duncanville, Texas, does hereby award a bid and authorize an agreement for the procurement of pipebursting water improvements with Vortex Companies Vortex Infrastructure Holdings, LLC, in the estimated expenditure amount of $999,996.25 based on the pricing set forth in Exhibit "A", attached hereto and incorporated herein.

SECTION 2. That the City Council of the City of Duncanville, Texas, does hereby appropriate $99,999.63 for a contingency equaling ten (10) percent of the original contract price.

SECTION 3. That the City Council of the City of Duncanville hereby authorizes the City Manager, or his designee, to execute the appropriate and necessary documents and/or purchase orders.

SECTION 4. This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of December, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

CITY OF DUNCANVILLE TEXAS

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



CONTRACTOR PRICING WORKSHEET

JOB ORDER CONTRACTING NO: **20110402**

PROJECT NAME: Duncanville - Fairmeadows, E. Center St, Cherry St, Briarmeade

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to Contract Administration @ 281-901-5336. Please type or carefully print; thank you.

				LIST PRICING		PROJECT SPECIFIC DISCOUNT	
Item	Description of Item	Est. Quant.	Unit	Unit Price	Total	Unit Price	Total
	BASE BID ITEMS						
1	Mobilization, Bond, Insurance	1	LS	$ 45,500.00	$ 45,500.00	$40,000.00	$ 40,000.00
2	Pipe Burst Existing 4,6, or 8" Sanitary Sewer With A 8.625" Sdr-19 'Ips' Gray Hdpe, Up To 10-Feet Deep	7594	LF	$ 52.00	$ 394,888.00	$44.00	$ 334,136.00
3	Pipe Burst Existing 10" Sanitary Sewer With A 12.75" Sdr-19 'Ips' Gray Hdpe, Up To 10-Feet Deep	1382	LF	$ 67.60	$ 93,423.20	$57.00	$ 78,774.00
4	Remove & Replace 8" Sanitary Sewer By Open Cut	0	LF	$ 101.40	$ -	$78.00	$ -
5	Reconnection Of 4-Inch Sanitary Sewer Service At The Main	150	EA	$ 260.00	$ 39,000.00	$200.00	$ 30,000.00
6	Reconnection Of 6-Inch Sanitary Sewer Service At The Main	0	EA	$ 390.00	$ -	$300.00	$ -
7	Extra Length 4" Service Lateral Beyond Connection	3036	LF	$ 26.00	$ 78,936.00	$22.00	$ 66,792.00
8	Extra Length 6" Service Lateral Beyond Connection	0	LF	$ 45.50	$ -	$35.00	$ -
9	Install Sanitary Sewer Double Cleanout	166	EA	$ 747.50	$ 124,085.00	$575.00	$ 95,450.00
10	Furnish & Install New 4' Diameter Manholes, 0' To 6' Depth, no coating	4	EA	$ 5,460.00	$ 21,840.00	$4,200.00	$ 16,800.00
11	Remove & Replace 4' Diameter Manholes, 0' To 6' Depth, no coating	10	EA	$ 5,850.00	$ 58,500.00	$4,500.00	$ 45,000.00
12	Furnish & Install Extra Depth For 4' Diameter Manholes, no coating	5	VF	$ 195.00	$ 975.00	$250.00	$ 1,250.00
13	Abandon Existing Manhole	0	EA	$ 780.00	$ -	$600.00	$ -
14	Furnish & Install Wastewater Access Device	10	EA	$ 1,885.00	$ 18,850.00	$1,450.00	$ 14,500.00
15	Pre-Tv And Clean 6, 8, 10 & 12" Sanitary Sewer	8977	LF	$ 4.23	$ 37,927.83	$3.25	$ 29,175.25
16	Post Tv 8-12" Sanitary Sewer, Mainline Only	8977	LF	$ 2.60	$ 23,340.20	$2.00	$ 17,954.00
17	Sprayline New Or Existing Manholes Using Spectrashield	197	VF	$ 331.50	$ 65,305.50	$270.00	$ 53,190.00



CONTRACTOR PRICING WORKSHEET

JOB ORDER CONTRACTING NO: **20110402**

PROJECT NAME: Duncanville - Fairmeadows, E. Center St, Cherry St, Briarmeade

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to Contract Administration @ 281-901-5336. Please type or carefully print; thank you.

Item	Description of Item	Est. Quant.	Unit	LIST PRICING Unit Price	LIST PRICING Total	PROJECT SPECIFIC DISCOUNT Unit Price	PROJECT SPECIFIC DISCOUNT Total
18	Flow Control Measures	1	LS	$ 9,100.00	$ 9,100.00	$7,000.00	$ 7,000.00
19	Standard Traffic Control	1	LS	$ 32,500.00	$ 32,500.00	$20,000.00	$ 20,000.00
20	Remove & Replace Asphalt Paving	810	SY	$ 195.00	$ 157,950.00	$155.00	$ 125,550.00
21	Remove & Replace Concrete Paving	100	SY	$ 266.50	$ 26,650.00	$220.00	$ 22,000.00
	Proposal BASE Total				**$ 1,228,770.73**		**$ 997,571.25**
	SUPPLEMENTAL ITEMS						
22	Furnish & Install Point Repairs To Remove Major Sags By Open Cut	1	LF	$ 227.50	$ 227.50	$175.00	$ 175.00
23	Obstruction Removal/Pot-Holing By Excavation, Up To 10 Feet Deep	1	EA	$ 455.00	$ 455.00	$350.00	$ 350.00
24	Point Repair, 8- Inch Sanitary Sewer, Up To 8 Feet Deep	1	EA	$ 1,300.00	$ 1,300.00	$1,000.00	$ 1,000.00
25	Install / Replace Standard Ring & Cover	1	EA	$ 845.00	$ 845.00	$650.00	$ 650.00
26	Adjust Manhole Ring And Cover To Grade	1	EA	$ 325.00	$ 325.00	$250.00	$ 250.00
	Proposal SUPPLEMENTAL ITEMS Total				**$ 3,152.50**		**$ 2,425.00**
	TOTAL BASE + SUPPLEMENTAL (incl Bonds)				**$ 1,231,923.23**		**$ 999,996.25**

Items NOT included in quote unless expressly noted:

Manhole Removal/Replacement or Coatings, Point Repairs, Dewatering, Traffic Control outside of typical cones and signage, Heavy Bypass Pumping, Surface Restoration beyond Sodding, SWPPP, Compaction Testing, Vibration Monitoring, Smoke Testing, Bonds, Mechanical Pipe Cleaning

REV2

Pricing Date: 11/2/2021

TOTAL w/ Bonds: $ 999,996.25



CONTRACTOR PRICING WORKSHEET

JOB ORDER CONTRACTING NO: **20110402**

PROJECT NAME: Duncanville - Fairmeadows, E. Center St, Cherry St, Briarmeade

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to Contract Administration @ 281-901-5336. Please type or carefully print; thank you.

Item	Description of Item	Est. Quant.	Unit	LIST PRICING Unit Price	LIST PRICING Total	PROJECT SPECIFIC DISCOUNT Unit Price	PROJECT SPECIFIC DISCOUNT Total
Buying Agency:	City of Duncanville			Contractor:	Vortex Services		
Contact Person:	Jacqueline Culton			Prepared By:	Jedidiah Brewer		
Phone:	972.780.5016			Phone:	615.495.9500		
Fax:				Fax:			
Email:	jculton@duncanville.com			Email:	jbrewer@vortexcompanies.com		

NOTE: The Customer shall be responsible for providing:

- Access to hydrants or free water source as necessary (including meters)
- All Heavy Traffic Control
- All Permits and Permissions which may be necessary (Federal, State, Local, etc.)

EXHIBIT B

TIPS VENDOR AGREEMENT
PART 1 ONLY

Between Vortex Companies, LLC **and**
(Company Name)

THE INTERLOCAL PURCHASING SYSTEM (TIPS),
a Department of Texas Education Service Center Region 8 for
TIPS RFP 201104 Pipe Bursting PART 1 ONLY

General Information

The Vendor Agreement ("Agreement") made and entered into by and between The Interlocal Purchasing System (hereinafter "TIPS") a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686 and the TIPS Vendor. This Agreement consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control unless otherwise agreed by the parties in writing and by signature and date on the attachment.

A Purchase Order ("PO"), Agreement or Contract is the TIPS Member's approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed between the Vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some, but not all, of the possible addendums.

Terms and Conditions

Freight
All quotes to Members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating "No Charge", "$0", "included in price" or other similar indication. Otherwise, all shipping, freight or delivery changes shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award.

Warranty Conditions
All new supplies equipment and services shall include ***manufacturer's minimum standard warranty*** unless otherwise agreed to in writing. Vendor shall be legally permitted to sell all products offered for sale to TIPS Members if the offering is included in the Request for Proposal ("RFP") category. All goods proposed and sold shall be new unless clearly stated in writing.

Customer Support
The Vendor shall provide timely and accurate customer support for orders to TIPS Members as agreed by the Parties. Vendors shall respond to such requests within a commercially reasonable time after receipt of

the request. If support and/or training is a line item sold or packaged with a sale, support shall be as agreed with the TIPS Member.

Agreements
Agreements for purchase will normally be put into effect by means of a purchase order(s) executed by authorized agents of the TIPS Member participating government entities, but other means of placing an order may be used at the Member's discretion.

Tax exempt status
Most TIPS Members are tax exempt and the related laws and/or regulations of the controlling jurisdiction(s) of the TIPS Member shall apply.

Assignments of Agreements
No assignment of this Agreement may be made without the prior notification of TIPS. Written approval of TIPS shall not be unreasonably withheld. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company.

Disclosures

- Vendor and TIPS affirm that he/she, or any authorized employees or agents, has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this Agreement.

- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.

- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

Term of Agreement and Renewals
The Agreement with TIPS is for approximately three (3) years with an option for renewal for an additional one (1) consecutive year. If TIPS offers the renewal extension year, the Vendor will be notified by email to the primary contact of the awarded Vendor and shall be deemed accepted by the Vendor unless the awarded Vendor notifies TIPS of its objection to the additional term. TIPS may or may not exercise the available extension(s) provided in the original solicitation beyond the base three-year term. Whether or not to offer the extension is at the sole discretion of TIPS.

"Start Date" for Term Calculation Purposes Only: Regardless of actual award/effective date of Contract, for Agreement "term" calculation purposes only, the Agreement "start date" is the last day of the month that Award Notifications are anticipated as published in the Solicitation
Example: *If the anticipated award date published in the Solicitation is May 22, but extended negotiations delay award until June 27, The end date of the resulting initial "three-year" term Agreement, (which is subject to an extension(s)) will still be May 31, 2023.*

EXHIBIT B

"Termination Date": The scheduled Agreement "termination date" shall be the last day of the month of the month of the Original Solicitation's Anticipated Award Date plus three years.
Example: *If the original term is approximately three years, and the solicitation provides an anticipated award date of May 22, 2020, the expiration date of the original three-year term shall be May 31, 2023.*

Extensions: Any extensions of the original term shall begin on the next day after the day the original term expires.
Example Following the Previous Example: *If TIPS offers a one-year extension, the expiration of the extended term shall be May 31, 2024.*

TIPS may offer to extend Vendor Agreements to the fullest extent the original Solicitation permits.

Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.
No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order, executed Agreement or other written instruction issued by the TIPS Member for any renewal period. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

Shipments
The Vendor shall ship, deliver or provide ordered products or services within a commercially reasonable time after the receipt of the order from the TIPS Member. If a delay in said delivery is anticipated, the Vendor shall notify TIPS Member as to why delivery is delayed and shall provide an estimated time for completion of the order. TIPS or the requesting entity may cancel the order if estimated delivery time is not acceptable or not as agreed by the parties.

Invoices
Each invoice or pay request shall include the TIPS Member's purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request.

Payments
The TIPS Member will make payments directly to the Vendor, the Vendor Assigned Dealer or as agreed by the Vendor and the TIPS Member after receiving invoice and in compliance with applicable payment statute(s), whichever is the greater time or as otherwise provided by an agreement of the parties.

Pricing
Price increases will be honored according to the terms of the solicitation. All pricing submitted to TIPS shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to TIPS Member customer.

Participation Fees and Reporting of Sales to TIPS by Vendor

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned Dealer. Vendor, Reseller or Vendor Assigned Dealer agrees that the participation fee is due to TIPS for all Agreement sales immediately upon receipt of payment including partial payment, from the Member Entity and must be paid to TIPS at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently, or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is immediately due to TIPS from the Vendor and fees due to TIPS should be paid at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently.

Reporting of Sales to TIPS by Vendor

Vendor is required to report all sales under the TIPS contract to TIPS. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract number on any communications and related sales documents exchanged with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at https://www.tips-usa.com/vendors_form.cfm and click on the PO's and Payments tab. Pages 3-7 of the Vendor Portal User Guide will walk you through the process of reporting sales to TIPS. Please refer to the TIPS Accounting FAQ's for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to render the participation fee to TIPS shall constitute a breach of this agreement with our parent governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a Vendor will be refunded to the Vendor within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

Indemnity

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's performance under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. **NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED BY TIPS/ESC REGION 8.** Per

Texas Education Code §44.032(f), and pursuant to its requirements only, reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation.

State of Texas Franchise Tax
By signature hereon, the Vendor hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

Miscellaneous
The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS or TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

Purchase Order Pricing/Product Deviation
If a deviation of pricing/product on a Purchase Order or contract modification occurs between the Vendor and the TIPS Member, TIPS must be notified within five (5) business days of receipt of change order.

Termination for Convenience of TIPS Agreement Only
TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty (30) days prior written notice. Termination for convenience is conditionally required under Federal Regulations 2 CFR part 200 if the customer is using federal funds for the procurement. All purchase orders presented to the Vendor, but not fulfilled by the Vendor, by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded Vendor may terminate the agreement with ninety (90) days prior written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686. The vendor will be paid for goods and services delivered prior to the termination provided that the goods and services were delivered in accordance with the terms and conditions of the terminated agreement. This termination clause does not affect the sales agreements executed by the Vendor and the TIPS Member customer pursuant to this agreement. TIPS Members may negotiate a termination for convenience clause that meets the needs of the transaction based on applicable factors, such as funding sources or other needs.

TIPS Member Purchasing Procedures
Usually, purchase orders or their equal are issued by participating TIPS Member to the awarded vendor and should indicate on the order that the purchase is per the applicable TIPS Agreement Number. Orders are typically emailed to TIPS at tipspo@tips-usa.com.

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.
- Awarded Vendor receives payment directly from the participating member.
- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

Licenses
Awarded Vendor shall maintain, in current status, all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded Vendor. Awarded Vendor shall remain reasonably fully informed of and in compliance with all ordinances and regulations pertaining to the lawful

provision of goods or services under the Agreement. TIPS and TIPS Members reserves the right to stop work and/or cancel an order or terminate this or any other sales Agreement of any awarded Vendor whose license(s) required for performance under this Agreement have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statue or regulation.

Novation

If awarded Vendor sells or transfers all assets, rights or the entire portion of the assets or rights required to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor. TIPS will consider Contract Assignments on a case by case basis. TIPS must be notified within five (5) business days of the transfer of assets or rights.

Site Requirements (*only when applicable to service or job*)

Cleanup: When performing work on site at a TIPS Member's property, awarded Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

Preparation: Awarded Vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

Registered sex offender restrictions: For work to be performed at schools, awarded Vendor agrees that no employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Awarded Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge. **Safety measures:** Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Safety Measures

Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Smoking

Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes or policies.

Marketing

Awarded Vendor agrees to allow TIPS to use their name and logo within TIPS website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the

Solicitation. The Vendor may submit an acceptable use directive for Vendor's names and logos with which TIPS agrees to comply. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to TIPS@TIPS-USA.COM.

Supplemental Agreements

The TIPS Member entity participating in the TIPS Agreement and awarded Vendor may enter into a separate Supplemental Agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement such as but not limited to, invoice requirements, ordering requirements, specialized delivery, etc. Any Supplemental Agreement or contract developed as a result of this Agreement is exclusively between the TIPS Member entity customer and the Vendor. TIPS, its agents, TIPS Members and employees not a party to the Supplemental Agreement with the TIPS Member customer, shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a Vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, those agreements shall comply with the award made by TIPS to the Vendor. Supplemental Vendor's Agreement documents may not become part of TIPS' Agreement with Vendor unless and until an authorized representative of TIPS reviews and approves it. TIPS review and approval may be at any time during the life of this Vendor Agreement. TIPS permits TIPS Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's TIPS Agreement so long as they do not materially conflict with this Agreement.

Survival Clause

All applicable sales, leases, Supplemental Agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

Legal obligations

It is the responding Vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in the applicable Solicitation that resulted in this Vendor Agreement and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

Audit rights

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Awarded Vendor's pricing or TIPS transaction documentation with TIPS Members with 30 days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third- party auditing

firm to investigate any possible non- compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format and at the location acceptable to Region 8 ESC or TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member.

Force Majeure
If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

Choice of Law
The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

Venue, Jurisdiction and Service of Process
Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

Project Delivery Order Procedures
The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded Vendor under this Agreement when the TIPS Member desires goods or services awarded to the Vendor. Notification may occur via phone, the web, courier, email, fax, or in person. Upon notification of a pending request, the awarded Vendor shall acknowledge the TIPS Member's request as soon as possible, but must make contact with the TIPS Member within two working days.

Status of TIPS Members as Related to This Agreement
TIPS Members stand in the place of TIPS as related to this agreement and have the same access to the proposal information and all related documents. TIPS Members have all the same rights under the awarded Agreement as TIPS.

EXHIBIT B

Vendor's Resellers as Related to This Agreement
Vendor's Named Resellers ("Resellers") under this Agreement shall comply with all terms and conditions of this agreement and all addenda or incorporated documents. All actions related to sales by Authorized Vendor's Resellers under this Agreement are the responsibility of the awarded Vendor. If Resellers fail to report sales to TIPS under your Agreement, the awarded Vendor is responsible for their contractual failures and shall be billed for the fees. The awarded Vendor may then recover the fees from their named reseller.

Support Requirements
If there is a dispute between the awarded Vendor and TIPS Member, TIPS or its representatives may, at TIPS sole discretion, assist in conflict resolution if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded Vendor's TIPS project files, documentation and correspondence related to the requesting TIPS Member's order. If there are confidentiality requirements by either party, TIPS shall comply to the extent permitted by law.

Incorporation of Solicitation
The TIPS Solicitation which resulted in this Vendor Agreement, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, are hereby incorporated by reference into this Agreement as if copied verbatim.

SECTION HEADERS OR TITLES
THE SECTON HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITES OF THE PARTIES TO THIS DOCUMENT.

STATUTORY REQUIREMENTS
Texas governmental entities are prohibited from doing business with companies that fail to certify to this condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and does not and will not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within three (3) business day of the change by a letter on Vendor's letterhead from and signed by an authorized representative of the Vendor stating the non-compliance decision and the TIPS Agreement number and description at:

Attention: General Counsel
ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX,75686
And by an email sent to bids@tips-usa.com

EXHIBIT B

Insurance Requirements

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders:

General Liability	$1,000,000 each Occurrence/ Aggregate
Automobile Liability	$300,000 Includes owned, hired & non-owned
Workers' Compensation	Statutory limits for the jurisdiction in which the Vendor performs under this Agreement.
Umbrella Liability	$1,000,000

When the Vendor or its subcontractors are liable for any damages or claims, the Vendor's policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the Member. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member.

Special Terms and Conditions

- **Orders:** All Vendor orders received from TIPS Members must be emailed to TIPS at tipspo@tips-usa.com. Should a TIPS Member send an order directly to the Vendor, it is the Vendor's responsibility to forward a copy of the order to TIPS at the email above within 3 business days and confirm its receipt with TIPS.
- **Vendor Encouraging Members to bypass TIPS agreement:** Encouraging TIPS Members to purchase directly from the Vendor or through another agreement, when the Member has requested using the TIPS cooperative Agreement or price, and thereby bypassing the TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Order Confirmation**: All TIPS Member Agreement orders are approved daily by TIPS and sent to the Vendor. The Vendor should confirm receipt of orders to the TIPS Member (customer) within 3 business days.
- **Vendor custom website for TIPS**: If Vendor is hosting a custom TIPS website, updated pricing when effective. TIPS shall be notified when prices change in accordance with the award.
- **Back Ordered Products**: If product is not expected to ship within the time provided to the TIPS Member by the Vendor, the Member is to be notified within 3 business days and appropriate action taken based on customer request.

The TIPS Vendor Agreement Signature Page is inserted here.

EXHIBIT B

TIPS Vendor Agreement Signature Form

RFP 201104 Pipe Bursting
PART 1 ONLY

Company Name Vortex Companies, LLC

Address 18150 Imperial Valley Drive

City Houston State TX Zip 77060

Phone 713-750-9081 Fax

Email of Authorized Representative nbanchetti@voetxcompanies.com

Name of Authorized Representative Nick Banchetti

Title Chief Operating Officer

Signature of Authorized Representative

Date 11/03/20

TIPS Authorized Representative Name Meredith Barton

Title Chief Operating Officer

TIPS Authorized Representative Signature Meredith Barton

Approved by ESC Region 8 David Wayne Fitts

Date 1/26/2021

EXHIBIT B

NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES

TIPS VENDORS RESPOND TO ATTRIBUTE QUESTIONS AS PART OF TIPS COMPETITIVE SOLICITATION PROCESS. THE VENDOR'S RESPONSES TO ATTRIBUTE QUESTIONS ARE INCLUDED HEREIN AS "SUPPLIER RESPONSE." PLEASE BE ADVISED THAT DEVIATIONS, IF ANY, IN VENDOR'S RESPONSE TO ATTRIBUTE QUESTIONS MAY NOT REFLECT VENDOR'S FINAL ATTRIBUTE RESPONSE, WHICH IS SUBJECT TO NEGOTIATIONS PRIOR TO AWARD. PLEASE CONTACT THE TIPS OFFICE AT 866-839-8477 WITH QUESTIONS OR CONCERNS REGARDING VENDOR ATTRIBUTE RESPONSE DEVIATIONS. PLEASE KEEP IN MIND THAT TIPS DOES NOT PROVIDE LEGAL COUNSEL TO MEMBERS. TIPS RECOMMENDS THAT YOU CONSULT YOUR LEGAL COUNSEL WHEN EXECUTING CONTRACTS WITH OR MAKING PURCHASES FROM TIPS VENDORS.

EXHIBIT B



201104
Vortex Companies
Supplier Response

Event Information

Number: 201104
Title: Pipe Bursting -2 Part with JOC
Type: Request for Proposal
Issue Date: 11/5/2020
Deadline: 12/11/2020 03:00 PM (CT)
Notes: This is a 2 PART solicitation. PART 1 is for projects that are not considered construction or a public work. It includes, but is not limited to, parts, supplies, maintenance services and repairs. PART 2 Job Order Contract (JOC) is for projects considered construction or public work projects. The determination of whether or not a project requires a PART 2 JOC is the responsibility of the TIPS member entity. Vendors are encouraged to respond to BOTH PARTS 1 and 2 to meet the needs of our members, but responses to both parts is not required.

Contact Information

Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477
Email: bids@tips-usa.com

EXHIBIT B

Vortex Companies Information

Contact: Ryan Graham
Address: 18150 Imperial Valley Drive
Houston, TX 77060
Phone: (713) 750-9081
Email: rellison@vortexcompanies.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Ronnie Ellison
Signature

rellison@vortexcompanies.com
Email

Submitted at 12/11/2020 2:11:15 PM

Requested Attachments

Vendor Agreement part 1 — 201104 Vendor Agreement PART 1 ONLY Signed.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

Agreement Signature Form part 1 — Vendor Agreement Signature Pages Part 1 Signed.pdf

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGREEMENT SIGNATURE FORM from the "ATTACHMENTS" tab. This PDF document is a fillable form. Download the document to your computer, fill in the requested company information, print the file, SIGN the form, SCAN the completed and signed AGREEMENT SIGNATURE FORM, and upload here.
If you have taken exception to any of the agreement language and noted the exception in the deviations section of the attributes for the agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been negotiated and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

Vendor Agreement Part 2 — 201104 Vendor_Agreement_JOC_PART 2 ONLY Signed.pdf

If proposing on Part 2, the vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

Agreement Signature Form Part 2 — Vendor Agreement Signature Pages Part 2 Signed.pdf

If proposing on Part 2, the vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

Part 1 Pricing Spreadsheet #1 — TIPS Pricing - VTK (TIPS 1171105) NEW FOR BID.pdf

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

Part 1 Pricing Spreadsheet #2 — TIPS Pricing - VTK (TIPS 1171105) NEW FOR BID.pdf

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.
DO NOT UPLOAD encrypted or password protected files.

JOC Pricing of Itemized list of Means non-prepriced items — JOC Pricing of Itemized List of Means Non-Prepriced Items.xlsx

If you have items listed on the form titled "JOC Pricing of Itemized list of Means non-prepriced items" please complete the form and upload. If you have nothing to offer in this price sheet, just upload the form blank and put Not Applicable on the form.

References EXHIBIT B VaughtRef_VS12.2020.pdf

Valid Reference Email addresses are REQUIRED on the spreadsheet. The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

Proposed Goods and Services Vortex Companies S&P.pdf

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR list links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. I does not have to be exhaustive but should, at a minimum tell us what you are offering. It could be as simple as a sheet with your link to your online catalog of goods and services.

D/M/WBE Certification OPTIONAL *No response*

D/M/WBE Certification documentation may be scanned and uploaded if you desire to claim your status as one of the identified enterprises. (Disadvantaged Business Enterprise, Minority Business Enterprise and/or Woman Business Enterprise) If vendor has more than one certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Warranty *No response*

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Supplementary Vortex Companies S&P 2.pdf

Supplementary information can be scanned and uploaded. (Company information, brochures, catalogs, etc.) (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

All Other Certificates *No response*

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Logo and Other Company Marks Unknown.png

Conflict of Interest Form CIQ- ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS *No response*

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS
Conflict of Interest Form for Vendors that are required to submit the form. The Conflict of Interest Form is included in the Base documents or can be found at https://www.tips-usa.com/assets/documents/docs/CIQ.pdf.

Certificate of Corporate Offerer - COMPLETE ONLY IF OFFERER IS A CORPORATION *No response*

COMPLETE AND UPLOAD FORM IN ATTACHMENTS SECTION ONLY IF OFFERER IS A CORPORATION

Lobbying Report Standard Form-LLL, "disclosure Form to Report Lobbying," *No response*

If you answered "I HAVE Lobbied per above" to attribute #66, please download and complete and upload the Standard Form-LLL, "disclosure Form to Report Lobbying," in the Response attachments section.

Confidentiality Form Confidentiality Form Signed.pdf

REQUIRED CONFIDENTIALITY FORM. Complete the form according to your company requirements, make any desired attachments and upload to the appropriate section under "Response Attachments" THIS FORM DETERMINES HOW ESC8/TIPS RESPONDS TO LEGAL PUBLIC INFORMATION REQUESTS.

Bonding Capacity Letter from Surety/Insurance Company Vortex GGL 12-9-20.pdf

REQUIRED IF YOU ARE PROPOSING ON PART 2 -Attach the Bonding Capacity Letter from Surety/Insurance Company. if you do not have one available at time of proposal, attached a letter stating it will be submitted when received to prove bonding capacity. No award can be made until official bonding capacity letter is received by TIPS.

Current W-9 Tax Form Vortex Companies LLC W-9 (2020).pdf

You are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. Additionally, if not designated "Confidential" in your proposal response, this W-9 may be accessed by TIPS Members for the purpose of making TIPS purchases from you in the event that you are awarded. If you wish to designate your required W-9 confidential, please do so according to the terms of the Confidentiality Claim Form which is an attachment to this solicitation.

EXHIBIT B

Bid Attributes

1	**Yes - No** Disadvantaged/Minority/Women Business Enterprise - D/M/WBE (Required by some participating governmental entities) Vendor certifies that their firm is a D/M/WBE? Vendor must upload proof of certification to the "Response Attachments" D/M/WBE CERTIFICATES section. No
2	**Yes - No** Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at https://comptroller.texas.gov/purchasing/vendor/hub/ or in a HUBZone as defined by the US Small Business Administration at https://www.sba.gov/offices/headquarters/ohp Proof of one or both may be submitted. Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section. No
3	**Yes - No** The Vendor can provide services and/or products to all 50 US States? Yes
4	**States Served:** If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX) *No response*
5	**Company and/or Product Description:** This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.) At Vortex we repair, service and rehabilitate municipal and industrial water and sewer infrastructure using best-in-class trenchless technologies including bypass pumping (Sewer Bypass, Lift Station Backup, Pumping, Sludge Removal, Pre-treatment Sand Trap Pumping, Flood or Stormwater Drainage, Site Dewatering, Pump Watch), spin-cast pipe lining (Pipes, Culverts, and Tunnels, Manholes, Boxes and more), internal pipe seals, pipe coatings and pipe bursting.
6	**Primary Contact Name** Primary Contact Name Ryan Graham
7	**Primary Contact Title** Primary Contact Title Vice President, Sales
8	**Primary Contact Email** Primary Contact Email rgraham@vortexcompanies.com

9	**Primary Contact Phone** EXHIBIT B Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	7137509081
10	**Primary Contact Fax** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	18332477943
11	**Primary Contact Mobile** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	2816393237
12	**Secondary Contact Name** Secondary Contact Name	Ronnie Ellison
13	**Secondary Contact Title** Secondary Contact Title	Sales Support
14	**Secondary Contact Email** Secondary Contact Email	rellison@vortexcompanies.com
15	**Secondary Contact Phone** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	7137509081
16	**Secondary Contact Fax** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	18332477943
17	**Secondary Contact Mobile** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	2816863111
18	**Admin Fee Contact Name** Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS.	Nick Banchetti

19	**Admin Fee Contact Email** EXHIBIT B Admin Fee Contact Email nbanchetti
20	**Admin Fee Contact Phone** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 7137509081
21	**Purchase Order Contact Name** Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS. Ryan Graham
22	**Purchase Order Contact Email** Purchase Order Contact Email rgraham@vortexcompanies.com
23	**Purchase Order Contact Phone** Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 7137509081
24	**Company Website** Company Website (Format - www.company.com) www.vortexcompanies.com
25	**Federal ID Number** Federal ID Number also known as the Employer Identification Number (EIN). Numeric only. (Format: 123456789) 364879397
26	**Primary Address** Primary Address 18150 Imperial Valley Drive
27	**Primary Address City** Primary Address City Houston
28	**Primary Address State** Primary Address State (2 Digit Abbreviation) TX
29	**Primary Address Zip** Primary Address Zip 77060

30 **Search Words:** EXHIBIT B

Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)

Vortex, Vortex Services, Pipe Bursting, CIPP, Cured in place Pipe, Pipe Rehabilitation, Trenchless Rehabilitation, Trenchless Construction, Culvert Rehabilitation, Sewer Rehab, Wastewater Rehab, Sanitary Sewer Rehab, Quadex, Quadex Lining Systems, Geokrete, Geopolymer, Manhole Rehab, Manhole Rehabilitation, Epoxy Lining, Cementitious Lining, Vortex Companies, Underground Infrastructure, Sewer Rehabilitation, Manhole Lining,

31 **Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?**

Most of our members receive Federal Government grants and they make up a significant portion of their budgets. The members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that are provisions from the federal regulations in 2 CFR part 200. Your answers will determine if your award will be designated as Federal or Education Department General Administrative Regulations (EDGAR)compliant.

Do you want TIPS Members to be able to spend Federal grant funds with you if awarded and is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?

Yes

32 **Yes - No**

Certification of Residency - The vendor's ultimate parent company or majority owner:

(A) has its principal place of business in Texas;

OR

(B) employs at least 500 persons in Texas?

This question is required as a data gathering function for information to our members making purchases with awarded vendors. Does not affect scoring with TIPS.

Yes

33 **Company Residence (City)**

Vendor's principal place of business is in the city of?

Houston

34 **Company Residence (State)**

Vendor's principal place of business is in the state of?

TX

35 **Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION**

Remember this is a MINIMUM discount percentage so, be sure the discount percentage inserted here can be applied to ANY OFFERING OF GOODS OR SERVICES THROUGH OUT THE LIFE OF THE CONTRACT

CAUTION: BE CERTAIN YOU CAN HONOR THIS MINIMUM DISCOUNT PERCENTAGE ON ANY OFFERED SERVICE OR GOOD NOW OR DURING THE LIFE OF THE CONTRACT.

What is the MINIMUM percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the solicitation specifications document), website, store or shelf pricing or when adding new goods or services to your offerings during the life of the contract? The resulting price of any goods or services Catalog list prices after this discount is applied is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale.
Must answer with a number between 0% and 100%.

5%

36 **Yes - No**

If awarded on Part 1 of the TIPS Contract, for the duration of the Contract, Vendor agrees to provide catalog pricing, as defined in the solicitation and below, to TIPS upon request for any goods and services offered on PART 1 of the Vendor's TIPS Contract, if any.

"Catalog" means the available list of tangible personal property or services, in the most current listing, regardless of date, during the life of the contract, that takes the form of a catalog, price list, schedule, shelf price or other form that:

A. is regularly maintained by the manufacturer or Vendor of an item; and
B. is either published or otherwise available for inspection by a customer during the purchase process;
C. to which the minimum discount proposed by the proposing Vendor may be applied.

YES

37 **TIPS administration fee**

By submitting a proposal, I agree that all pricing submitted to TIPS shall include the participation fee, as designated in the solicitation or as otherwise agreed in writing and shall be remitted to TIPS by the Vendor or the vendor's named resellers and as agreed in the Vendor agreement. I agree that the fee shall not and will not be added by the vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member.

38 **REQUIRED FOR PART 2 JOC - PRICING OF Regular Hours Coefficient**

What is your regular hours coefficient for the RS Means Price Book? (FAILURE TO RESPOND PROHIBITS PART 2 JOC EVALUATION)

Remember that this is a ceiling price proposed. You can discount lower than your proposed contract coefficient, but not higher.

This is one of three pricing questions that are required for consideration for award on this solicitation. Please consider your answer carefully. An explanation of the TIPS scoring of pricing is included in the attachments for your information.

The below is an Example of how pricing model works (not intended to influence your proposed coefficient, you should propose a coefficient that you determine is right for your business):

To propose the exact pricing as the RS Means Unit Price Book, you would insert a 1.0 and to propose a 5% discount for the RS Means Price Book would be a .95 regular hours coefficient and so on.

0.95

39 **REQUIRED FOR PART 2 JOC - PRICING OF After Hours Coefficient**

What is your after hours coefficient for the RS Means Price Book for work performed after normal working hours? (FAILURE TO RESPOND PROHIBITS PART 2 JOC EVALUATION)

Remember that this is a ceiling price proposed. You can discount to any TIPS Member customer a lower coefficient than your proposed contract coefficient, but not higher.

This is one of three pricing questions that are required for consideration for award on this solicitation. Please consider your answer carefully. An explanation of the TIPS scoring of pricing titled "Pricing Coefficient Instruction" is included in the attachments for your information.

The below is an EXAMPLE of how the pricing model works (It is not intended to influence your proposed coefficient, you should propose a coefficient that you determine is reasonable for your business for the life of the contract): The most common after hours coefficient is time and a half of the RS Means Unit Price Book prices. To illustrate this coefficient, if your regular hours coefficient is .95, your after hours coefficient would be 1.45.

1

40 **REQUIRED FOR 2 PART JOC - PRICING for Markup of Non-Prepriced Items in RS Means Unit Price Book**

What is your proposed Markup Percentage on materials not found in the RS Means Price Book? (FAILURE TO RESPOND PROHIBITS PART 2 JOC EVALUATION)

If any materials being utilized for a project cannot be found in the RS Means Price Book, this question is what is the markup percentage on those materials?

When answering this question please insert the number that represents your percentage of proposed markup. Example: if you are proposing a 30 percent markup, please insert the number "30".

Remember that this is a ceiling markup. You may markup a lesser percentage to the TIPS Member customer when pricing the project, but not a greater percentage.

EXAMPLE: You need special materials that are not in the RS Means Unit Price Book for a project. You would buy the materials and mark them up to the TIPS Member customer by the percentage you propose in this question. If the materials cost you, the contractor, $100 and you proposed a markup on this question for the material of 30 percent, then you would charge the TIPS Member customer $130 for the materials.

20%

41	**Yes - No** EXHIBIT B Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, guarantee the fee remittance by or for the reseller named by the vendor? TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered. Agreed
42	**Yes - No** Do you offer additional discounts to TIPS members for large order quantities or large scope of work? No
43	**Years experience in this category of goods or services.** Company years experience in this category of goods or services? 6
44	**Resellers:** Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, as the awarded vendor of TIPS. EXAMPLE: BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller. (If applicable, Vendor should add all Authorized Resellers within the TIPS Vendor Portal upon award). Yes
45	**Right of Refusal** Does the proposing vendor wish to reserve the right not to perform under the awarded agreement with a TIPS member at vendor's discretion? No

46	**NON-COLLUSIVE BIDDING CERTIFICATE** EXHIBIT B By submission of this bid or proposal, the Bidder certifies that: 1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor; 2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor: 3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal; 4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf. Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.
47	**CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ -Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?** Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS. You may find the Blank CIQ form on our website at: Copy and Paste the following link into a new browser or tab: https://www.tips-usa.com/assets/documents/docs/CIQ.pdf There is an optional upload for this form provided if you have a conflict and must file the form. No
48	**Filing of Form CIQ** If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above? *No response*
49	**Regulatory Standing** I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question. Yes
50	**Regulatory Standing** Regulatory Standing explanation of no answer on previous question. *No response*

51	**Antitrust Certification Statements (Tex. Government Code § 2155.005)** By submission of this bid or proposal, the Bidder certifies that: I affirm under penalty of perjury of the laws of the State of Texas that: (1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below; (2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law; (4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

52	**Suspension or Debarment Instructions** EXHIBIT B

Instructions for Certification:

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

53 Suspension or Debarment Certification EXHIBIT B

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

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 exclusions 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.

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

Yes

54 Non-Discrimination Statement and Certification

In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3)
email: program.intake@usda.gov.

(Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)

All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.

Yes

55	**2 CFR PART 200 Contract Provisions Explanation** EXHIBIT B Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members: The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds. The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al. In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.
56	**2 CFR PART 200 Contracts** Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, 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. Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party. Does vendor agree? Yes
57	**2 CFR PART 200 Termination** Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000) Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of $10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of $10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS. Does vendor agree? Yes

58	**2 CFR PART 200 Clean Air Act** EXHIBIT B Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein. Does vendor agree? Yes
59	**2 CFR PART 200 Byrd Anti-Lobbying Amendment** Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein. Does vendor agree? Yes
60	**2 CFR PART 200 Federal Rule** Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000) Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of $100,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). Does vendor certify that it is in compliance with the Clean Air Act? Yes

61 **2 CFR PART 200 Procurement of Recovered Materials**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with
maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?

Yes

62 **Certification Regarding Lobbying**

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding $100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. 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.

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 any 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 a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a 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 grant 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 covered subawards exceeding $100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

I HAVE NOT Lobbied per above

63 **Lobbying Report Standard Form-LLL, “disclosure Form to Report Lobbying,”**

ONLY IF you answered "I HAVE Lobbied per above" to attribute above titled "Certification Regarding Lobbying", please download and complete and upload the Standard Form-LLL, “disclosure Form to Report Lobbying,” in the Response attachments section.

64 **Subcontracting with small and minority businesses, women's business enterprises, and labor surplus area firms.**

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

IF NO, DO NOT ANSWER THE NEXT ATTRIBUTE QUESTION. . IF YES, and ONLY IF YES, you must answer the next question YES if you want a TIPS Member to be authorized to spend Federal Grant Funds for Procurement.

YES Page 34 of 47

65	**ONLY IF YES TO THE PREVIOUS QUESTION OR If you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements?** ONLY IF YES TO THE ABOVE QUESTIONS OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements? Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (b) Affirmative steps must include:(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 and the Minority Business Development Agency of the Department of Commerce ; and (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section. YES
66	**If proposing on PART 2, Davis-Bacon Act compliance.** IF proposing on PART 2, Texas Statute requires compliance with Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part S, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act {40 U.S.C. 314S), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. BY SUBMITTING A PROPOSAL FOR PART 2 OF THIS SOLICITATION, the Vendor agrees, AS REQUIRED BY LAW, to comply with the Davis Bacon Act, IF APPLICABLE and if proposing on PART 2 of this solicitation.

67	**Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)** Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. By submitting a proposal to PART 2 of this solicitation and IF the customer is utilizing federal funds as described above, the Vendor agrees to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).
68	**Indemnification** The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified with "to the extent permitted by the Constitution and laws of State of Texas." Do you agree to these terms? Yes
69	**Remedies** The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any issues not resolved hereunder MAY be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas. Do you agree to these terms? Yes, I Agree
70	**Remedies Explanation of No Answer** *No response*

71 Choice of Law EXHIBIT B

The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.
THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.

Do you agree to these terms?

Agreed

72 Venue, Jurisdiction and Service of Process

Any proceeding, involving Region 8 ESC or TIPS, arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.

Do you agree to these terms?

Agreed

73 Alternative Dispute Resolution Explanation of No Answer

No response

74 Infringement(s)

The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved.

Do you agree to these terms?

Yes, I Agree

75 Infringement(s) Explanation of No Answer

No response

76 Acts or Omissions

The successful vendor will be expected to indemnify and hold harmless the TIPS, its officers, employees, agents, representatives, contractors, assignees and designees from and against any and all liability, actions, claims, demands or suits, and all related costs, attorney's fees and expenses arising out of, or resulting from any acts or omissions of the vendor or its agents, employees, subcontractors, or suppliers in the execution or performance of any agreements
ultimately made by TIPS and the vendor.

Do you agree to these terms?

Yes, I Agree

77	**Acts or Omissions Explanation of No Answer** EXHIBIT B *No response*
78	**Contract Governance** Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language. Yes
79	**Payment Terms and Funding Out Clause** Payment Terms: TIPS or TIPS members shall not be liable for interest or late payment fees on past due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member. Funding Out Clause: Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body. See statute(s) for specifics or consult your legal counsel. Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms? Yes

80	**Insurance and Fingerprint Requirements Information** Attachment B Insurance If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance. Fingerprint It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834. Statutory language may be found at: http://www.statutes.legis.state.tx.us/ If the vendor has staff that meet both of these criterion: (1) will have continuing duties related to the contracted services; and (2) has or will have direct contact with students Then you have "covered" employees for purposes of completing the attached form. TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at NCJU@txdps.state.tx.us and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474. See form in the next attribute to complete entitled: Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

81	**Texas Education Code Chapter 22 Contractor Certification for Contractor Employees**

Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.

Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:

(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

I certify that:

NONE (Section A) of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

OR

SOME (Section B) or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:

(1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.

(2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.

(3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.

(4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.

None

82	**Texas Business and Commerce Code § 272 Requirements as of 9-1-2017** SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a "construction contract" includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. "Construction contracts" are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES.
83	**Texas Government Code 2270 Verification Form** Texas Government Code 2270 Verification Form If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of $100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to Chapter 2270 of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, subsidiary, or parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Our company is not listed on and we do not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf I swear and affirm that the above is true and correct. YES
84	**Logos and other company marks** Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred Potential uses of company logo: * Your Vendor Profile Page of TIPS website * Potentially on TIPS website scroll bar for Top Performing Vendors * TIPS Quarterly eNewsletter sent to TIPS Members * Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing)

85	**Solicitation Deviation/Compliance** EXHIBIT B Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation? Yes
86	**Solicitation Exceptions/Deviations Explanation** If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation. *No response*
87	**Agreement Deviation/Compliance** Does the vendor agree with the language in the Vendor Agreement? Yes
88	**Agreement Exceptions/Deviations Explanation** If the proposing Vendor desires to deviate form the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement. *No response*
89	**Long Term Cost Evaluation Criterion on PART 1 EVALUATION ONLY** READ CAREFULLY and see in the RFP document under "Proposal Scoring and Evaluation". Points will be assigned to this criterion based on your answer to this Attribute. Points are awarded if you agree not increase your catalog prices (as defined herein) more than X% annually over the previous year for years two and three and potentially year four, unless an exigent circumstance exists in the marketplace and the excess price increase which exceeds X% annually is supported by documentation provided by you and your suppliers and shared with TIPS, if requested. If you agree NOT to increase prices more than 5%, except when justified by supporting documentation, you are awarded 10 points; if 6% to 14%, except when justified by supporting documentation, you receive 1 to 9 points incrementally. Price increases 14% or greater, except when justified by supporting documentation, receive 0 points. price increases will be <7% annually per question

90	**Felony Conviction Notice** EXHIBIT B Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question. Select A., B. or C. A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable. OR B.My firm is not owned nor operated by anyone who has been convicted of a felony, OR C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C below, you are required to provide information in the next attribute. B. Firm not owned nor operated by felon; per above
91	**If you answered C. My Firm is owned or operated by a felon to the previous question, you are REQUIRED TO ANSWER THE FOLLOWING QUESTIONS.** If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information. 1. Name of Felon(s) 2. The named person's role in the firm, and 3. Details of Conviction(s). *No response*
92	**Required Confidentiality Claim Form** Required Confidentiality Claim Form This form is required by TIPS. By submitting a response to this solicitation you agree to download from the "Attachments" section, complete according to the instructions on the form, then uploading the completed form, with any confidential attachments, if applicable, to the "Response Attachments" section titled "Confidentiality Form" in order to provide to TIPS the completed form titled, "CONFIDENTIALITY CLAIM FORM". By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for award, until TIPS has an accurate, completed form from you. Read the form carefully before completing and if you have any questions, email Rick Powell at TIPS at rick.powell@tips-usa.com
93	**Choice of Law clauses for TIPS Members** If the vendor is awarded a contract with TIPS under this solicitation, the vendor agrees to make any Choice of Law clauses in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "Choice of law shall be the laws of the state where the customer resides" or words to that effect. Agreed
94	**Venue of dispute resolution with a TIPS Member** In the event of litigation or use of any dispute resolution model when resolving disputes with a TIPS member entity as a result of a transaction between the vendor and TIPS or the TIPS member entity, the Venue for any litigation or other agreed upon model shall be in the state and county where the customer resides unless otherwise agreed by the parties at the time the dispute resolution model is decided by the parties. Agreed

95	**Indemnity Limitation with TIPS Members** EXHIBIT B Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation limit the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clauses in any agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member entity with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, ". **Agreement is a required condition to award of a contract resulting from this Solicitation.** Agreed
96	**Arbitration Clauses** Except for certain circumstances, TIPS forbids a mandatory arbitration clause in any contract or agreement entered into between the awarded vendor with TIPS or a TIPS member entity. Does the vendor agree to exclude any arbitration requirement in any contracts or agreement entered into between TIPS or a TIPS member entity through an awarded contract with TIPS? **Agreement is a required condition to award of a contract resulting from this Solicitation.** Agreed
97	**Upload of Current W-9 Required** Please note that you are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity. Additionally, if not designated "Confidential" in your proposal response, this W-9 may be accessed by TIPS Members for the purpose of making TIPS purchases from you in the event that you are awarded. If you wish to designate your required W-9 confidential, please do so according to the terms of the Confidentiality Claim Form which is an attachment to this solicitation.

EXHIBIT B

TIPS RFP # 201104

Required Confidential Information Status Form

Vortex Companies, LLC

Name of company

Nick Banchetti, Chief Operating Officer

Printed Name and Title of authorized company officer declaring below the confidential status of material

18150 Imperial Valley Drive	Houston	TX	77060	713-750-9081
Address	**City**	**State**	**ZIP**	**Phone**

ALL VENDORS MUST COMPLETE THE ABOVE SECTION

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS (ESC8) IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential information and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s), **you must attach a copy of all claimed confidential materials within your proposal and put this COMPLETED form as a cover sheet to said materials then scan, name "CONFIDENTIAL" and upload with your proposal submission.** (You must include all the confidential information in the submitted proposal. The copy uploaded is to indicate which material in your proposal, if any, you deem confidential in the event the receives a Public Information Request.) ESC8 and TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law. Upon your claim and your defense to the Office of Texas Attorney General is required to make the final determination whether the information submitted by you and held by ESC8 and TIPS is confidential and exempt from public disclosure.

ALL VENDORS MUST COMPLETE ONE OF THE TWO OPTIONS BELOW.

OPTION 1:

I DO CLAIM parts of my proposal to be confidential and *DO NOT* desire to expressly waive a claim of confidentiality of all information contained within our response to the solicitation. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials.

IF CLAIMING PARTS OF YOUR PROPOSAL CONFIDENTIAL, YOU MUST ATTACH THE SHEETS TO THIS FORM AND LIST THE NUMBER OT TOTAL PAGES THAT ARE CONFIDENTIAL.

ATTACHED ARE COPIES OF _____PAGES OF CLAIMED CONFIDENTIAL MATERIAL FROM OUR PROPOSAL THAT WE DEEM TO BE NOT PUBLIC INFORMATION AND WILL DEFEND THAT CLAIM TO THE T[illegible] EST IS MADE FO[illegible]

Signat[illegible]

OR

OPTION 2:

I DO NOT CLAIM any of my proposal to be confidential, complete the section below.

Express Waiver: I desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Signature _____ Date 12/10/20

Confidentiality Claim Form rev 10012020RP

EXHIBIT B

VORTEX companies

CIVIL INFRASTRUCTURE SOLUTIONS

Vortex Companies Services: https://www.vortexcompanies.com/services/

Vortex Companies Products: https://www.vortexcompanies.com/products/

Vortex Companies Catalog & Brochures: https://www.vortexcompanies.com/catalog/

EXHIBIT B

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Vortex Companies LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☑ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ P

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
18150 Imperial Valley Drive

Requester's name and address (optional)

6 City, state, and ZIP code
Houston, TX 77060

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
[ ][ ][ ] - [ ][ ] - [ ][ ][ ][ ]

or

Employer identification number
3 6 - 4 8 7 9 3 9 7

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here | **Signature of U.S. person ▶** Bailey Carroll | **Date ▶** 2020

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

Cat. No. 10231X

Form **W-9** (Rev. 10-2018)

RESOLUTION NO. 2025-400

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER 1 IN AN EXPENDITURE AMOUNT OF $66,375.00 FOR THE FY22 PIPEBURSTING PROJECT WITH VORTEX COMPANIES, LLC, USING THE PREVIOUSLY AUTHORIZED CONTINGENCY OF $99,999.63; NOT EXCEEDING A TOTAL CONTRACT AMOUNT OF $1,099,995.88; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Duncanville, Texas, desires to continue its commitment to making infrastructure improvements to the quality and capacity of the overall utility infrastructure; and

WHEREAS, on December 21, 2021, the City Council of the City of Duncanville, Texas, awarded the FY22 Pipebursting Project to Vortex Companies, LLC (Reso. No. 2021-086); and

WHEREAS, this authorization included a contract award of $999,996.25 with a $99,999.63 contingency for a total amount not to exceed $1,099,995.88; and

WHEREAS, Reso. No. 2021-086 did not include verbiage authorizing the City Manager or designee to execute change orders using the available contingency; and

WHEREAS, the City Council of the City of Duncanville, Texas, desires to authorize the City Manager to execute Change Order 1 in an expenditure amount of $66,375.00 for the FY22 Pipebursting Project with Vortex Companies, LLC, using the previously authorized contingency of $99,999.63, not exceeding a total contract amount of $1,099,995.88.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of the City of Duncanville, Texas, hereby authorizes the City Manager to execute Change Order 1 in an expenditure amount of $66,375.00 for the FY22 Pipebursting Project with Vortex Companies, LLC, using the previously authorized contingency of $99,999.63, not exceeding a total contract amount of $1,099,995.88.

SECTION 2. This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

Exhibit A

CITY OF DUNCANVILLE
CHANGE ORDER REQUEST FORM

Bid/RFP No:	**TIPS 201104**	Date:	**August 29, 2024**
Project Location:	**Fairmeadows, E. Center St., Cherry St.,Brarmeade**	City Project Manager:	**Alan Brown**
Contractor:	**Vortex Companies**	Engineer:	**Staff**
Account #:	**17400000-708102-PBU22**	CIP #:	
Munis Contract #:	**3220025**	Change Order #:	**1**
Change Order Initiated by:	**Owner** (Name, Title, Firm)	Purchase Order #:	**2300139**

ITEM No.	ITEM & DESCRIPTION OF CHANGES	UNIT	QTY (+/-)	UNIT PRICE	EXTENDED ($) DECREASE	EXTENDED ($) INCREASE
A3	Sprayline of Exsiting and New Manholes	VF	177	$ 375.00		$ 66,375.00

Additional Contract Time Required by Change: _____ Calendar Days
Revised Completion Date: _____ (MM/DD/YYYY)

SUMMARY OF BUDGET & CONTRACT VALUE IS CHANGED AS FOLLOWS

Project Budget:	**$ 1,099,995.88**
Original Contract Price:	**$ 999,996.25**
Contract Price prior to this change order:	**$ 999,996.25**
Net Increase/Decrease resulting from this change order:	**$ 66,375.00**
Contract Price after this change order:	**$ 1,066,371.25**
Project Budget Balance after this change order:	**$ 33,624.63**

JUSTIFICATION	SIGNATURE	DATE
Approved, **Contractor**		**12/16/24**
Recommended, **Contract/Project Manager**		
Approved, **Director of Public Works**		
Approved, **Chief Procurement Officer**		
Approved, **Managing Director of Fiscal Services**		
Approved, **City Manager**		

Page 3 of 3

All Change Orders that are requested with this format shall be within and not to exceed CIP budget or $49,999.99.
Any Change Order that exceeds the budget and/or $49,999.99 must be formally approved by Mayor and Council.

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a Resolution awarding a bid and authorize a cooperative purchasing agreement with Siddons-Martin Emergency Group for fire engine parts and repair services through Houston-Galveston Area Council Contract FS12-23 for a one-year term with the option to renew for up to four additional one-year terms in an estimated expenditure amount not to exceed $1,105,127.00 over the five years, subject to the exercise of contract renewal and City Council appropriation.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**

STAFF RESPONSIBLE:
Matt Bryant, Director of Public Works

BACKGROUND/HISTORY:
The Equipment Services Division of the Public Works Department services and repairs vehicles and equipment owned by the City of Duncanville. The City relies on outside vendors for fire engine repairs due to having a small staff and insufficient specialized training and equipment. Each year, the Equipment Services Division of the Public Works Department allocates funds in its budget for contractual services to cover the costs of these outside repairs.

POLICY EXPLANATION:
City Council is requested to approve an agreement with Siddons-Martin Emergency Group ("Siddons-Martin") totaling $1,105,127.00. The estimated expenditure amounts per fiscal year are $200,000.00 for FY2024-2025 and $905,127.00 spread over fiscal years 2025-2026 through 2028-2029, as outlined below, subject to future appropriations. FYs 2025-2026 through 2028-2029 include an approximate 5% increase over the previous year to accommodate any price escalations that may arise throughout each contract's life.

FY2024-2025: $200,000.00
FY2025-2026: $210,000.00

FY2026-2027: $220,500.00
FY2027-2028: $231,525.00
FY2028-2029: $243,102.00

The H-GAC agreement expires on November 30, 2027. The contract is expected to be renewed before that date. However, if it is not renewed, staff will request the City Council's approval of a new fire apparatus/related services agreement.

State law provides that a local government purchasing an item under a cooperative purchasing agreement satisfies any state law requiring that the local government seek competitive bids to purchase the item. The Texas Local Government Code Chapters 271 and 791 allow government agencies to voluntarily participate in these cooperative arrangements.

FUNDING SOURCE:

ORG and Object Number
01066700-700450 (Equipment Services/Contractual Services)

Available Budget	**Purchase Amount**	**After Encumber**
$282,149.62	$200,000.00	$82,149.62

ACTION ALTERNATIVES:

1. Approve.
2. Disapprove.
3. Other actions as directed by Council.

ATTACHMENTS:
Resolution No. - 2025-402 - Siddons-Martin Emergency Group Agreement with Exhibit

RESOLUTION NO. 2025-402

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AWARDING A BID AND AUTHORIZING A COOPERATIVE PURCHASING AGREEMENT WITH SIDDONS-MARTIN EMERGENCY GROUP FOR FIRE ENGINE PARTS AND REPAIR SERVICES THROUGH HOUSTON-GALVESTON AREA COUNCIL CONTRACT FS12-23 FOR A ONE-YEAR TERM WITH THE OPTION TO RENEW FOR UP TO FOUR ADDITIONAL ONE-YEAR TERMS IN AN ESTIMATED CONTRACT AMOUNT NOT TO EXCEED $1,105,127.00 OVER THE FIVE YEARS, SUBJECT TO THE EXERCISE OF CONTRACT RENEWALS AND CITY COUNCIL APPROPRIATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary to procure parts and repair services for Pierce fire engines; and

WHEREAS, the City of Duncanville has entered into an Interlocal Cooperative Purchasing Agreement with the Houston-Galveston Area Council (H-GAC) for products and services; and

WHEREAS, H-GAC has taken sealed bids for Fire Apparatus and Related Vehicles and a contract was awarded to Siddons-Martin Emergency Group; and

WHEREAS, the City Council of Duncanville, Texas, desires to award a bid and authorize a cooperative purchasing agreement with Siddons-Martin Emergency Group for fire engine parts and repair services through Houston-Galveston Area Council Contract FS12-23 for a one-year term with the option to renew for up to four additional one-year terms in an estimated expenditure amount not to exceed $1,105,127.00 over the five years, subject to the exercise of contract renewal and City Council appropriation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of Duncanville, Texas, hereby awards a bid and authorizes a cooperative purchasing agreement with Siddons-Martin Emergency Group for fire engine parts and repair services through Houston-Galveston Area Council Contract FS12-23 for a one-year term with the option to renew for up to four additional one-year terms in an estimated expenditure amount not to exceed $1,105,127.00 over the five years, subject to the exercise of contract renewal and City Council appropriation.

SECTION 2. This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

DocuSign Envelope ID: 26841DC5-2E0E-4C2C-A618-8AB99F7D6207 Exhibit A

H-GAC

Houston-Galveston Area Council
P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

Cooperative Agreement - Contract - Siddons Martin Emergency Group LLC - Public Services - ID: 11564 - - FS12-23

MASTER GENERAL PROVISIONS

This Master Agreement is made and entered into, by and between the Houston-Galveston Area Council hereinafter referred to as H-GAC having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and Siddons Martin Emergency Group LLC, hereinafter referred to as the Contractor, having its principal place of business at 1362 E Richey Road, Houston, TX 77073.

WITNESSETH:

WHEREAS, H-GAC hereby engages the Contractor to perform certain services in accordance with the specifications of the Master Agreement; and

WHEREAS, the Contractor has agreed to perform such services in accordance with the specifications of the Master Agreement;

NOW, THEREFORE, H-GAC and the Contractor do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY
The Contractor warrants and assures H-GAC that it possesses adequate legal authority to enter into this Master Agreement. The Contractor's governing body, where applicable, has authorized the signatory official(s) to enter into this Master Agreement and bind the Contractor to the terms of this Master Agreement and any subsequent amendments hereto.

ARTICLE 2: APPLICABLE LAWS
The Contractor agrees to conduct all activities under this Master Agreement in accordance with all federal laws, executive orders, policies, procedures, applicable rules, regulations, directives, standards, ordinances, and laws, in effect or promulgated during the term of this Master Agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish H-GAC with satisfactory proof of its compliance therewith.

ARTICLE 3: PUBLIC INFORMATION
Except as stated below, all materials submitted to H-GAC, including any attachments, appendices, or other information submitted as a part of a submission or Master Agreement, are considered public information, and become the property of H-GAC upon submission and may be reprinted, published, or distributed in any manner by H-GAC according to open records laws, requirements of the US Department of Labor and the State of Texas, and H-GAC policies and procedures. In the event the Contractor wishes to claim portions of the response are not subject to the Texas Public Information Act, it shall so; however, the determination of the Texas Attorney General as to whether such information must be disclosed upon a public request shall be binding on the Contractor. H-GAC will request such a determination only if Contractor bears all costs for preparation of the submission. H-GAC is not responsible for the return of creative examples of work submitted. H-GAC will not be held accountable if material from submissions is obtained without the written consent of the contractor by parties other than H-GAC, at any time during the evaluation process.

ARTICLE 4: INDEPENDENT CONTRACTOR
The execution of this Master Agreement and the rendering of services prescribed by this Master Agreement do not change the independent status of H-GAC or the Contractor. No provision of this Master Agreement or act of H-GAC in performance of the Master Agreement shall be construed as making the Contractor the agent, servant, or

employee of H-GAC, the State of Texas, or the United States Government. Employees of the Contractor are subject to the exclusive control and supervision of the Contractor. The Contractor is solely responsible for employee related disputes and discrepancies, including employee payrolls and any claims arising therefrom.

ARTICLE 5: ANTI-COMPETITIVE BEHAVIOR

Contractor will not collude, in any manner, or engage in any practice which may restrict or eliminate competition or otherwise restrain trade.

ARTICLE 6: SUSPENSION AND DEBARMENT

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (2 CFR 180.220) must not be made to parties listed on the government-wide exclusions 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 1966 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.

Pursuant to the Federal Rule above, Respondent certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas and at all times during the term of the Contract neither it nor its principals will be debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas Respondent shall immediately provide the written notice to H-GAC if at any time the Respondent learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. H-GAC may rely upon a certification of the Respondent that the Respondent is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless the H-GAC knows the certification is erroneous.

ARTICLE 7: GOAL FOR CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (if subcontracts are to be let)

H-GAC's goal is to assure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible in providing services under a contract. In accordance with federal procurements requirements of 2 CFR §200.321, if subcontracts are to be let, the prime contractor must take the affirmative steps listed below:

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 task 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 and the Minority Business Development Agency of the Department of Commerce.
6.

Nothing in this provision will be construed to require the utilization of any firm that is either unqualified or unavailable. The Small Business Administration (SBA) is the primary reference and database for information on requirements related to Federal Subcontracting https://www.sba.gov/federal-contracting/contracting-guide/prime-subcontracting

NOTE: The term DBE as used in this solicitation is understood to encompass all programs/business enterprises such as: Small Disadvantaged Business (SDB), Historically Underutilized Business (HUB), Minority Owned Business Enterprise (MBE), Women Owned Business Enterprise (WBE) and Disabled Veteran Business Enterprise (DVBE) or other designation as issued by a certifying agency.

Contractor agrees to work with and assist HGACBuy customer in meeting any DBE targets and goals, as may be required by any rules, processes, or programs they might have in place. Assistance may include compliance with reporting requirements, provision of documentation, consideration of Certified/Listed

subcontractors, provision of documented evidence that an active participatory role for a DBE entity was considered in a procurement transaction, etc.

ARTICLE 8: SCOPE OF SERVICES
The services to be performed by the Contractor are outlined in an Attachment to this Master Agreement.

ARTICLE 9: PERFORMANCE PERIOD
This Master Agreement shall be performed during the period which begins Dec 01 2023 and ends Nov 30 2027. All services under this Master Agreement must be rendered within this performance period, unless directly specified under a written change or extension provisioned under Article 21, which shall be fully executed by both parties to this Master Agreement.

ARTICLE 10: PAYMENT OR FUNDING
Payment provisions under this Master Agreement are outlined in the Special Provisions. H-GAC will not pay for any expenses incurred prior to the execution date of a contract, or any expenses incurred after the termination date of the contract.

ARTICLE 11: PAYMENT FOR WORK
The H-GAC Customer is responsible for making payment to the Contractor upon delivery and acceptance of the goods or completion of the services and submission of the subsequent invoice.

ARTICLE 12: PAYMENT TERMS/PRE-PAYMENT/QUANTITY DISCOUNTS
If discounts for accelerated payment, pre-payment, progress payment, or quantity discounts are offered, they must be clearly indicated in the Contractor's submission prior to contract award. The applicability or acceptance of these terms is at the discretion of the Customer.

ARTICLE 13: REPORTING REQUIREMENTS
If the Contractor fails to submit to H-GAC in a timely and satisfactory manner any report required by this Master Agreement, or otherwise fails to satisfactorily render performances hereunder, H-GAC may terminate this Master Agreement with notice as identified in Article 29 of these General Provisions. H-GAC has final determination of the adequacy of performance and reporting by Contractor. Termination of this Master Agreement for failure to perform may affect Contractor's ability to participate in future opportunities with H-GAC. The Contractor's failure to timely submit any report may also be considered cause for termination of this Master Agreement. Any additional reporting requirements shall be set forth in the Special Provisions of this Master Agreement.

ARTICLE 14: INSURANCE
Contractor shall maintain insurance coverage for work performed or services rendered under this Master Agreement as outlined and defined in the attached Special Provisions.

ARTICLE 15: SUBCONTRACTS AND ASSIGNMENTS
Except as may be set forth in the Special Provisions, the Contractor agrees not to assign, transfer, convey, sublet, or otherwise dispose of this Master Agreement or any right, title, obligation, or interest it may have therein to any third party without prior written approval of H-GAC. The Contractor acknowledges that H-GAC is not liable to any subcontractor or assignee of the Contractor. The Contractor shall ensure that the performance rendered under all subcontracts shall result in compliance with all the terms and provisions of this Master Agreement as if the performance rendered was rendered by the Contractor. Contractor shall give all required notices, and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable law or regulation, H-GAC shall not be responsible for monitoring Contractor's compliance, or that of Contractor's subcontractors, with any laws or regulations.

ARTICLE 16: AUDIT
Notwithstanding any other audit requirement, H-GAC reserves the right to conduct or cause to be conducted an independent audit of any transaction under this Master Agreement, such audit may be performed by the H-GAC

local government audit staff, a certified public accountant firm, or other auditors designated by H-GAC and will be conducted in accordance with applicable professional standards and practices. The Contractor understands and agrees that the Contractor shall be liable to the H-GAC for any findings that result in monetary obligations to H-GAC.

ARTICLE 17: TAX EXEMPT STATUS

H-GAC and Customer members are either units of government or qualified non-profit agencies, and are generally exempt from Federal and State sales, excise or use taxes. Respondent must not include taxes in its Response. It is the responsibility of Contractor to determine the applicability of any taxes to an order and act accordingly. Exemption certificates will be provided upon request.

ARTICLE 18: EXAMINATION OF RECORDS

The Contractor shall maintain during the course of the work complete and accurate records of all of the Contractor's costs and documentation of items which are chargeable to H-GAC under this Master Agreement. H-GAC, through its staff or designated public accounting firm, the State of Texas, and United States Government, shall have the right at any reasonable time to inspect, copy and audit those records on or off the premises by authorized representatives of its own or any public accounting firm selected by H-GAC. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Master Agreement. The records to be thus maintained and retained by the Contractor shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Contractor's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Contractor's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third parties' charges.

Contractor agrees that H-GAC will have the right, with reasonable notice, to inspect its records pertaining to purchase orders processed and the accuracy of the fees payable to H-GAC. The Contractor further agrees that the examination of records outlined in this article shall be included in all subcontractor or third-party Master Agreements.

ARTICLE 19: RETENTION OF RECORDS

The Contractor and its subcontractors shall maintain all records pertinent to this Master Agreement, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than seven (7) years from the later of the date of acceptance of the final payment or until all audit findings have been resolved. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the seven (7) years, whichever is later, and until any outstanding litigation, audit, or claim has been fully resolved.

ARTICLE 20: DISTRIBUTORS, VENDORS, RESELLERS

Contractor agrees and acknowledges that any such designations of distributors, vendors, resellers or the like are for the convenience of the Contractor only and the awarded Contractor will remain responsible and liable for all obligations under the Contract and the performance of any designated distributor, vendor, reseller, etc. Contractor is also responsible for receiving and processing any Customer purchase order in accordance with the Contract and forwarding of the Purchase Order to the designated distributor, vendor, reseller, etc. to complete the sale or service. H-GAC reserves the right to reject any entity acting on the Contractor’s behalf or refuse to add entities after a contract is awarded.

ARTICLE 21: CHANGE ORDERS AND AMENDMENTS

A. Any alterations, additions, or deletions to the terms of this Master Agreement, which are required by changes in federal or state law or by regulations, are automatically incorporated without written amendment hereto, and shall become effective on the date designated by such law or by regulation.

B. To ensure the legal and effective performance of this Master Agreement, both parties agree that any amendment that affects the performance under this Master Agreement must be mutually agreed upon and that all such amendments must be in writing. After a period of no less than 30 days subsequent to written notice, unless sooner implementation is required by law, such amendments shall have the effect of qualifying the terms of this Master Agreement and shall be binding upon the parties as if written herein.

C. Customers have the right to issue a change order to any purchase orders issued to the Contractor for the purposes of clarification or inclusion of additional specifications, qualifications, conditions, etc. The change order must be in writing and agreed upon by Contractor and the Customer agency prior to issuance of any Change Order. A copy of the Change Order must be provided by the Contractor to, and acknowledged by, H-GAC.

ARTICLE 22: CONTRACT ITEM CHANGES

A. If a manufacturer discontinues a contracted item, that item will automatically be considered deleted from the contract with no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item, or take any other action deemed by H-GAC, at its sole discretion, to be in the best interests of its Customers.

B. If a manufacturer makes any kind of change in a contracted item which affects the contract price, Contractor must advise H-GAC of the details. H-GAC may allow or reject the change at its sole discretion. If the change is rejected, H-GAC will remove the item from its program and there will be no penalty to Contractor. However, H- GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item, or take any other action deemed by H-GAC, at its sole discretion, to be in the best interests of its Customers.

C. If a manufacturer makes any change in a contracted item which does not affect the contract price, Contractor shall advise H-GAC of the details. If the 'new' item is equal to or better than the originally contracted item, the 'new' item shall be approved as a replacement. If the change is rejected H-GAC will remove the item from its program and there will be no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item or may take any other action deemed by H-GAC at its sole discretion, to be in the best interests of its Customers.

D. In the case of specifically identified catalogs or price sheets which have been contracted as base bid items or as published options, routine published changes to products and pricing will be automatically incorporated into the contract. However, Contractor must still provide written notice and an explanation of the changes to products and pricing. H-GAC will respond with written approval.

ARTICLE 23: CONTRACT PRICE ADJUSTMENTS

Price Decreases

If Contractor's Direct Cost decreases at any time during the full term of this award, Contractor must immediately pass the decrease on to H-GAC and lower its prices by the amount of the decrease in Direct Cost. (Direct Cost means Contractor's cost from the manufacturer of any item or if Contractor is the manufacturer, the cost of raw materials required to manufacture the item, plus costs of transportation from manufacturer to Contractor and Contractor to H-GAC. Contractor must notify H-GAC of price decreases in the same way as for price increases set out below. The price decrease shall become effective upon H-GAC's receipt of Contractor's notice. If Contractor routinely offers discounted contract pricing, H-GAC may request Contractor accept amended contract pricing equivalent to the routinely discounted pricing.

Price Increase
Contractors may request a price increase for items priced as Base Bid items and Published Options. The amount of any increase will not exceed actual documented increase in Contractor's Direct Cost and will not exceed 10% of the previous bid price. Considerations on the percentage limit will be given if the price increase is the result of increased tariff charges or other governmental actions, or other economic factors. Manufacturer price/contract changes involving the sale of motor vehicles will be considered and may be allowed during the entire contract period subject to submission and verification of the proper documentation required for a contract change as referenced in this section.

Price Changes
Any permanent increase or decrease in offered pricing for a base contract item or published option is considered a price change. Temporary increases in pricing by whatever name (e.g., 'surcharge', 'adjustment', 'equalization charge', 'compliance charge', 'recovery charge', etc.), are also considered to be price changes.
For published catalogs and price sheets as part of an H-GAC contract, requests to amend the contract to reflect any new published catalog or price sheet must be submitted whenever the manufacturer publishes a new document. The request must include the new catalog or price sheet. All Products shall, at time of sale, be equipped as required under any then current applicable local, state, and federal government requirements. If, during any contract, changes are made to any government requirements which cause a manufacturer's costs of production to increase, Contractor may increase pricing to the extent of Contractor's actual cost increase. The increase must be substantiated with support documentation acceptable to H-GAC prior to taking effect. Modifications to a Product required to comply with such requirements which become effective after the date of any sale are the responsibility of the Customer.

Requesting Price Increase/Required Documentation
Contractor must submit a written overview of changes requested and reasons for the request, stating the amount of the increase, along with an itemized list of any increased prices, showing the Contractor's current price, revised price, the actual dollar difference and the percentage of the price increase by line item. Price change requests must be supported with substantive documentation (e.g., notices from suppliers and manufacturers of pricing changes in products, components, transportation, raw materials or commodities, and/or product availability, copies of invoices from suppliers, etc.) clearly showing that Contractor's actual costs have increased per the applicable line-item bid. The Producer Price Index (PPI) may be used as partial justification, subject to approval by H-GAC, but no price increase based solely on an increase in the PPI will be allowed. This documentation should be submitted in Excel format to facilitate analysis and updating of the website. The letter and documentation must be sent to Lead Program Coordinator, james.glover@h-gac.com.

Review/Approval of Requests
If H-GAC approves the price increase, Contractor will be notified in writing; no price increase will be effective until Contractor receives this notice. If H-GAC does not approve Contractor's price increase, Contractor may terminate its performance upon sixty (60) days advance written notice to H-GAC, however Contractor must fulfill any outstanding Purchase Orders. Termination of performance is Contractor's only remedy if H-GAC does not approve the price increase. H-GAC reserves the right to accept or reject any price change request.

ARTICLE 24: DELIVERIES AND SHIPPING TERMS
The Contractor agrees to make deliveries only upon receipt of authorized Customer Purchase Order acknowledged by H-GAC. Delivery made without such Purchase Order will be at Contractor's risk and will leave H-GAC the option of canceling any contract awarded to the Contractor. The Contractor must secure and deliver any item within five (5) working days, or as agreed to on any corresponding customer Purchase Order.

Shipping must be Freight On Board Destination to the delivery location designated on the Customer purchase order. The Contractor will retain title and control of all goods until delivery is completed and the Customer has accepted the delivery. All risk of transportation and all related charges are the responsibility of the Contractor. The Customer will notify the Contractor and H-GAC promptly of any damaged goods and will assist the Contractor in arranging for inspection. The Contractor must file all claims for visible or concealed damage. Unless otherwise stated in the Master Agreement, deliveries must consist only of new and unused merchandise.

ARTICLE 25: RESTOCKING (EXCHANGES AND RETURNS)

There will be no restocking charge to the Customer for return or exchange of any item purchased under the terms of any award. If the Customer wishes to return items purchased under an awarded contract, the Contractor agrees to exchange, these items for other items, with no additional charge incurred. Items must be returned to Contractor within thirty (30) days from date of delivery. If there is a difference in price in the items exchanged, the Contractor must notify H-GAC and invoice Customer for increase price or provide the Customer with a credit or refund for any decrease in price per Customer's preference. On items returned, a credit or cash refund will be issued by the Contractor to Customer. This return and exchange option will extend for thirty (30) days following the expiration of the term of the Contract. All items returned by the Customer must be unused and in the same merchantable condition as when received. Items that are special ordered may be returned only upon approval of the Contractor.

ARTICLE 26: MANUALS

Each product delivered under contract to any Customer must be delivered with at least one (1) copy of a safety and operating manual and any other technical or maintenance manual. The cost of the manual(s) must be included in the price for the Product offered.

ARTICLE 27: OUT OF STOCK, PRODUCT RECALLS, AND DISCONTINUED PRODUCTS

H-GAC does NOT purchase the products sold pursuant to a Solicitation or Master Agreement. Contractor is responsible for ensuring that notices and mailings, such as Out of Stock or Discontinued Notices, Safety Alerts, Safety Recall Notices, and customer surveys, are sent directly to the Customer with a copy sent to H-GAC. Customer will have the option of accepting any equivalent product or canceling the item from Customer's Purchase Order. Contractor is not authorized to make substitutions without prior approval.

ARTICLE 28: WARRANTIES, SALES, AND SERVICE

Warranties must be the manufacturer's standard and inclusive of any other warranty requirements stated in the Master Agreement; any warranties offered by a dealer will be in addition to the manufacturer's standard warranty and will not be a substitute for such. Pricing for any product must be inclusive of the standard warranty.

Contractor is responsible for the execution and effectiveness of all product warranty requests and any claims, Contractor agrees to respond directly to correct warranty claims and to ensure reconciliation of warranty claims that have been assigned to a third party.

ARTICLE 29: TERMINATION PROCEDURES

The Contractor acknowledges that this Master Agreement may be terminated for Convenience or Default. H-GAC will not pay for any expenses incurred after the termination date of the contract.

A. *Convenience*

H-GAC may terminate this Master Agreement at any time, in whole or in part, with or without cause, whenever H-GAC determines that for any reason such termination is in the best interest of H-GAC, by providing written notice by certified mail to the Contractor. Upon receipt of notice of termination, all services hereunder of the Contractor and its employees and subcontractors shall cease to the extent specified in the notice of termination.

The Contractor may cancel or terminate this Master Agreement upon submission of thirty (30) days written notice, presented to H-GAC via certified mail. The Contractor may not give notice of cancellation after it has received notice of default from H-GAC.

B. *Default*

H-GAC may, by written notice of default to the Contractor, terminate the whole or any part of the Master Agreement, in any one of the following circumstances:

(1) If the Contractor fails to perform the services herein specified within the time specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this Master Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Master Agreements that completion of services herein specified within the Master Agreement term is significantly endangered, and in

either of these two instances does not cure such failure within a period of ten (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.

(3) In the event of such termination, Contractor will notify H-GAC of any outstanding Purchase Orders and H-GAC will consult with the End User and notify the Contractor to what extent the End User wishes the Contractor to complete the Purchase Order. If Contractor is unable to do so, Contractor may be subject to a claim for damages from H-GAC and/or the End User.

ARTICLE 30: SEVERABILITY

H-GAC and Contractor agree that should any provision of this Master Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Master Agreement, which shall continue in full force and effect.

ARTICLE 31: FORCE MAJEURE

To the extent that either party to this Master Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 32: CONFLICT OF INTEREST

No officer, member or employee of the Contractor or Contractors subcontractor, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or Contractor approval of this Master Agreement, shall participate in any decision relating to this Master Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Master Agreement.

A. **Conflict of Interest Questionnaire:** Chapter 176 of the Texas Local Government Code requires contractors contracting or seeking to contract with H-GAC to file a conflict-of-interest questionnaire (CIQ) if they have an employment or other business relationship with an H-GAC officer or an officer's close family member. The required questionnaire and instructions are located on the H-GAC website or at the Texas Ethics Commission website https://www.ethics.state.tx.us/forms/CIQ.pdf. H-GAC officers include its Board of Directors and Executive Director, who are listed on this website. Respondent must complete and file a CIQ with the Texas Ethics Commission if an employment or business relationship with H-GAC office or an officer's close family member as defined in the law exists.

B. **Certificate of Interested Parties Form – Form 1295:** As required by Section 2252.908 of the Texas Government Code. H-GAC will not enter a Contract with Contractor unless (i) the Contractor submits a disclosure of interested parties form to H-GAC at the time the Contractor submits the contract H-GAC, or (ii) the Contractor is exempt from such requirement. The required form and instructions are located at the Texas Ethics Commission website https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. Respondents who are awarded a Contract must submit their Form 1295 with the signed Contract to H-GAC.

ARTICLE 33: FEDERAL COMPLIANCE

Contractor agrees to comply with all federal statutes relating to nondiscrimination, labor standards, and environmental compliance. With regards to "Rights to Inventions Made Under a Contract or Master Agreement," If the Federal award meets the definition of "funding Master Agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding Master Agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Master Agreements," and any implementing regulations issued by the awarding agency. Contractor agrees to be wholly compliant with the provisions of 2 CFR 200, Appendix II. Additionally, for work to be performed under the Master Agreement or subcontract thereof, including procurement

of materials or leases of equipment, Contractor shall notify each potential subcontractor or supplier of the Contractor's federal compliance obligations. These may include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) the Fair Labor Standards Act of 1938 (29 USC 676 et. seq.), (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (e) the Age Discrimination in Employment Act of 1967 (29 USC 621 et. seq.) and the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in any specific statute(s) applicable to any Federal funding for this Master Agreement; (k) the requirements of any other nondiscrimination statute(s) which may apply to this Master Agreement; (l) applicable provisions of the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and the Environmental Protection Agency regulations at 40 CPR Part 15; (m) applicable provisions of the Davis- Bacon Act (40 U.S.C. 276a - 276a-7), the Copeland Act (40 U.S.C. 276c), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332), as set forth in Department of Labor Regulations at 20 CPR 5.5a; (n) the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

ARTICLE 34: PROHIBITION ON CONTRACTING WITH ENTITIES USING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT (EFFECTIVE AUG. 13, 2020 AND AS AMENDED OCTOBER 26, 2020)

Pursuant to 2 CFR 200.216, Contractor shall not offer equipment, services, or system that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment or services means 1) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); 2) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); 3) telecommunications or video surveillance services provided by such entities or using such equipment; or 4) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. Respondent must comply with requirements for certifications. The provision at 48 C.F.R Section 52.204-26 requires that offerors review SAM prior to completing their required representations. This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off the-shelf items.

ARTICLE 35: DOMESTIC PREFERENCE

In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, when using federal grant award funds H-GAC should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). H-GAC must include this requirement in all subawards including all contracts and purchase orders for work or products under the federal grant award. If Contractor intends to qualify for Purchase Orders using federal grant money, then it shall work with H-GAC to provide all required certifications and other documentation needed to show compliance.

ARTICLE 36: CRIMINAL PROVISIONS AND SANCTIONS

The Contractor agrees to perform the Master Agreement in conformance with safeguards against fraud and abuse as set forth by the H-GAC, the State of Texas, and the acts and regulations of any related state or federal agency. The Contractor agrees to promptly notify H-GAC of any actual or suspected fraud, abuse, or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof. Contractor shall notify H-GAC of any accident or incident requiring medical attention arising from its activities under this Master Agreement within twenty-four (24) hours of such occurrence. Theft or willful damage to property on loan to the Contractor from H-GAC, if any, shall be reported to local law enforcement agencies and H-GAC within two (2) hours of discovery of any such act.

The Contractor further agrees to cooperate fully with H-GAC, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation, and any other duly authorized investigative unit, in carrying out a full investigation of all such incidents.

The Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against the Contractor pertaining to this Master Agreement or which would adversely affect the Contractor's ability to perform services under this Master Agreement.

ARTICLE 37: INDEMNIFICATION AND RECOVERY

H-GAC's liability under this Master Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to its order processing charge. In no event will H-GAC be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits, or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor agrees, to the extent permitted by law, to defend and hold harmless H-GAC, its board members, officers, agents, officials, employees, and indemnities from any and all claims, costs, expenses (including reasonable attorney fees), actions, causes of action, judgements, and liens arising as a result of Contractor's negligent act or omission under this Master Agreement. Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against Contractor relating to this Master Agreement.

ARTICLE 38: LIMITATION OF CONTRACTOR'S LIABILITY

Except as specified in any separate writing between the Contractor and an END USER, Contractor's total liability under this Master Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify H-GAC, is limited to the price of the particular products/services sold hereunder, and Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. In no event will Contractor be liable for any loss of use, loss of time, inconvenience, commercial loss, loss of profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor understands and agrees that it shall be liable to repay and shall repay upon demand to END USER any amounts determined by H-GAC, its independent auditors, or any agency of State or Federal government to have been paid in violation of the terms of this Master Agreement.

ARTICLE 39: TITLES NOT RESTRICTIVE

The titles assigned to the various Articles of this Master Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Master Agreement.

ARTICLE 40: JOINT WORK PRODUCT

This Master Agreement is the joint work product of H-GAC and the Contractor. This Master Agreement has been negotiated by H-GAC and the Contractor and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against any party.

ARTICLE 41: PROCUREMENT OF RECOVERED MATERIAL

H-GAC and the Respondent must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; (2) procuring solid waste management services in a manner that

maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. Pursuant to the Federal Rule above, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), Respondent certifies that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the Contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

ARTICLE 42: COPELAND "ANTI-KICKBACK" ACT

Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the contract. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as appropriate agency instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses. A breach of the contract clauses above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

ARTICLE 43: DISCRIMINATION

Respondent and any potential subcontractors shall comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to:

a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin;
b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
d) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age;
e) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
f) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
i) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
j) The requirements of any other nondiscrimination statute(s) that may apply to the application.

ARTICLE 44: DRUG FREE WORKPLACE

Contractor must provide a drug-free workplace in accordance with the Drug-Free Workplace Act, as applicable. For the purposes of this Section, "drug-free" means a worksite at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance. H-GAC may request a copy of this policy.

ARTICLE 45: APPLICABILITY TO SUBCONTRACTORS
Respondent agrees that all contracts it awards pursuant to the contract awarded as a result of this Master Agreement will be bound by the foregoing terms and conditions.

ARTICLE 46: WARRANTY AND COPYRIGHT
Submissions must include all warranty information, including items covered, items excluded, duration, and renewability. Submissions must include proof of licensing if using third party code for programming.

ARTICLE 47: DATA HANDLING AND SECURITY
It will always be the responsibility of the selected Contractor to manage data transfer and to secure all data appropriately during the project to prevent unauthorized access to all data, products, and deliverables.

ARTICLE 48: DISPUTES
All disputes concerning questions of fact or of law arising under this Master Agreement, which are not addressed within the Whole Master Agreement as defined pursuant to Article 4 hereof, shall be decided by the Executive Director of H-GAC or his designee, who shall reduce his decision to writing and provide notice thereof to the Contractor. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such notice, the Contractor requests a rehearing from the Executive Director of H-GAC. In connection with any rehearing under this Article, the Contractor shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. The Contractor may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Master Agreement and in accordance with H-GAC's final decision.

ARTICLE 49: CHOICE OF LAW: VENUE
This Master Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Master Agreement shall lie exclusively in Harris County, Texas. Disputes between END USER and Contractor are to be resolved in accordance with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

ARTICLE 50: ORDER OF PRIORITY
In the case of any conflict between or within this Master Agreement, the following order of priority shall be utilized: 1) General Provisions, 2) Special Provisions, 3) Scope of Work, and 4) Other Attachments.

ARTICLE 51: WHOLE MASTER AGREEMENT
Please note, this is an H-GAC Master Agreement template and is used for all products and services offered in H-GAC Cooperative Purchasing. Any redlines to this Master Agreement may not be reviewed. If this Master Agreement has not been signed by the Contractor within 30 calendar days, this Master Agreement will be automatically voided. The Master General Provisions, Master Special Provisions, and Attachments, as provided herein, constitute the complete Master Agreement between the parties hereto, and supersede any and all oral and written Master Agreements between the parties relating to matters herein. Except as otherwise provided herein, this Master Agreement cannot be modified without written consent of the parties.

ARTICLE 52: UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT (SAM)
In accordance with 2 CFR Title 2, Subtitle A, Chapter I, Part 25 as it applies to a Federal awarding agency's grants, cooperative agreements, loans, and other types of Federal financial assistance as defined in 2 CFR 25.406. Contractor understands and as it relates to 2 CFR 25.205(a), a Federal awarding agency may not make a Federal award or financial modification to an existing Federal award to an applicant or recipient until the entity has complied with the requirements described in 2 CFR 25.200 to provide a valid unique entity identifier and maintain an active SAM registration (www.SAM.gov) with current information (other than any requirement that is not applicable because the entity is exempted under § 25.110). 2 CFR 25.200(b) requires that registration in the SAM **prior to submitting an application or plan**; and maintain an active SAM registration with current information, including information on a recipient's immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable, at all

times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency; and provide its unique entity identifier in each application or plan it submits to the Federal awarding agency. To remain registered in the SAM database after the initial registration, the applicant is required to review and update its information in the SAM database on an annual basis from the date of initial registration or subsequent updates to ensure it is current, accurate and complete. At the time a Federal awarding agency is ready to make a Federal award, if the intended recipient has not complied with an applicable requirement to provide a unique entity identifier or maintain an active SAM registration with current information, the Federal awarding agency: (1) May determine that the applicant is not qualified to receive a Federal award; and (2) May use that determination as a basis for making a Federal award to another applicant.

ARTICLE 53: PROCUREMENT OF RECOVERED MATERIALS

In accordance with 2 CFR 200.323, the Houston-Galveston Area Council and the Contractor or Subrecipient must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. Pursuant to the Federal Rule above, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the Contractor or Subrecipient certifies that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the Agreement will be at least the amount required by the applicable contract specifications or other contractual requirements.

SIGNATURES:

H-GAC and the Contractor have read, agreed, and executed the whole Master Agreement as of the date first written above, as accepted by:

Siddons Martin Emergency Group LLC		**H-GAC**	
Signature	DocuSigned by: Jeff Doran B2D885F9B5D14E7...	Signature	DocuSigned by: 82EC270D5D61423...
Name	Kathryn Williams	Name	Chuck Wemple
Title	Vice President	Title	Executive Director
Date	12/11/2023	Date	12/12/2023

DocuSign Envelope ID: 26841DC5-2E0E-4C2C-A618-8AB99F7D6207 Exhibit A

H-GAC

Houston-Galveston Area Council
P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

MASTER SPECIAL PROVISIONS

Please note, this is an H-GAC Master Agreement template and is used for all products and services offered in H-GAC Cooperative Purchasing. Any redlines to this Master Agreement may not be reviewed. Incorporated by attachment, as part of the whole Master Agreement, H-GAC and the Contractor do, hereby agree to the Master Special Provisions as follows:

ARTICLE 1: BIDS/PROPOSALS INCORPORATED

In addition to the whole Master Agreement, the following documents listed in order of priority are incorporated into the Master Agreement by reference: Bid/Proposal Specifications and Contractor's Response to the Bid/Proposal.

ARTICLE 2: END USER MASTER AGREEMENTS ("EUA")

H-GAC acknowledges that the END USER, which is the HGACBuy customer utilizing the contract (CUSTOMER and END USER may be used interchangeably) may choose to enter into an End User Master Agreement (EUA) with the Contractor through this Master Agreement. A CUSTOMER/END USER is a state agency, county, municipality, special district, or other political subdivision of a state, or a qualifying non-profit corporation (providing one or more governmental function or service that possess legal authority to enter into the Contract. The term of the EUA may exceed the term of the current H-GAC Master Agreement.

H-GAC's acknowledgement is not an endorsement or approval of the End User Master Agreement's terms and conditions. Contractor agrees not to offer, agree to or accept from the CUSTOMER/END USER, any terms or conditions that conflict with those in Contractor's Master Agreement with H-GAC. Contractor affirms that termination of its Master Agreement with H-GAC for any reason shall not result in the termination of any underlying EUA, which shall in each instance, continue pursuant to the EUA's stated terms and duration. Pursuant to the terms of this Master Agreement, termination of this Master Agreement will disallow the Contractor from entering into any new EUA with CUSTOMER/END USER. Applicable H-GAC order processing charges will be due and payable to H-GAC on any EUAs, surviving termination of this Master Agreement between H-GAC and Contractor.

ARTICLE 3: MOST FAVORED CUSTOMER CLAUSE

Contractor shall provide its most favorable pricing and terms to H-GAC. If at any time during this Master Agreement, Contractor develops a regularly followed standard procedure of entering into Master Agreements with other governmental customers within the State of Texas, and offers the same or substantially the same products/services offered to H-GAC on a basis that provides prices, warranties, benefits, and or terms more favorable than those provided to H-GAC, Contractor shall notify H-GAC within ten (10) business days thereafter, and this Master Agreement shall be deemed to be automatically retroactively amended, to the effective date of Contractor's most favorable past Master Agreement with another entity. Contractor shall provide the same prices, warranties, benefits, or terms to H-GAC and its CUSTOMER/END USER as provided in its most favorable past Master Agreement. H-GAC shall have the right and option at any time to decline to accept any such change, in which case the amendment shall be deemed null and void. If Contractor claims that a more favorable price, warranty, benefit, or term that was charged or offered to another entity during the term of this Master Agreement, does not constitute more favorable treatment, than Contractor shall, within ten (10) business days, notify H-GAC in writing, setting forth the detailed reasons Contractor believes the aforesaid

offer is not in fact most favored treatment. H-GAC, after due consideration of Contractor's written explanation, may decline to accept such explanation and thereupon this Master Agreement between H-GAC and Contractor shall be automatically amended, effective retroactively, to the effective date of the most favored Master Agreement, to provide the same prices, warranties, benefits, or terms to H-GAC and the CUSTOMER/END USER.

EXCEPTION: This clause shall not be applicable to prices and price adjustments offered by a bidder, proposer, or contractor, which are not within bidder's/proposer's control [example; a manufacturer's bid concession], or to any prices offered to the Federal Government and its agencies.

ARTICLE 4: PARTY LIABILITY

Contractor's total liability under this Master Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to the price of the particular products/services sold hereunder. Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. Contractor accepts liability to repay, and shall repay upon demand to CUSTOMER/END USER, any amounts determined by H-GAC, its independent auditors, or any state or federal agency, to have been paid in violation of the terms of this Master Agreement.

ARTICLE 5: GOVERNING LAW & VENUE

Contractor and H-GAC agree that Contractor will make every reasonable effort to resolve disputes with the CUSTOMER/END USER in accord with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

ARTICLE 6: SALES AND ORDER PROCESSING CHARGE

Contractor shall sell its products to CUSTOMER/END USER based on the pricing and terms of this Master Agreement. H-GAC will invoice Contractor for the applicable order processing charge when H-GAC receives notification of a CUSTOMER/END USER order. Contractor shall remit to H-GAC the full amount of the applicable order processing charge, after delivery of any product or service and subsequent CUSTOMER/END USER acceptance. Payment of the Order Processing Charge shall be remitted from Contractor to H-GAC, within thirty (30) calendar days or ten (10) business days after receipt of a CUSTOMER/END USER's payment, whichever comes first, notwithstanding Contractor's receipt of invoice. For sales made by Contractor based on this Master Agreement, including sales to entities without Interlocal Master Agreements, Contractor shall pay the applicable order processing charges to H-GAC. Further, Contractor agrees to encourage entities who are not members of H-GAC's Cooperative Purchasing Program to execute an H-GAC Interlocal Master Agreement. H-GAC reserves the right to take appropriate actions including, but not limited to, Master Agreement termination if Contractor fails to promptly remit the appropriate order processing charge to H-GAC. In no event shall H-GAC have any liability to Contractor for any goods or services a CUSTOMER/END USER procures from Contractor. At all times, Contractor shall remain liable to pay to H-GAC any order processing charges on any portion of the Master Agreement actually performed, and for which compensation was received by Contractor.

ARTICLE 7: LIQUIDATED DAMAGES

Contractor and H-GAC agree that Contractor shall cooperate with the CUSTOMER/END USER at the time a CUSTOMER/END USER purchase order is placed, to determine terms for any liquidated damages.

ARTICLE 8: INSURANCE

Unless otherwise stipulated in Section B of the Bid/Proposal Specifications, Contractor must have the following insurance and coverage minimums:

a. General liability insurance with a Single Occurrence limit of at least $1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit.
b. Product liability insurance with a Single Occurrence limit of at least $1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit for all Products except Automotive Fire Apparatus. For Automotive Fire Apparatus, see Section B of the Bid/Proposal Specifications.
c. Property Damage or Destruction insurance is required for coverage of End User owned equipment while in Contractor's possession, custody, or control. The minimum Single Occurrence limit is $500,000.00 and the General Aggregate limit must be at least two times the Single Occurrence limit. This insurance may be carried in several ways, e.g. under an Inland Marine policy, as art of Automobile coverage, or under a Garage Keepers policy. In any event, this coverage must be specifically and clearly listed on insurance certificate(s) submitted to H-GAC.
d. Insurance coverage shall be in effect for the length of any contract made pursuant to the Bid/Proposal, and for any extensions thereof, plus the number of days/months required to deliver any outstanding order after the close of the contract period.
e. Original Insurance Certificates must be furnished to H-GAC on request, showing Contractor as the insured and showing coverage and limits for the insurances listed above.
f. If any Product(s) or Service(s) will be provided by parties other than Contractor, all such parties are required to carry the minimum insurance coverages specified herein, and if requested by H-GAC, a separate insurance certificate must be submitted for each such party.
g. H-GAC reserves the right to contact insurance underwriters to confirm policy and certificate issuance and document accuracy.

ARTICLE 9: PERFORMANCE AND PAYMENT BONDS FOR INDIVIDUAL ORDERS

H-GAC's contractual requirements DO NOT include a Performance & Payment Bond (PPB); therefore, Contractor shall offer pricing that reflects this cost savings. Contractor shall remain prepared to offer a PPB to cover any order if so requested by the CUSTOMER/END USER. Contractor shall quote a price to CUSTOMER/END USER for provision of any requested PPB, and agrees to furnish the PPB within ten business (10) days of receipt of CUSTOMER/END USER's purchase order.

ARTICLE 10: ORDER PROCESSING CHARGE

H-GAC will apply an Order Processing Charge for each sale done through the H-GAC contract, with the exception of orders for motor vehicles. Any pricing submitted must include this charge amount per the most current H-GAC schedule. For motor vehicle orders, the Processing Charge is paid by the CUSTOMER/END USER. Contractor will need to refer to the solicitation for the Order Processing Charge.

ARTICLE 11: CHANGE OF STATUS

Contractor shall immediately notify H-GAC, in writing, of ANY change in ownership, control, dealership/franchisee status, Motor Vehicle license status, or name. Contractor shall offer written guidance to advise H-GAC if this Master Agreement shall be affected in any way by such change. H-GAC shall have the right to determine whether or not such change is acceptable, and to determine what action shall be warranted, up to and including cancellation of Master Agreement.

ARTICLE 12: REQUIREMENTS TO APPLICABLE PHYSICAL GOODS

In the case of physical goods (e.g. equipment, material, supplies, as opposed to services), all Products offered must comply with any applicable provisions of the Texas Business and Commerce Code, Title 1, Chapter 2 and with at least the following:

a. Be new, unused, and not refurbished.
b. Not be a prototype as the general design, operation, and performance. This requirement is NOT meant to preclude the Contractor from offering new models or configurations which incorporate improvements in a current design or add functionality, but in which new model or configuration may be new to the marketplace.
c. Include all accessories which may or may not be specifically mentioned in the Master Agreement, but which are normally furnished or necessary to make the Product ready for its intended use upon delivery. Such accessories shall be assembled, installed, and adjusted to allow continuous operation of Product at time of delivery.
d. Have assemblies, sub-assemblies and component parts that are standard and interchangeable throughout the entire quantity of a Product as may be purchased simultaneously by any END USER/CUSTOMER.
e. Be designed and constructed using current industry accepted engineering and safety practices, and materials.
f. Be available for inspection at any time prior to or after procurement.

ARTICLE 13: TEXAS MOTOR VEHICLE BOARD LICENSING

All Contractors that deal in motor vehicles shall maintain current licenses that are required by the Texas Motor Vehicle Commission Code. If at any time during this Master Agreement term, any required Contractor license is denied, revoked, or not renewed, Contractor shall be in default of this Master Agreement, unless the Texas Motor Vehicle Board issues a stay or waiver. Contractor shall promptly provide copies of all current applicable Texas Motor Vehicle Board documentation to H-GAC upon request.

ARTICLE 14: INSPECTION/TESTING

All Products sold pursuant to this Master Agreement will be subject to inspection/testing by or at the direction of H-GAC and/or the ordering CUSTOMER/END USER, either at the delivery destination or the place of manufacture. In the event a Product fails to meet or exceed all requirements of this Master Agreement, and unless otherwise agreed in advance, the cost of any inspection and/or testing, will be the responsibility of the Contractor.

ARTICLE 15: ADDITIONAL REPORTING REQUIREMENTS

Contractor agrees to submit written quarterly reports to H-GAC detailing all transactions during the previous three (3) month period. Reports must include, but are not limited, to the following information:

a. CUSTOMER/END USER Name
b. Product/Service purchased, including Product Code if applicable
c. Customer Purchase Order Number
d. Purchase Order Date
e. Product/Service dollar amount
f. HGACBuy Order Processing Charge amount

ARTICLE 16: BACKGROUND CHECKS

Cooperative customers may request background checks on any awarded contractor's employees who will have direct contact with students, or for any other reason they so choose, any may require contractor to pay the cost of obtaining any background information requested by the CUSTOMER/END USER.

ARTICLE 17: PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL CERTIFICATION

As required by Chapter 2271 of the Texas Local Government Code the Contractor must verify that it 1) does not boycott Israel; and 2) will not boycott Israel during the term of the Contract. Pursuant to Section 2271.001, Texas Government Code:

1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

ARTICLE 18: NO EXCLUDED NATION OR TERRORIST ORGANIZATION CERTIFICATION

As required by Chapter 2252 of the Texas Government Code the Contractor must certify that it is not a company engaged in active business operations with Sudan, Iran, or a foreign terrorist organization – specifically, any company identified on a list prepared and maintained by the Texas Comptroller under Texas Government Code §§806.051, 807.051, or 2252.153. (A company that the U.S. Government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to the contract prohibition.)

ARTICLE 19: PROHIBITION ON CONTRACTING WITH ENTITIES USING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT (Effective Aug. 13, 2020 and as amended October 26, 2020)

Pursuant to 2 CFR 200.216, Contractor shall not offer equipment, services, or system that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. ''Covered telecommunications equipment or services means 1) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); 2) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); 3) telecommunications or video surveillance services provided by such entities or using such equipment; or 4) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Contractor must comply with requirements for certifications. The provision at 48 C.F.R Section 52.204-26 requires that Contractors review SAM prior to completing their required representations. This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off the-shelf items.

ARTICLE 20: BUY AMERICA ACT (National School Lunch Program and Breakfast Program)

With respect to products purchased by CUSTOMER/END USER for use in the National School Lunch Program and/or National School Breakfast Program, Contractor shall comply with all federal procurement laws and regulations with respect to such programs, including the Buy American provisions set forth in 7 C.F.R. Part 210.21(d), to the extent applicable. Contractor agrees to provide all certifications required by CUSTOMER/END USER regarding such programs.

In the event Contractor or Contractor's supplier(s) are unable or unwilling to certify compliance with the Buy American Provision, or the applicability of an exception to the Buy American provision, H-GAC CUSTOMER/END USER may decide not to purchase from Contractor. Additionally, H-GAC

CUSTOMER/END USER may require country of origin on all products and invoices submitted for payment by Contractor, and Contractor agrees to comply with any such requirement.

ARTICLE 21: BUY AMERICA REQUIREMENT (Applies only to Federally Funded Highway and Transit Projects)

With respect to products purchased by CUSTOMER/END USER for use in federally funded highway projects, Contractor shall comply with all federal procurement laws and regulations with respect to such projects, including the Buy American provisions set forth in 23 U.S.C. Section 313, 23 C.F.R. Section 635.410, as amended, and the Steel and Iron Preference provisions of Texas Transportation Code Section 223.045, to the extent applicable. Contractor agrees to provide all certifications required by CUSTOMER/END USER regarding such programs. With respect to products purchased by CUSTOMER/END USER for use in federally funded transit projects, Contractor shall comply with all federal procurement laws and regulations with respect to such projects, including the Buy American provisions set forth in 49 U.S.C. Section 5323(j)(1), 49 C.F.R. Sections 661.6 or 661.12, to the extent applicable. Contractor agrees to provide all certifications required by CUSTOMER/END USER regarding such programs.

ARTICLE 22: DOMESTIC PREFERENCE

In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, a CUSTOMER/END USER using federal grant award funds should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The CUSTOMER/END USER must include this requirement in all subawards including all contracts and purchase orders for work or products under the federal grant award. If Contractor intends to qualify for Purchase Orders using federal grant money, they shall work with the CUSTOMER/END USER to provide all required certifications and other documentation needed to show compliance.

ARTICLE 23: TITLE VI REQUIREMENTS

H-GAC in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this Master Agreement and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

ARTICLE 24: EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all Contracts and CUSTOMER/END USER Purchase Orders that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall be deemed to 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., pg.339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Contractor agrees that such provision applies to any contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and agrees that it will comply with such provision.

ARTICLE 25: CLEAN AIR AND WATER POLLUTION CONTROL ACT

CUSTOMER/END USER Purchase Orders using federal funds must contain a provision that requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean

Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Federal Rule above, Contractor certifies that it is in compliance with all applicable provisions of the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will remain in compliance during the term of the Contract.

ARTICLE 26: PREVAILING WAGE

Contractor and any potential subcontractors have a duty to and shall pay the prevailing wage rate under the Davis-Bacon Act, 40 U.S.C. 276a – 276a-5, as amended, and the regulations adopted thereunder contained in 29 C.F.R. pt. 1 and 5.

ARTICLE 27: CONTRACT WORK HOURS AND SAFETY STANDARDS

As per the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), where applicable, all CUSTOMER/END USER Purchase Orders in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

ARTICLE 28: PROFIT AS A SEPARATE ELEMENT OF PRICE

For purchases using federal funds more than the current Simplified Acquisition Threshold of $250,000, requires negotiation of profit as a separate element of the price. See, 2 CFR 200.324(b). Contractor agrees to provide information and negotiate regarding profit as a separate element of the price for the purchase. Contractor also agrees that the total price, including profit, charged by Contractor will not exceed the awarded pricing, including any applicable discount, under any awarded contract.

ARTICLE 29: BYRD ANTI-LOBBYING AMENDMENT

Byrd Anti-Lobbying Amendment (31U.S.C. 1352) – Contractors that apply or bid for an award exceeding $100,000 must file the required anti-lobbying certification. Each tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the CUSTOMER/END USER. As applicable, Contractor agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352). Contractor certifies that it is currently in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and will continue to be in compliance throughout the term of the Contract and further certifies that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the Contractor, 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 the awarding of a Federal contract, the making of a Federal Grant, the making of a Federal Loan, the entering into a cooperative Master Agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative Master 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 a Member of Congress in connection with a Federal contract, grant, loan, or cooperative Master Agreement, Contractor shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. Contractor 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 Master Agreements) and that all subcontractors 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 certificate 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.

ARTICLE 30: COMPLIANCE WITH EPA REGULATIONS APPLICABLE TO GRANTS, SUBGRANTS, COOPERATIVE MASTER AGREEMENTS, AND CONTRACTS

Contractor certifies compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (13 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

ARTICLE 31: COMPLIANCE WITH ENERGY POLICY AND CONSERVATION ACT

Contractor certifies that Contractor will be in compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

DocuSign Envelope ID: 26841DC5-2E0E-4C2C-A618-8AB99F7D6207 Exhibit A

Fire Apparatus and Related Vehicles

Request For Proposal
HGACBuy/Cooperative Purchasing Program
07230
Project ID: FS12-23
Release Date: Wednesday, July 26, 2023
· **Due Date:** Thursday, September 14, 2023 12:00pm
Posted Wednesday, July 26, 2023 7:00am
Bid Unsealed Thursday, September 14, 2023 12:05pm
Pricing Unsealed Thursday, September 14, 2023 12:05pm

4. Specifications/Categories/Scope of Work

This is an indefinite quantity/indefinite delivery offerings contract. The HGACBuy Customer is responsible to ensure adequate competition is performed between the various contractors or contractors outside of HGACBuy to determine price reasonableness that might be required per any funding agency. Customer will need to ensure compliance with any funding agency requirements before proceeding with a purchase order under this contract. Please consult legal counsel regarding questions concerning compliance as a contractor under this solicitation.

4.1. Overview

H-GAC is soliciting responses for selecting qualified manufacturers, dealers, distributors, and service providers of Fire Apparatus and Other Special Service Vehicles and related services to make these types of products and services available to Customers of the HGACBuy Cooperative Purchasing Program under blanket type contracts. Customers (end users) may require selective acquisitions of equipment and/or services OR full turnkey projects necessitating additional services, training, and maintenance agreements. H-GAC is seeking the broadest possible selection of available fire apparatus and special service vehicles to best serve our customers by providing the largest selection of products/services available to meet their needs. This solicitation may include a request for a discount percent off price catalog, category, or manufacturer, or price list for supplies, materials, or not to exceed hourly rates for installation or repair. Respondents are not required to provide offerings on all categories. Please note: awarded contracts for FS12-23 allow contractors to update their manufacturer pricing and product offerings at any time during the course of the four-year contract term.

4.2. Categories

This Solicitation is divided into twelve (12) separate but related product categories (A-L). When submitting a response, Respondent may choose to submit a response to any of the categories or all of them. No additional weighted value will be assigned to a response that addresses more than one or all categories listed. All equipment must be the manufacturer's new and current model and must be fully operational upon delivery to the Customer.

This solicitation does not include ambulances - please see HGACBuy Contract AM10-20 and AM10-23.

Alternative Fuel Vehicles: All responses that include electric, hybrid, or other alternative fuel vehicles must include these vehicles in Category I. If that specific vehicle is also available with an internal combustion engine (ICE),

please list the ICE vehicle separately in the appropriate vehicle category. Category I will only include the alternative fuel vehicles, regardless of vehicle function or type.

Product categories are as follows:

A. **Wildland Fire Apparatus - Brush Fire, Off-Road Tenders/Tankers, Crew Carriers, Slip-in Units, etc.**

Response listings/descriptions must be organized by major sub-categories, which include Manufacturer, type/function, model, chassis (make and model), cab configuration, 2WD/4WD, and fuel type, and tank and pump.

B. **Aerial Fire Apparatus - Boom/Platform, Ladder, Ladder/Platform, etc.**

Response listings/descriptions must be organized by major sub-categories, which include Manufacturer, model, chassis, aerial category/construction, aerial functions, cab types, and axle configurations.

C. **Pumper Fire Apparatus**

Response listings/descriptions must be organized by major sub-categories, which include Manufacturer, model, chassis, cab types, axle configurations, tank capacities/construction, and pump capacity/position.

D. **Pumper-Tanker/Tanker/Tender Fire Apparatus**

Response listings/descriptions must be organized by major sub-categories, which include Manufacturer, model, chassis, cab types, axle configurations, tank capacities/construction, and pump capacity/position.

E. **Aircraft Rescue & Fire-Fighting Vehicles (ARFF)**

Response listings/descriptions must be organized by major sub-categories including Manufacturer, model, chassis, cab types, axle configurations, and by Class Types 1-5.

F. **Special Service Apparatus – Rescue/Fast Response, Re-Hab, Hazmat, Mobile Emergency Command/Communication Centers/Trailers, Light/Air Vehicle, Dive Response Vehicle, ATV/UTV Response Vehicles, Mobile Fire Pump Testers, etc.**

Response listings/descriptions must be organized by Manufacturer, function, type, or purpose of the apparatus/vehicle, and include brief and concise details about the vehicle.

G. **Fire Boats, Rescue Boats, Emergency Response Boats**

Response listings/descriptions must be organized by major sub-categories including Manufacturer, type, function, size, and propulsion.

H. **Fire Command Vehicles - Light, medium, and heavy-duty pickups and SUVs**

Response listings/descriptions must be organized by major sub-categories including Manufacturer, model, chassis, and 2WD/4WD, fuel type.

I. **Electric/Alternative Fuel Fire Apparatus**

Response listings/descriptions must be organized by major sub-categories including Manufacturer, model, chassis, vehicle type, fuel/propulsion type, and function.

J. **Fire Apparatus/Vehicle Service/Maintenance Plans**

Response listings/descriptions must include plan details, including details about which fees are included in costs, and items such as labor rates, and fee structures.

K. **Fire Apparatus/Vehicle Parts and Supplies**

Response listing need only to include percentage discount.

L. **Fire Apparatus/Vehicle Options**

Please provide a complete listing or catalog of options, accessories, and loose equipment offered. Please clearly indicate if the options are model or vehicle specific, or only available for specific models or vehicles. Options must be clearly identified as upgrades or downgrades and clearly show the net effect to the price of the base model. (Please upload in Section 9.1.4 Required Documents.)

4.3. General Requirements

All products priced and sold pursuant to this Solicitation must, as applicable:

1. Meet all applicable requirements of federal, state and local laws and regulations.
2. Be manufacturer's normal offering with all standard features and functions and performance levels.
3. Be ready for turn-key operation upon delivery.
4. Respondent must include specifications, brochures, warranty information, and any other relevant product information with solicitation Response.

Note: “Unpriced/unpublished” options cannot be quoted on the Base Pricing List and may not be sold through this contract.

4.4. Additional Requirements

Licenses

1. Contractor must have and maintain the appropriate license(s) as required by the State of Texas, Department of Transportation, Department of Motor Vehicles, Motor Vehicle Commission Code [latest edition], or any other local, state and federal licenses required and which are applicable to the respondent’s operations.
2. The prescribed licenses must include the manufacturer/respondent, and any and all dealers and their representatives as may be required by the Motor Vehicle Department. Contractor must ensure all

emergency and specialty vehicles sold are in accordance with the laws of the state where the sale and acquisition are made.

3. Contractor must maintain all licensing required by the State of Texas as applicable to their business operations during the entire contract term. If during the contract period such licensing lapses, Contractor will be in default and become subject to contract termination unless issued a stay or waiver.

Manuals

1. Contractor must supply at the time of delivery, at least two (2) sets of complete operations and service documentation covering the completed emergency vehicles as delivered and accepted.
2. Respondent must supply the following information with their response: Technical Specifications, Product Brochures, Tear Sheets, Cut Sheets, Strippers, etc. which clearly show all the standard features and capabilities of each response listing.

Warranty

Contractors must comply with the minimum warranty and maintenance requirements described below for any products or services provided under this Solicitation.

1. Contractor must furnish with response, and for all equipment sold through this H-GAC contract, the manufacturer's general warranty, which must be honored by all the manufacturer's authorized service locations.
2. All service/maintenance plan listings must clearly indicate the cost structure for such plans, clearly indicating which costs and fees are included (such as: hourly labor rates, shop fees, supply fees, environmental fees).
3. The Contractor will handle all warranty claims and all work must be completed within ten (10) calendar days after receipt of equipment/vehicle by the Contractor without cost to H-GAC or the Customer. Delayed warranties must be available for all vehicles and equipment. Warranty start date will be effective the date that the completed unit is placed into service by the Customer. The Contractor must furnish a delayed warranty card/document for each unit delivered and/or advise the Customer of the procedures to be followed for obtaining the delayed start of warranty coverage. Requests for delayed warranties will not exceed six months after delivery.
4. Any and all documents necessary to effect manufacturer’s warranty must be properly applied for and submitted by the Contractor. The Contractor will provide to H-GAC and the Customer a manufacturer’s warranty which will be honored by any of the manufacturer’s authorized dealers and a complete copy must be provided at the time of delivery. When additional warranties are available as standard, they must be included as a part of the response for the benefit of H-GAC and Customer.
5. The patient compartment, all modifications to the OEM chassis by Contractor on the accepted unit, and equipment and parts will be guaranteed for a minimum period of one (1) year against defects in design,

materials, and workmanship. The warranty period will begin upon final acceptance of the equipment. This warranty will cover parts and labor expenses.

6. In the event any component part of equipment or materials furnished under these specifications, or its subsequent contract(s), becomes defective by reason of material or workmanship during said period, and the end user agency immediately notifies Contractor of such defect, Contractor will, at no expense to the End User agency or H-GAC, repair or replace equipment or component with new equipment or component.
7. Warranty of all system equipment is the sole responsibility of the Contractor under contract, but may be performed by their certified, designated agent.

4.5. Vehicle Requirements

All equipment and vehicles must be new and be the manufacturer's latest and current model. Each vehicle must be fully assembled, adjusted, serviced and ready for immediate and continuous operation upon delivery. If the equipment or vehicle does not meet the specification requirements upon delivery, Contractor will be responsible for correcting all deficiencies and making any corrections or adjustments needed to attain specification requirements.

All equipment and vehicles must conform to applicable local, state, federal requirements and must comply to all applicable industry standards including National Fire Protection Association (NFPA), Department of Transportation, United States Coast Guard (USCG), and Occupational Safety and Health Administration (OSHA).

4.6. Service / Maintenance Plans and Parts

All service/maintenance plan listings must clearly indicate the cost structure for such plans, including which costs and fees are included (ex: hourly labor rates, shop fees, supply fees, environmental fees).

4.7. Labor Hours Definitions

If the awarded contract contains hours for labor related services, the following definitions will apply:

1. "Business Day" Monday through Friday
2. "Business Hours" Standard Business Hours 8 a.m. to 5 p.m.
3. "Regular Time" Work that occurs during standard business hours
4. "Emergency Time" Work that occurs outside standard business hours

4.8. Administrative Fee

For each purchase order processed under an awarded contract, H-GAC will directly invoice the contractor an administrative fee (Order Processing Charge) applicable to the sale of all equipment and services submitted in contractor's response. It is the contractor's responsibility to remit the administrative fee within thirty (30) days of processing any customer's purchase order, even if an invoice is not received from H-GAC. Contractor agrees that H-GAC will have the right, with reasonable notice, to inspect its records pertaining to purchase orders processed and the accuracy of the fees payable to H-GAC. For this solicitation the administrative fee is as follows:

DocuSign Envelope ID: 26841DC5-2E0E-4C2C-A618-8AB99F7D6207 Exhibit A

Administrative Fee (per Purchase Order)

Category A – Brush Trucks/Light Rescue	$1,000 per purchase order
Category B – Aerial Fire Apparatus	$2,000 per purchase order
Category C – Pumper Fire Apparatus	$2,000 per purchase order
Category D – Pumper/Tanker and Tanker Apparatus	$2,000 per purchase order
Category E – ARFF Apparatus	$2,000 per purchase order
Category F – Special Service Vehicles	
Heavy Rescue*/Special Service	$2,000 per purchase order
Light Rescue/Quick Response	$1,000 per purchase order
All Trailers	2% of purchase order

*Heavy Rescue is vehicle with GVWR of 26,000 and above.

Category G –Fire/Rescue/Emer. Response Boats	2% of purchase order
Category H - Fire Command Vehicles	$1,000 per purchase order
Category I - Alternative Fuel Vehicles	Fee determined by category of vehicle
Category J –Service/Maintenance Plans	2% per purchase order
Category K - Fire Apparatus/Vehicle Parts and Supplies	2% per purchase order
Category L - Fire Apparatus/Vehicle Options	No separate fee - part of vehicle

4.9. Final Contract Deliverables

Contractor agrees to submit written quarterly reports to H-GAC detailing all transactions during the previous three (3) month period. Reports must include, but are not limited, to the following information:

- Customer Name and address
- HGACBuy confirmation number
- Product/Service purchased
- Customer Purchase Order Number
- Purchase Order Date
- Product/Service dollar amount
- HGACBuy Order Processing Charge amount

DocuSign Envelope ID: 26841DC5-2E0E-4C2C-A618-8AB99F7D6207 Exhibit A

Reports must be provided to H-GAC in Excel or other acceptable electronic format by the 30th day of the month following the quarter being reported. If Contractor defaults in providing Products or Services reporting as required by the contract, recourse may be exercised through cancellation of the contract and other legal remedies as appropriate.

--End of section--

DocuSign Envelope ID: 26841DC5-2E0E-4C2C-A618-8AB99F7D6207 Exhibit A

Attachment A
Siddons-Martin Emergency Group, LLC
Fire Apparatus and Related Vehicles
Contract No.: FS12-23

Manufacturer	Product	Item Description	Offered List Price	HGACBuy Discount
		Category A - Wildland and Brush		
Pierce	23W-101	1019 Ford F-550 Pumper - 1019	$ 366,288.00	5%
Pierce	23W - 103 International Type 3	International Wildland-1039	$ 581,003.00	5%
Pierce	23W - 104 International Urban	International Urban Interface-1040	$ 491,716.00	5%
BME Fire Trucks	Summit	Navistar, 4x4, 4-Door, Model 34, 1000 GPM Pump, 500 Gallon Water Tank	$ 544,632.00	5%
BME Fire Trucks	Targhee	Navistar, 4x4, 4-Door, Model 34, 500 GPM Pump, 500 Gallon Water Tank	$ 529,854.00	5%
BME Fire Trucks	Rocky Mountain	Navistar, 4x4, 4-Door, Type 3, Model 346/500R, 600 Gallon Water Tank, 500 GPM Pump	$ 455,062.00	5%
BME Fire Trucks	Aspen	Navistar, 4x4, 4-Door, Type 4, 800 Gallon Water Tank, 1.5AGE Pump	$ 449,583.00	5%
BME Fire Trucks	McCall	Dodge, Type 6, 300 Gallon Water Tank, 1.5AGE Pump	$ 294,167.00	5%
BME Fire Trucks	Ponderosa	Type 6, 300 Gallon Water Tank, 1.5AGE Pump	$ 325,057.00	5%
BME Fire Trucks	Sawtooth	Type 6, 300 Gallon Water Tank, 1.5AGE Pump	$ 329,057.00	5%
BME Fire Trucks	Big Horn	Navistar, 4x4, 4-Door, Wildland Urban Interface, 750 Gallon Water Tank, 1000 GPM Pump	$ 606,667.00	5%
		Category B - Aerial Fire Apparatus		
Pierce	23A-101	Enforcer Chassis, Single Rear Axle, 75' Aerial - 1027	$ 1,436,022.00	5%
Pierce	23A-102	Enforcer Chassis, Tandem Rear Axle, PUC, 75' Aerial - 1028	$ 1,474,688.00	5%
Pierce	23A-103	Velocity Chassis, Tandem Rear Axle, 100' Aerial - 1029	$ 1,648,105.00	5%
Pierce	23A-104	Enforcer Chassis, Single Rear 107' Aerial -1030	$ 1,589,837.00	5%
Pierce	23A-105	Enforcer Chassis, Tandem Rear Axle, 107' Aerial - 1031	$ 1,699,833.00	5%
Pierce	23A-106	Velocity Chassis, Tandem Rear Axle, 105' Aerial - 1032	$ 1,646,299.00	5%
Pierce	23A-107	Velocity Chassis, Tandem Rear axle, 100' Rear mounted Platform - 1033	$ 1,912,763.00	5%
Pierce	23A-108	Velocity Chassis, Tandem Rear axle, 100' Aluminum Rear mounted Platform - 1034	$ 2,017,959.00	5%
Pierce	23A-109	Enforcer Chassis, Tandem Rear axle, mid-mounted 100' platform - 1035	$ 2,101,962.00	5%
Pierce	23A-110	Enforcer Chassis, 107' Tractor Drawn Aerial - 1036	$ 2,066,551.00	5%
Pierce	23A-111	Enforcer Snozzle - 1037	$ 1,314,701.00	5%
		Category C - Pumper Fire Apparatus		
Pierce	23P-102	Freightliner M2-106 Responder, 1000 Tank, 1250 Pump 1020	$ 397,469.04	5%
Pierce	23P-103	International 4 door 1000 tank, 1250 Pump Pumper 1026	$ 526,585.97	5%
Pierce	23P-104	Saber Pumper, 750 Tank, 1500 pump 1022	$ 881,807.87	5%
Pierce	23P-105	Enforcer Pumper 750 tank, 1500 pump 1023	$ 956,324.96	5%
Pierce	23P-106	Enforcer PUC Pumper 750 tank, 1500 pump 1024	$ 1,035,341.76	5%
Pierce	23P-107	Velocity Pumper 1025	$ 967,322.35	5%
Pierce	23P-108	Velocity PUC Pumper 1038	$ 1,049,384.90	5%
		Category D - Pumper Tanker/Tender		
Pierce	23PT-101	Freightliner 2000 Gallon Tanker - 1041	$ 511,866.00	5%
Pierce	23PT-102	International 2000 Gallon Tanker -1042	$ 498,571.00	5%
Pierce	23PT-103	Saber 2000 Gallon Tanker - 1043	$ 899,378.00	5%

DocuSign Envelope ID: 26841DC5-2E0E-4C2C-A618-8AB99F7D6207 Exhibit A

Pierce	23PT-104	Enforcer 2000 Gallon Tanker - 1044	$ 982,413.00	5%
Pierce	23PT-105	Freightliner 3000 Tandem Tanker - 1045	$ 507,344.00	5%
Pierce	23PT-106	International 3000 Tandem Tanker - 1046	$ 520,168.00	5%
Pierce	23PT-107	Saber Tandem 3000 Tanker - 1047	$ 985,111.00	5%
Pierce	23PT-108	Enforcer Tandem 3000 Tanker - 1048	$ 1,048,825.00	5%
Pierce	23PT-109	Velocity Tandem PUC 2500 Tanker - 1049	$ 1,109,887.00	5%
BME Fire Trucks	Tahoe	2000 Gallon Water Tender	$ 483,632.00	5%
BME Fire Trucks	Cascade	3000 Gallon Water Tender	$ 552,502.00	5%
BME Fire Trucks	Clearwater	Navistar, 4x4, 4-Door, 1250 Gallon Water Tank, 500 GPM Pump Extreme Water Tender	$ 533,552.00	5%
BME Fire Trucks	Mammoth	1250 Gallon Extreme Water Tender, Navistar 2-Door Cab	$ 501,135.00	5%
BME Fire Trucks	Payette	1800 Gallon Tactical Water Tender	$ 484,061.00	5%
		Category E - ARFF Vehicles		
Oshkosh - Pierce	23AR-101	Oshkosh Striker 4x4, 2-Door, Aluminum Cab, 2 Passenger Seating, Roof Turret (375/750 gpm)	$ 1,141,252.35	5%
Oshkosh - Pierce	23AR-102	Oshkosh Striker 6x6, 2-Door, Aluminum Cab, 2 Passenger Seating, Roof Turret (600/1200 gpm), bumper Turret (300 gpm), One Handline (Foam/Water), Water Tank Capacity (3000 gal.), Foam Tank Capacity (420 gal.), Fire Pump (Power divider driven Waterous CRQB, Single Stage Centrifugal, 1950 gpm at 250 psi)	$ 1,217,470.80	5%
Oshkosh - Pierce	23AR-103	Oshkosh Striker 8x8, 2-Door, Aluminum Cab, 2 Passenger Seating, Roof Turret (600/1200 gpm), bumper Turret (300 gpm), One Handline (Foam/Water), Water Tank Capacity (4500 gal.), Foam Tank Capacity (420 gal.), Fire Pump (Power divider driven Waterous CRQA, Single Stage Centrifugal, 1950 gpm at 240 psi)	$ 1,784,346.90	5%
Oshkosh - Pierce	23AR-104	Oshkosh New Generation Volterra Striker 6X6, 2-Door, Aluminum Cab, 2 Passenger Seating, Roof Turret (600/1200 gpm), bumper Turret (300 gpm), One Handline (Foam/Water), Water Tank Capacity (4500 gal.), Foam Tank Capacity (420 gal.), Fire Pump (Waterous CRQB, Single Stage Centrifugal, 1950 gpm at 250 psi), dual engine driveline	$ 2,390,151.75	5%
Oshkosh - Pierce	23AR-HS	H-Series Chassis; 2-Door, Aluminum Cab, 2 Passenger Seating, 50,000 GVWR, Single Axle	$ 713,119.00	5%
Oshkosh - Pierce	23AR-HTA	HT-Series Chassis; 2-Door, Aluminum Cab, 2 Passenger Seating, 55,000 GVWR, Single Axle	$ 624,947.00	5%
		Category F - Special Service VehiclesVehicles		
Pierce	23SS - 101	Ford F-550 Rescue 12' -1050	$ 278,709.00	5%
Pierce	23SS - 102	Enforcer NWI-Rescue - 1051	$ 975,772.00	5%
Pierce	23SS - 103	Velocity NWI-Rescue - 1052	$ 999,751.00	5%
Pierce	23SS - 104	Enforcer PUC NWI-Rescue - 1053	$ 1,252,488.00	5%
Pierce	23SS - 105	Velocity Combo-Rescue - 1054	$ 1,136,418.00	5%
Pierce	23SS - 106	Enforcer Tandem Combo - 1055	$ 1,114,686.00	5%
Pierce	23SS - 107	Velocity Alum Walk-in Rescue - 1056	$ 1,114,461.00	5%
Pierce	23SS - 108	Enforcer Stainless NWI-Rescue - 1057	$ 1,020,660.00	5%
Pierce	23SS - 109	Enforcer Walk-in - 1058	$ 1,034,340.00	5%
Pierce	23SS - 110	Velocity Tandem Walk-in - 1059	$ 1,228,431.00	5%
Frontline Communications	C-17	Mobile Command Unit, Chevrolet Suburban, 4x4, 17 feet overall length, Single axle, Gasoline	$ 196,178.00	5%
Frontline Communications	C-20	Rapid Response Command Unit, Ford Transit-350 Van, 2WD, 20 feet overall length, Single axle, Gasoline	$ 278,319.00	5%
Frontline Communications	CRU-22	Critical Response Command Unit, Ford Transit-350 High Roof Van, 2WD, 9,500 GVWR, 22 feet overall length, Single axle, Gasoline	$ 353,163.00	5%
Frontline Communications	C-23	Mobile Command Unit, Mercedes-Benz Sprinter 3500, 23 feet overall length, 2WD, Single axle, Diesel	$ 306,919.00	5%
Frontline Communications	C-25	Mobile Command Unit, Ford F-650 with custom aluminum body, 26,000 GVWR, 25 feet overall length, 2WD, Single axle, Diesel	$ 477,451.00	5%

DocuSign Envelope ID: 26841DC5-2E0E-4C2C-A618-8AB99F7D6207 Exhibit A

Frontline Communications	C-30	Mobile Command Unit, Freightliner M2-106 with custom aluminum body, 33,000 GVWR, 30 feet overall length, 2WD, Single axle, Diesel	$ 587,098.00	5%
Frontline Communications	C-35	Mobile Command Unit, Freightliner M2-106 with custom aluminum body, 33,000 GVWR, 35 feet overall length, 2WD, Single axle, Diesel	$ 669,849.00	5%
Frontline Communications	C-40	Mobile Command Unit, Freightliner M2-106 with custom aluminum body, 54,000 GVWR, 40 feet 9 inches overall length, 2WD, Dual axle, Diesel	$ 735,953.00	5%
Frontline Communications	C-40 Enforcer	Mobile Command Unit, Pierce Enforcer custom chassis with custom aluminum body, 40 feet 9 inches overall length, 2WD, Dual axle, Diesel	$ 1,546,944.00	5%
Frontline Communications	C-40 Saber	Mobile Command Unit, Pierce Saber custom chassis with custom aluminum body, 40 feet 9 inches overall length, 2WD, Dual axle, Diesel	$ 1,017,416.00	5%
Frontline Communications	C-40 Velocity	Mobile Command Unit, Pierce Velocity custom chassis with custom aluminum body, 40 feet 9 inches overall length, 2WD, Dual axle, Diesel	$ 1,259,403.00	5%
Frontline Communications	C-28T	Mobile Command Trailer - Custom aluminum body, 28 feet overall length, Dual axle	$ 308,961.00	5%
Frontline Communications	C-35T	Mobile Command Trailer - Custom aluminum "gooseneck" body, 35 feet overall length, Dual axle	$ 394,976.00	5%
Frontline Communications	C-53T	Mobile Command Trailer - Custom aluminum body, 53 feet overall length, Dual axle	$ 1,241,546.00	5%
Frontline Communications	C-RTR	Refurb/Technology Refresh Command Vehicle - Customer-furnished vehicle, refurbish interior and/or exterior, upgrade technology	$ 292,975.00	5%
BME Fire Trucks	Sequioa	10 Man Crew Carrier Vehicle	$ 378,634.00	5%
		Category G - Fire/Rescue Boats		
Lake Assault Boats	23LAB - 101	LAB 21' Landing Craft, 8.5' beam, T-top, Emergency light bar, siren, 12" Sonar GPS Chartplotter, Scene lights, Trailer.	$ 215,210.34	5%
Lake Assault Boats	23LAB - 102	LAB 22' RHIB, 8.5' beam, T-top, emergency light bar, 10" sonar GPS chartplotter, Trailer	$ 200,093.94	5%
Lake Assault Boats	23LAB - 103	LAB 24' V-hull, 8.5' beam, T-top, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer	$ 220,506.78	5%
Lake Assault Boats	23LAB - 104	LAB 24' Landing Craft, 8.5' beam, T-top, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer.	$ 229,419.30	5%
Lake Assault Boats	23LAB - 105	LAB 26' V-hull, 9.5' beam, T-top, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer.	$ 243,629.40	5%
Lake Assault Boats	23LAB - 106	LAB 26' Landing Craft, 9.5' beam, T-top, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer	$ 248,141.52	5%
Lake Assault Boats	23LAB - 107	LAB 28' V-hull, 9.5' beam, walk-a-round pilot house, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer.	$ 287,850.00	5%
Lake Assault Boats	23LAB - 108	LAB 28' Landing Craft, 9.5' beam, walk-a-round pilot house, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer.	$ 288,978.60	5%
Lake Assault Boats	23LAB - 109	LAB 32' V-hull, 10.5' beam, walk-a-round pilot house, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer.	$ 317,508.24	5%
Lake Assault Boats	23LAB - 110	LAB 32' Landing Craft, 10.5' beam, walk-a-round pilot house, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer.	$ 319,320.84	5%
Lake Assault Boats	23LAB - 111	LAB 36' V-hull, 10.5' beam, full-width pilot house, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer.	$ 345,141.84	5%
Lake Assault Boats	23LAB - 112	LAB 36' Landing Craft, 10.5' beam, full-width pilot house, emergency light bar, siren, 12" sonar GPS chartplotter, scene lights, Trailer.	$ 347,739.90	5%
		Category H - Command Vehicles		
Chevrolet (Sterling McCall)	1500 PU	2023 Chevrolet Silverado 1500 2WD Crew Cab Custom/Work Truck Short Bed	$ 53,613.00	5%
Chevrolet (Sterling McCall)	2500PU	2023 Chevrolet Silverado 2500 2WD Crew Cab Custom/Work Truck Short Bed	$ 56,975.00	5%
Chevrolet (Sterling McCall)	Tahoe PPV	2023 Chevrolet Tahoe 2WD 5.3L V8	$ 57,680.00	5%
Chevrolet (Freedom)	Tahoe	Chevrolet Tahoe, 4X2	$ 57,540.00	5%
Chevrolet (Freedom)	Tahoe	PPV Tahoe, standard colors, 4X2	$ 58,065.00	5%
Chevrolet (Freedom)	Tahoe	PPV Tahoe, standard colors, 4X4	$ 63,000.00	5%
Chevrolet (Freedom)	Tahoe	SSV Tahoe, standard colors, 4X2	$ 56,700.00	5%
Chevrolet (Freedom)	Pick-up	SSV Tahoe, standard colors, 4X4	$ 61,950.00	5%
Chevrolet (Freedom)	Pick-up	1500 Crew Cab, standard colors, 4X2	$ 51,135.00	5%
Chevrolet (Freedom)	Pick-up	1500 Crew Cab, standard colors, 4X4	$ 56,700.00	5%
Chevrolet (Freedom)	Pick-up	2500 Crew Cab, standard colors, 4X2	$ 58,065.00	5%
Chevrolet (Freedom)	Pick-up	2500 Crew Cab, standard colors, 4X4	$ 63,000.00	5%
Chevrolet (Freedom)	Pick-up	2500 Crew Cab, standard colors, 4X4, Diesel	$ 82,845.00	5%
Chevrolet (Freedom)	Pick-up	5500 Regular cab, standard colors, 4X2, Amb Prep	$ 83,580.00	5%
Chevrolet (Freedom)	Suburban	Chevrolet Suburban 4X2	$ 61,635.00	5%
Dodge (Freedom)	Passenger	Dodge Charger Pursuit V8, 4X2	$ 40,845.00	5%
Dodge (Freedom)	Passenger	Dodge Charger Pursuit V6, AWD	$ 41,685.00	5%
Dodge (Freedom)	SUV	Dodge Pursuit Durango V6 AWD	$ 48,300.00	5%

DocuSign Envelope ID: 26841DC5-2E0E-4C2C-A618-8AB99F7D6207 Exhibit A

Dodge (Freedom)	SUV	Dodge Pursuit Durango V8 AWD	$ 51,135.00	5%
Ford (Freedom)	SUV	Ford Explorer Police Pkg, AWD	$ 48,615.00	5%
Ford (Freedom)	SUV	Ford Explorer Police Pkg, AWD, Ecoboost	$ 52,815.00	5%
Ford (Freedom)	SUV	Ford Expedition, 4X2	$ 61,845.00	5%
Ford (Freedom)	SUV	Ford Expedition, 4X4	$ 66,150.00	5%
Ford (Freedom)	SUV	Ford Expedition, 4X2, SSV	$ 59,850.00	5%
Ford (Freedom)	SUV	Ford Expedition, 4X4, SSV	$ 61,110.00	5%
Ford (Freedom)	SUV	Ford Expedition Max 4X2	$ 62,685.00	5%
Ford (Freedom)	SUV	Ford Expedition Max 4X4	$ 65,835.00	5%
		Category J - Service/Maintenance Plans		
Oshkosh	ARFF Warranty	Multiple plans available by model - see Siddons-Martin Warranty/Service Table		
Frontline Communications	Vehicle Warranty	Multiple plans available by model - see Siddons-Martin Warranty/Service Table		
BME	Vehicle Warranty	Multiple plans available by model - see Siddons-Martin Warranty/Service Table		
Pierce Manufacturing	Vehicle Warranty	Multiple plans available by model - see Siddons-Martin Warranty/Service Table		

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a Resolution awarding RFQ 24-0028 Stormwater Management Services to Freese and Nichols, Inc. through the City's competitive qualifications process for stormwater management program services and authorizing a contract for a one-year term with the option to renew for up to four additional one-year terms for a total contract amount not to exceed $395,507.00, subject to the exercise of contract renewals and City Council appropriation.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Develop: Infrastructure Improvement Strategy**
  - **Ensure the viability and adaptability of the city's infrastructure, facilities, and transportation network through thoughtful financial and long-term planning.**

STAFF RESPONSIBLE:
Matt Bryant, Director of Public Works
Shahad Mohammed, Assistant Director of Public Works

BACKGROUND/HISTORY:
The U.S. Environmental Protection Agency established the National Pollutant Discharge Elimination System (NPDES) program in 1972 to identify water pollution sources and to reduce/eliminate those pollutants. Responsibility for administering the NPDES program in Texas has been delegated to the Texas Commission on Environmental (TCEQ). The City of Duncanville is subject to the TCEQ Texas Pollutant Discharge Elimination System (TPDES) General Permit requirements. This sets the requirements and conditions for stormwater discharges from a small (based on population size) municipal separate storm sewer system (MS4), such as Duncanville, to the surface waters in Texas.

The City has developed and implemented a stormwater management program (SWMP) to comply with the TPDES Permit, initially issued in August 2007 and as periodically amended by the State. This document describes the City's stormwater management program to protect water quality from stormwater runoff. It serves as the City's documentation of intended compliance with the current TPDES Small MS4 General Permit.

To comply with the TCEQ TPDES General Permit, the City of Duncanville Public Works Department requires a consultant's assistance to develop and implement a regulatory-compliant SWMP.

POLICY EXPLANATION:
RFQ 24-0028 Stormwater Management Services was advertised via Focus Daily News on July 30, 2024, and August 6, 2024. The request was also publicized through the notification system for PublicPurchase.com. The components of the RFQ are outlined in Attachment 1.

Two firms (Freese and Nichols, Inc. and LJA Engineering, Inc.) submitted Statements of Qualifications (SOQs) in response to the RFQ. Each SOQ was reviewed based on the evaluation criteria (see Attachment 2), as identified in the RFQ. Freese and Nichols, Inc. was determined to be the most qualified firm.

City Council is requested to approve a contract with Freese and Nichols not exceeding $395,507.00. The estimated expenditures per fiscal year are $181,000.00 for FY2025-2026 and $215,507.00 spread over fiscal years 2026-2027 through 2029-2030, subject to future appropriations, as outlined below. This authorization should cover all needed stormwater management services for the next five years. FYs 2027-2028 through 2029-2030 include an approximate 5% increase over the previous year to accommodate any price escalations that may arise throughout the contract's life.

FY2025-2026: $181,000.00
FY2026-2027: $50,000.00
FY2027-2028: $52,500.00
FY2028-2029: $55,125.00
FY2029-2030: $57,882.00

The breakdown of services provided is as follows:

*Task A: SWMP Development ($24,000.00)
*Task B: SWMP Standard Operating Procedures Development ($10,500.00)
Task C: SWMP Routine Meetings ($5,600.00)
Task D: SWMP Annual Reporting ($5,200.00)
Task E: SWMP Implementation Support ($77,200.00)
Task F: Dry Weather Outfall Screenings ($58,500.00)

Services marked with an asterisk are billed as a lump sum, while all other services are invoiced hourly. The costs for all hourly services are estimates and will not exceed the listed amounts.

The agreement's first year will focus on developing the SWMP program (Tasks A through E). In contrast, subsequent years will primarily involve the firm assisting the City in ensuring compliance with our SWMP program and completing the annual reports to the TCEQ (Tasks C through E). Task F (Dry Weather Outfall Screenings) is an optional service, and it will be determined later whether this service is warranted for our municipality.

FUNDING SOURCE:

ORG and Object Number
15000100-708103 (Drainage Admin/Professional Fees)

Available Budget	**Purchase Amount**	**After Encumber**
$181,000.00	$181,000.00	$0.00

ACTION ALTERNATIVES:

1. Approve.
2. Disapprove.
3. Other actions as directed by Council.

ATTACHMENTS:

Attachment 1 - Scope of Services
Attachment 2 - Evaluation Procedures
Resolution No. - 2025-403 - Stormwater Consultant Services RFQ Award with Exhibit

beyond the end of the fiscal year for which funds were appropriated (related to a subsequent fiscal year).

V. Right of Retention

The City of Duncanville reserves the right to retain all Qualifications submitted and to use any ideas in a Statement of Qualification regardless of whether that Statement of Qualification is selected. Submission of a Statement of Qualification indicates acceptance by the firm of the conditions contained in this Request for Qualifications, unless clearly and specifically noted in the statement submitted and confirmed in the contract between the City of Duncanville and the firm selected.

W. Award

The Duncanville City Council is anticipated to award the contract for **Texas Pollutant Discharge Elimination System (TPDES) Municipal Separate Storm Sewer System (MS4) permit** in **September 2024** or as soon thereafter as possible.

SECTION 3- SCOPE OF SERVICES REQUIRED

1. SCOPE OF WORK

A. The Consultant should thoroughly understand stormwater issues specific to the City of Duncanville and the strengths and weaknesses of the current SWMP.

B. Evaluate the SWMP relative to the City's MS4 Permit requirements and the potential to increase efficiency in City services.

C. The services the Consultant provides shall include activities that directly support any required permit or SWMP work performed by City staff. These activities are broadly defined and may be revised based on future needs. The work to be completed under this contract shall include, but is not limited to, the following list of assignments.

1. Prepare Annual Report
2. Recommend and implement changes to SWMP as needed
3. Attend routine meetings with city staff to report progress updates
4. Attend, prepare for, and assist at meetings and/or conferences on the MS4 program
5. Perform facility regulatory review annually
6. Conduct dry weather screening for illicit discharge detection and elimination per SWMP requirements
7. Perform grab sampling and laboratory testing when called upon by City personnel when possible illicit discharges are identified
8. Prepare maps of inspections, activities performed, locations of facilities, etc., in conjunction with the Public Works Department
9. Have the capability to provide technical training to City staff, if needed
10. Advise on City ordinance revisions, if needed
11. Provide continued litter prevention technical assistance as needed
12. Conduct a minimum of two (2) internal audits of City departments for compliance

13. Provide technical assistance to City inspection staff for source tracing of IDDEs and/or general stormwater inspections, as needed
14. Maintain and update master tracking spreadsheets, inspection reporting forms, etc. for City staff
15. Provide technical assistance and preparations to the City for the MS4 Permit audit from TCEQ

D. The selected firm may be called upon to provide additional services outside the Scope of Work. The city will request the services in writing, and the selected firm will be asked to provide hourly rates plus an estimate of the time needed to complete the task(s).

E. Potential Responsibilities and Desired Qualities

The selected firm must:

1. Develop trust and confidence among city staff. Attention to detail, organization, and time management skills are fundamental requirements for serving as the city's Stormwater Management Consultant
2. Demonstrate thorough knowledge of stormwater issues, including environmental engineering and MS4 general permit practices and the applicable codes, standards, and regulations (federal, state, and local)
3. Exhibit excellent written and oral communication skills
4. Possess experience working with Stormwater Management Programs along with experience working with TCEQ on these programs

2. PROJECT APPROACH AND METHODOLOGY

Prepare a description of the Respondent's technical approach to completing the items identified in the Scope of Work. Specifically, address the following:

A. Methods the Respondent would use to coordinate the work with City staff
B. The complexity, challenges, and problems involved in performing that work
C. Approaches and philosophy for dealing with problems
D. Sensitivity and experience dealing with critical issues
E. Any additional issues or matters relating to the Scope of Work which the Respondent believes should be addressed
F. Project schedule for Scope of Work

3. EXPERIENCE AND BACKGROUND

Firms interested in performing the work will be considered based on a written response to the RFQ. All applicants must submit their qualifications and list prior experience with similar projects. The following must be submitted in written form:

A. Statement of registration of the firm, including a general description of the firm, including but not limited to services offered, number of employees, office locations, and years in business

B. Include an organizational chart of the project team showing lines of communication, clearly defined roles, availability, and decision-making hierarchy

C. Statement on professional standing, including any pending controversies (if none exists, such a statement should be made)
D. Provide past projects that demonstrate experience and ability to provide stormwater management services for which the proposed project key personnel were vital, including:
    1. Project name and description of the work, the client for whom the work was performed, the location of the job, and dates of performance.
    2. Provide client reference with name, position, address, and telephone number.
    3. Total contract gross amount (and firm amount, if different)
    4. Key design staff (principal, day-to-day project manager, key technical staff, etc.)
    5. Describe the proposed vs. actual schedule and budget.
    6. Date completed.
    7. Include any examples of municipalities or similarly situated entities in Texas that your firm has served as the Stormwater Management Consultant for the MS4 program, specifically:
        a. Experience representing MS4 entities working with TCEQ
        b. Experience assisting entities with developing/managing MS4 SWMPs
        c. Experience assisting entities with completing TCEQ MS4 audits
        d. Do not include projects for which key project personnel are no longer employed with the firm. Projects in this section should only be listed if the proposed key personnel for this project performed the work.
E. Statement of experience within the local jurisdiction and knowledge of local standards and specifications.
F. Statement of adequacy and availability, in both number and quality of remaining staff, to perform all other functions needed for the proposed services.
G. List of qualified personnel in other disciplines required for proposed services, both in-house and those to be acquired from outside sources, as well as their experience.
H. Statement on whether the firm operates on a sound fiscal basis.
I. Statement of where the work will be accomplished. Each respondent must either:
    1. Have an office in the Dallas Fort Worth Metroplex or
    2. Demonstrate that the respondent can substantially undertake production of the work without a DFW office. As a rule, travel-related expenses to and from DFW will not be reimbursed.
J. Describe the method by which the respondent and the city mutually agree upon a change in personnel should a change become necessary.

4. **PROJECT TEAM/LEVEL OF PARTICIPATION**

The statement of interest shall provide the following information so that the evaluation team and city personnel can understand it.
A. Identify key project team members responsible for leading main project tasks, including sub-consultants.
B. Statement of the names and duties of the individuals involved in this project (when performing professional services) and their applicable experience.
C. Statements of qualifications of individuals who will perform professional work.
D. Include the percentage of time that each member is expected to commit to the project.

E. Submit detailed resumes for the proposed project manager and key staff personnel, including key personnel of sub-consultants.
   1. Include a description of their qualifications and experience and a description of their position and length of employment with the respondent or sub-consultant.

F. Key personnel identified in this proposal will be expected to remain assigned to this project for the term of the agreement and to be replaced only with the mutual consent of the respondent and the city.

5. CADD/GIS REQUIREMENTS

All project record drawings submitted by the Consultant to the City shall be provided in a format per the City of Duncanville CADD and GIS standards and submitted on appropriate electronic media as specified by the City. The Respondent shall describe and demonstrate the firm's existing CADD and GIS methods and experience using CADD and ESRI systems.

6. OTHER CITY ORDINANCES AND POLICIES

Respondents should familiarize themselves with pertinent ordinances, policies, and executive orders related to stormwater management and contracting with the City.

7. ADDITIONAL INFORMATION

The respondent is invited to describe any aspects of its organization or proposal which, by way of background, experience, unique qualifications, or other basis, sets it apart from the competition in its ability to accomplish this particular scope of work.

8. FEE STRUCTURE

Respondent should describe its fee structure and supply a schedule of hourly rates for staff by position and reimbursable costs. The material presented in the proposal to address the above topics is expected to reflect qualifications demonstrating the consultant's knowledge, experience, and ability to provide stormwater management services.

SPACE INTENTIONALLY LEFT BLANK

REQUEST FOR QUALIFICATIONS
ISSUED BY
THE CITY OF DUNCANVILLE
PROCUREMENT AND CONTRACTING OFFICE, FISCAL SERVICES DEPARTMENT

SECTION 5- EVALUATION PROCEDURES

A. Professional Services Selection Committee

Statement of Qualifications will be reviewed by an evaluation team for the purpose of identifying and recommending the firm that offers, in total, the highest qualifications and experience with this type of project.

B. Review of Statements

The Evaluation Selection Committee will review all statements for technical scoring, and compliance with RFQ requirements.

The City of Duncanville reserves the right to retain all statements submitted and use any idea in a statement regardless of whether that statement is selected.

C. Evaluation Criteria

An evaluation team will thoroughly review submittals received, and responses will be considered in the following categories:

A. **Cover Letter/Comprehensive Team (5%)**
1. Completeness of information on the proposed project team
2. Conciseness and ingenuity of the statement of approach
3. Timeliness of approach

B. **Project Approach & Methodology (20%)**
1. Strategy for working with MS4 programs in Texas
2. Demonstrated methods for effective communication in public education and public outreach in MS4 programs in Texas during project development
3. Strategy for completing the work promptly

C. **Experience and Background (65%)**
1. Demonstrated experience representing MS4 entities working with TCEQ (key team members)
2. Demonstrated experience assisting entities with developing/managing MS4 SWMPs (key team members)
3. Demonstrated experience assisting entities in completing TCEQ MS4 audits (key team members)
4. Demonstrated team experience in completing projects of scale and complexity, from project beginning to completion and assessment, on budget and schedule
5. Diversity of expertise of key team members

D. **Project Team/Level of Participation (10%)**
1. Roles, availability, and time allocation of key project team members are clearly defined and reasonable.
2. Provided an organizational chart of key project team members that delineates roles/responsibilities, lines of communication, and decision-making hierarchy

D. Final Selection

The Evaluation Selection Committee will review all statements and recommend to the City Council the highest-ranked Statement of Qualifications received for consideration and/or approval; however, the City Council may select a Professional firm other than the one recommended.

A Professional firm is anticipated to be selected in **September 2024** at a city council meeting. Following notification of the selected firm, a contract is expected to be executed between both parties immediately thereafter.

E. Right to Reject Statements

Submission of a statement of qualifications indicates acceptance by the Professional firm of the conditions contained in this Request for Qualifications unless clearly and specifically noted in the statement submitted. The City of Duncanville reserves the right without prejudice to reject any or all statements.

F. Interviews

The City reserves the right to hold interviews. The City of Duncanville will select the qualified Professional firm based on proposals submitted.

(S***PACE INTENTIONALLY LEFT BLANK)***

RESOLUTION NO. 2025-403

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AWARDING RFQ 24-0028 STORMWATER MANAGEMENT SERVICES TO FREESE AND NICHOLS, INC. THROUGH THE CITY'S COMPETITIVE QUALIFICATIONS PROCESS FOR STORMWATER MANAGEMENT PROGRAM SERVICES AND AUTHORIZING A CONTRACT FOR A ONE-YEAR TERM WITH THE OPTION TO RENEW FOR UP TO FOUR ADDITIONAL ONE-YEAR TERMS FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED $395,507.00, SUBJECT TO THE EXERCISE OF CONTRACT RENEWALS AND CITY COUNCIL APPROPRIATION; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS RELATED TO SAID EXPENDITURES; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Duncanville, Texas, desires to continue its commitment to protecting water quality from stormwater runoff; and

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) administers the National Pollutant Discharge Elimination System program in the state of Texas; and

WHEREAS, it is necessary to procure Stormwater Management Program consulting services to assist the Public Works Engineering Division in complying with the requirements of the TCEQ Texas Pollutant Discharge Elimination System (TPDES) program; and

WHEREAS, the City advertised and received Statements of Qualifications for stormwater management services and recommends the award of RFQ 24-0028 to Freese and Nichols, Inc. as the most qualified of the respondents; and

WHEREAS, the City Council of the City of Duncanville, Texas, desires to award RFQ 24-0028 Stormwater Management Services and authorize a contract with Freese and Nichols, Inc. for Stormwater Program Management services and authorize a contract for a one-year term with the option to renew for up to four additional one-year terms for a total contract amount not to exceed $395,507.00, subject to the exercise of contract renewals and City Council appropriation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of the City of Duncanville, Texas, hereby awards RFQ 24-0028 Stormwater Management Services and authorizes a contract with Freese and Nichols, Inc. for Stormwater Program Management services for a one-year term with the option to renew for up to four additional one-year terms for a total contract amount not to exceed $395,507.00, subject to the exercise of contract renewals and City Council appropriation.

SECTION 2. This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

Exhibit A

RFQ 24-0028 STORMWATER MANAGEMENT SERVICES

Evaluation Sheet

DESCRIPTION OF FACTORS	MAXIMUM SCORE	Freese and Nichols, Inc. Fort Worth, TX	LJA Engineering, Inc. Ft. Worth, TX
Did the firm meet the mandatory minimum requirements?	YES / NO	Yes	Yes
TECHNICAL QUALIFICATIONS			
A. Cover Letter/Comprehensive Team 1. Completeness of information on the proposed project team 2. Conciseness and ingenuity of the statement of approach 3. Timeliness of approach	5	**5**	**4.333333333**
B. Project Approach & Methodology 1. Strategy for working with MS4 programs in Texas 2. Demonstrated methods for effective communication in public education and public outreach in MS4 programs in Texas during project development 3. Strategy for completing the work promptly	20	**18**	**17.66666667**
C. Experience and Background 1. Demonstrated experience representing MS4 entities working with TCEQ (key team members) 2. Demonstrated experience assisting entities with developing/managing MS4 SWMPs (key team members) 3. Demonstrated experience assisting entities in completing TCEQ MS4 audits (key team members) 4. Demonstrated team experience in completing projects of scale and complexity, from project beginning to completion and assessment, on budget and schedule 5. Diversity of expertise of key team members	65	**61.33333333**	**52.33333333**
D. Project Team/Level of Participation 1. Roles, availability, and time allocation of key project team members are clearly defined and reasonable 2. Provided an organizational chart of key project team members that delineates roles/responsibilities, lines of communication, and decision-making hierarchy	10	**8.666666667**	**7.333333333**
	100	**93**	**81.66666667**
	RANKING:	**1**	**2**

Comments regarding the award score, if any:	Freese & Nichols - more staff availability, more MS4 experience with other municipalities, and great past performance with the City of Duncanville
	Both firms meet requirements and provided great responses.

Evaluator's Name: Breanna Davis, Executive Assistant

Evaluator's Name: Joel Daugherty, Utilities Superintendent

Evaluator's Name: Shahad Mohammed, Assistant Director of Public Works

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a Resolution awarding RFQ 25-0001 On-Call Traffic Engineering Services and authorizing indefinite-delivery/indefinite-quantity master service agreements with the firms outlined in Exhibit A to provide traffic engineering services to the City of Duncanville for a one-year term with the option to renew for up to four additional one-year terms, not exceeding a total contract amount of $300,000.00 per firm over the three years, subject to the exercise of contract renewals and City Council appropriation.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Develop: Infrastructure Improvement Strategy**
  - **Ensure the viability and adaptability of the city's infrastructure, facilities, and transportation network through thoughtful financial and long-term planning.**

STAFF RESPONSIBLE:
Matt Bryant, Director of Public Works
Shahad Mohammed, Assistant Director of Public Works

BACKGROUND/HISTORY:
The Traffic Operations Division of the City of Duncanville's Public Works Department is responsible for maintaining the city's traffic operations infrastructure, including the signalized intersections. External traffic engineering services are required to support this initiative and have been utilized for over thirty years. A Request for Qualifications for traffic engineering services was advertised in the Fall of 2024.

POLICY EXPLANATION:
RFQ 25-0001 On-Call Traffic Engineering Services was advertised via Focus Daily News on September 24, 2024, and October 1, 2024. The proposal request was also publicized through the notification system for PublicPurchase.com. The evaluation criteria for the RFP included the following:

- Firm's past experience and performance (30 points)
- Project team (20 points)
- Firm's experience with federal, state, EPA, or TWDB grant funding and knowledge of regulations (20 points)

- Ability to perform additional services (20 points)
- Applicable references (10 points)

Five proposals were received in response to the request for proposals. Based on the rating criteria, the firms listed in Exhibit A to the Resolution have been prequalified. Inclusion in the list does not guarantee that a respondent will receive work.

Staff requests the City Council's authorization of indefinite-delivery/indefinite-quantity master service agreements with the firms outlined in Exhibit A to provide traffic engineering services to the City of Duncanville. Indefinite-delivery/indefinite-quantity agreements are being requested as no specific scope of work has yet been outlined. Services under these agreements will be ordered as needed based on the agreement terms.

Per the Procurement Office's guidance, the City will follow the steps outlined below for projects:

Project(s) Valued at $250K or Greater

1. Any Project valued at $250K or greater shall be procured with a competitive solicitation Request for Qualifications (RFQ).
2. The Project will be procured in compliance with TGC 2254 (Professional Services Procurement Act) and submitted to the City Council for award.

Project(s) Valued Less Than $250K

1. Following an award from the City Council, a list of firms will be available to staff to utilize for projects less than $250K
2. Each firm awarded by the City Council shall receive a contract and provide the city with a standard rate sheet.
3. Staff shall utilize the "approved list" of firms for award consideration.
    a. Each project shall be submitted to the list of "approved" firms in a written request format to determine availability and interest
    b. City Staff shall adequately describe the project.
    c. The written request for availability and interest shall have a response timeline of at least seven calendar days before the response is due.
    d. At the end of the response due period, staff shall assemble all responses and request assistance from Procurement and Contracting Services.
    e. An evaluation of the firms that have responded shall be conducted and documented.
    f. The highest ranked respondent firm shall be contacted in written form with notification of a request for scope, deliverables, timeline, and pricing.
    g. Provided the pricing is acceptable and within budget, the staff may proceed to acceptance.
    h. Staff shall submit a requisition citing the contract number, scope, deliverables, timeline, and pricing.
4. No firm from the awarded list shall exceed the not-to-exceed amount approved by the City Council, collectively or with an individual award.
5. Staff shall strictly follow the requirements of Texas Government Code 2254 (Professional Services Procurement Act) at all times.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	**Purchase Amount**	**After Encumber**
N/A	N/A	N/A

ACTION ALTERNATIVES:

1. Approve.
2. Disapprove.
3. Other actions as directed by Council.

ATTACHMENTS:

Resolution No. - 2025-406 - On-Call Traffic Engineering Services RFP Award with Exhibit

RESOLUTION NO. 2025-406

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AWARDING RFQ 25-0001 ON-CALL TRAFFIC ENGINEERING SERVICES THROUGH THE CITY'S COMPETITIVE QUALIFICATIONS PROCESS AND AUTHORIZING INDEFINITE-DELIVERY/INDEFINITE QUANTITY MASTER SERVICE AGREEMENTS WITH THE FIRMS OUTLINED IN EXHIBIT A TO PROVIDE TRAFFIC ENGINEERING SERVICES TO THE CITY OF DUNCANVILLE FOR A ONE-YEAR TERM WITH THE OPTION TO RENEW FOR UP TO FOUR ADDITIONAL ONE-YEAR TERMS, NOT EXCEEDING A TOTAL CONTRACT AMOUNT OF $300,000.00 PER FIRM OVER THE FIVE YEARS SUBJECT TO THE EXERCISE OF CONTRACT RENEWALS AND CITY COUNCIL APPROPRIATION; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE THE NECESSARY DOCUMENTS TO CONFORM TO THIS RESOLUTION AS APPROPRIATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Duncanville, Texas, desires to continue its commitment to ensuring the reliability of its traffic infrastructure; and

WHEREAS, the City advertised and received Statements of Qualifications for traffic engineering services per RFQ 25-0001 and recommends awarding future traffic engineering services contracts to highly qualified firms; and

WHEREAS, the City Council of the Duncanville, Texas, desires to award RFQ 25-0001 On-Call Traffic Engineering Services and authorize indefinite-delivery/indefinite-quantity master service agreements with the firms outlined in Exhibit A to provide traffic engineering services to the City of Duncanville for a one-year term with the option to renew for up to four additional one-year terms, not exceeding a total contract amount of $300,000.00 per firm over the three years, subject to the exercise of contract renewals and City Council appropriation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of Duncanville, Texas, hereby awards RFQ 25-0001 On-Call Traffic Engineering Services and authorizes indefinite-delivery/indefinite-quantity master service agreements with the firms outlined in Exhibit A to provide traffic engineering services to the City of Duncanville for a one-year term with the option to renew for up to four additional one-year terms, not exceeding a total contract amount of $300,000.00 per firm over the three years, subject to the exercise of contract renewals and City Council appropriation.

SECTION 2. This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

Exhibit A

RFQ 25-0001 ON CALL TRAFFIC ENGINEERING SERVICES

Evaluation Sheet - Traffic Engineering

DESCRIPTION OF FACTORS	MAXIMUM SCORE	Gerry De Camp Engineering	Halff Associates	DeShazo Group	Gresham Smith Engineering	Lee Engineering
Date / Time of Second Round Interview						
Did the Firm meet the Mandatory minimum requirements?	YES / NO	Yes	Yes	Yes	Yes	Yes
TECHNICAL QUALIFICATIONS						
1) The professional firm's past experience and performance on comparable government projects demonstrate successful delivery of services to meet the Scope of Services	30	**30**	**29**	**28**	**28**	**29**
2) The quality of the Respondent firm's professional personnel (Project Team) to be assigned to the engagement and the quality of the Respondent firm's management support personnel to be available for technical consultation.	20	**20**	**19**	**19**	**20**	**19**
3) Experience obtaining and working with Federal/State/EPA/ or TWDB grant funding for Governmental Projects. Knowledge of applicable Local, State, and Federal regulations regarding the successful delivery of the services identified in the Scope of the Project.	20	**20**	**20**	**20**	**19**	**19**
4) Ability to perform additional services, adequacy of administrative controls, and the capacity to provide technical support throughout the Project term. Knowledge of local issues in the City of Duncanville, and the surrounding Region.	20	**19**	**19**	**18**	**18**	**18**
5) Submission of applicable references (from your submission of projects completed)	10					
		89	**87**	**85**	**85**	**85**
	RANKING:	**1**	**2**	**3**	**3**	**3**

Comments regarding the award score, if any:

1.) Gerry De Camp Engineering has 38 years of experience with the City of Duncanville.

2.) All the remaining qualifying firms were at or above the ranking threshold to qualify for consideration.

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider adopting the Complete Streets Policy.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Develop: Infrastructure Improvement Strategy**
  - **Ensure the viability and adaptability of the city's infrastructure, facilities, and transportation network through thoughtful financial and long-term planning.**
- **Promote: Innovative Ideas for Development and Re-development**
  - **Pursue a diverse and robust economy through various business, housing, and employment opportunities that encourage forward-thinking community and economic development.**
- **Re-Imagine: High Quality of Life**
  - **Develop, maintain, and encourage safe, attractive, viable family-oriented neighborhoods that embrace diversity and pride, promoting economic vitality.**

STAFF RESPONSIBLE:
Douglas Finch, City Manager
Sofine Lewis, Executive Liaison to the City Manager
Shahad Mohammed, Assistant Director, Public Works
Matt Bryant, Public Works Director

BACKGROUND/HISTORY:
City Council was briefed on a formal Complete Streets Policy proposal at the January 7, 2025, City Council meeting. Residents have recently requested that the City Council consider incorporating bike lanes and other traffic calming measures for street improvements. Additionally, the City of Duncanville currently lacks a comprehensive design criteria manual for street construction or improvements, though Public Works staff will soon be recommending the development of such a manual. The adoption of the Complete Streets Policy will serve as a first step toward creating a more inclusive, multimodal transportation network that better meets the needs of all road users.

POLICY EXPLANATION:
The proposed Complete Streets Policy encourages the consideration of complete street features during street reconstruction or major improvements. Still, it does not mandate that every street be treated as a 'Complete Street.' The policy aims to enhance the safety and accessibility of Duncanville's roadways by integrating features like bike lanes, narrower travel lanes for traffic calming, and improved pedestrian infrastructure. Specifically, the policy calls for the consideration of narrowing travel lanes when possible to reduce vehicle speeds and improve safety through traffic calming measures. Additionally, it emphasizes the inclusion of safe, dedicated bicycle lanes to encourage cycling and enhance overall transportation accessibility. By future implementation through development and redevelopment regulation, the City of Duncanville seeks to promote a safer, more walkable, and bike-friendly environment while supporting a sustainable transportation network that benefits residents and visitors alike. The Complete Streets Policy aligns with the City's broader goals of enhancing quality of life, supporting healthy lifestyles, and fostering sustainable urban development.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	**Purchase Amount**	**After Encumber**
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
1. Approve the implementation of the Complete Streets Policy.
2. Do not approve the implementation of the Complete Streets Policy.
3. Other actions as directed by Council.

ATTACHMENTS:
Resolution No. - 2025-411 - Complete Streets Policy - Pdf
Complete Streets Policy

RESOLUTION NO. 2025-411

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO CREATE A COMPLETE STREETS POLICY AND AUTHORIZING THE CITY MANAGER TO DETERMINE WHICH ENTITY IS RESPONSIBLE FOR THE IMPLEMENTATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Complete Streets Policy is committed to creating a transportation network that serves all users, including pedestrians, cyclists, motorists, and public transportation riders.

WHEREAS, A "Complete Street" is a comprehensive transportation facility that is designed and operated to safely accommodate and improve mobility for all users of the road, regardless of age, ability, or mode of transportation.

WHEREAS, To achieve the objectives of Complete Streets, various traffic calming measures will be utilized in the design and improvement of streets. These measures will address both the physical configuration of the roadway and the psychological response of drivers.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council hereby authorizes the creation of a Complete Streets Policy; and providing an effective date.

SECTION 2. The City Manager is authorized to determine which entity is responsible for the implementation of Complete Streets Policy.

SECTION 3. This Resolution shall become effective immediately following its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

City of Duncanville Complete Streets Policy

Purpose:

The City of Duncanville is committed to creating a transportation network that serves all users, including pedestrians, cyclists, motorists, and public transportation riders. The goal is to foster a safe, efficient, and accessible environment for everyone. This Complete Streets and Traffic Calming Policy provides guidelines, rather than mandates, to ensure that all street construction, reconstruction, and major improvements are designed to accommodate a diverse range of users, improve safety, reduce traffic speeds, and enhance the overall quality of life for residents and visitors.

Definition of Complete Streets:

A "Complete Street" is a comprehensive transportation facility that is designed and operated to safely accommodate and improve mobility for all users of the road, regardless of age, ability, or mode of transportation. This includes pedestrians (both those walking and those using wheeled devices such as wheelchairs or motorized scooters), cyclists, motorists, and public transportation users. Complete Streets aim to offer a variety of transportation options, reduce reliance on single-occupancy vehicles, improve overall community health and safety, and enhance quality of life.

Policy Framework:

1. **Planning for Complete Streets:**

At the time of any city street reconstruction or major improvements, the City will consider the redesign of the street as a Complete Street. This includes integrating appropriate infrastructure for pedestrians, cyclists, public transportation, and vehicles. Specifically, when feasible, the City will prioritize the following traffic calming measures to reduce vehicle speeds, increase safety for non-motorized users, and improve the street's overall environment:

    - **Consideration of narrowing travel lanes to ten feet** where possible and in accordance with site design criteria, as a traffic calming measure to slow vehicle speeds and improve safety for all users.
    - **Integration of pedestrian and bicycle lanes**, ensuring that these modes of transportation are prioritized and safely accommodated.

2. **Traffic Calming Techniques:**

To achieve the objectives of Complete Streets, various traffic calming measures will be utilized in the design and improvement of streets. These measures will address both the physical configuration of the roadway and the psychological response of drivers. The following traffic calming techniques are endorsed as part of the Complete Streets policy:

- **Horizontal Deflection:** These measures create shifts in the road alignment, forcing drivers to slow down to navigate turns or curves comfortably. Examples include chicanes and pinchpoints.
- **Vertical Deflection:** Changes in the road's elevation force drivers to reduce speed. Examples include speed humps, speed cushions, and speed tables, which are particularly effective in residential areas.
- **Street Width Reduction:** Narrowing vehicle lanes forces drivers to slow down for safety. This can also create more space for bicycle lanes, sidewalks, and green infrastructure. Road narrowing, such as through the addition of on-street parking or the reduction of lane widths, will be prioritized in appropriate areas.
- **Routing Restrictions:** Measures such as partial street closures, diverters, or chokers will be used to eliminate cut-through traffic in residential areas, reducing the overall speed and increasing safety for local residents and pedestrians.

3. **Bicycle and Pedestrian Infrastructure:**

As part of the Complete Streets initiative, the City will consider the integration of bicycle and pedestrian facilities into street designs. These facilities will be developed according to guidelines provided by the U.S. Department of Transportation (USDOT), the American Association of State Highway and Transportation Officials (AASHTO), and the Texas Department of Transportation (TxDOT). This includes:

- **Bike Lanes:** Dedicated lanes for cyclists, which may require lane reductions or the removal of on-street parking in certain areas.
- **Pedestrian Facilities:** Sidewalks, crosswalks, and pedestrian refuge islands will be included to ensure safe crossings, particularly in high-traffic or high-speed areas.
- **Shared Streets:** Streets where vehicles, cyclists, and pedestrians coexist without physical barriers will be considered for areas where traffic volumes are lower, increasing awareness and reducing speeds.
- **Safe Routes to Schools:** Priority will be given to infrastructure improvements around schools to ensure safe walking and biking routes for students.
- **Lighting and Nighttime Safety:** Improved street lighting, especially at pedestrian crossings and intersections, to enhance safety during night-time hours.

4. **Implementation of Traffic Calming and Complete Streets:**
   - The City will consider Complete Streets and traffic calming techniques when designing or redesigning streets during reconstruction or major improvements.

- City staff, including the Planning Department and the Public Works Department, will work together to review proposed street designs and ensure compliance with Complete Streets principles.
- The City will prioritize streets with high pedestrian or bicycle traffic, high crash rates, or areas with significant residential, school, or commercial areas for Complete Streets improvements.
- The City will collaborate with neighboring cities and regional agencies to ensure that Complete Streets principles are applied consistently across the region and to explore funding opportunities for these projects.

5. **Public Engagement:**
   - The City will provide opportunities for community input in the planning and design process for street improvements. Public meetings, surveys, and outreach efforts will allow residents, businesses, and other stakeholders to provide feedback on the proposed Complete Streets projects.
   - As part of the process, the City will work with traffic engineers, planners, and other experts to ensure that the designs balance the needs of all users and enhance the community's mobility and safety.
6. **Context-Sensitive Solutions:**
   - Designs will reflect the unique needs of various areas in Duncanville (e.g., residential neighborhoods, school zones, downtown areas).
   - **Green Infrastructure** such as tree canopies and bioswales will be considered for stormwater management and to mitigate urban heat islands.
   - **Climate Resilience** measures will be implemented to ensure infrastructure withstands extreme weather conditions, including heat and flooding.
7. **Accessibility for All:**
   - The City will incorporate accessible pedestrian signals (APS), tactile paving (e.g., truncated domes), and ensure all designs comply with ADA standards for accessibility.
   - Measures to ensure the safety of visually impaired and disabled residents will be integrated into the designs.
8. **Monitoring and Evaluation:**
   - **Performance Metrics** will be set, including goals to reduce crash rates or increase pedestrian and cyclist activity.
   - The effectiveness of Complete Streets projects will be evaluated on an ongoing basis. This includes monitoring traffic speeds, pedestrian and cyclist safety, and overall street use after improvements are made.

- The City will work with traffic and transportation consultants to assess the impact of the Complete Streets initiative and will adjust designs or strategies as necessary to ensure that the objectives of safety, mobility, and accessibility are achieved.

Conclusion:

The City of Duncanville's Complete Streets and Traffic Calming Policy represents a commitment to enhancing the safety, accessibility, and livability of our streets. By incorporating these principles into street design and improvements, the City will create a transportation network that serves all users, reduces traffic speeds, improves pedestrian and cyclist safety, and fosters a more vibrant and sustainable community. The City of Duncanville will continue to explore and implement strategies that encourage walking, cycling, and safe vehicular movement, while ensuring that all residents and visitors can safely navigate our streets.

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider Resolution 2025-407 to accept the Dog Park Master Plan.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Re-Imagine: High Quality of Life**
  - **Develop, maintain, and encourage safe, attractive, viable family-oriented neighborhoods that embrace diversity and pride, promoting economic vitality.**

STAFF RESPONSIBLE:
Bart Stevenson, Director of Parks and Recreation

BACKGROUND/HISTORY:
The City Council approved the procurement of dog park master planning services with Kimley-Horn, and the creation of the Dog Park Master Plan Advisory Committee on June 4, 2024. The established purpose for the dog park design is to provide a safe, functional, and enjoyable recreational space for pets and their owners, while preserving the site's natural assets and supporting the community's vision for the dog park.

The master plan process included a detailed site analysis including identifying utilities, existing conditions and natural features, and the completion of a tree survey, locating and identifying all mature trees on the property. The committee met on numerous occasions as well as hosted a Town Hall meeting for community input on October 14, 2024. The committee members have worked together with Kimley-Horn to create the draft master plan attached in the resolution.

Highlights of the Dog Park Master Plan:

1. Four dog areas, each with their own entrance, water fountain, and unique features and amenities
2. Parking area off Venice Drive
3. Restroom facility
4. Picnic stations
5. Trails throughout the park, outside of the fenced dog park areas
6. Entrance gateway with appropriate signage
7. Identification sign at Wheatland and Venice
8. Additional tree and vegetative screening for the north and east property lines

The total projected cost of the Dog Park Master Plan is approximately $3M. This does not include any in-kind donations, sponsorships, donations, grants etc. and is reflective of all work being completed by contractors.

A recommended Phase One is included in the master plan. This plan outlines the basic recommended improvements that are financially feasible to get the dog park started in a timely manner. This plan includes two dog park areas, one for large dogs and one for small dogs, along with necessary amenities such as water fountains and dog waste stations. The projected costs for this phase is less than $300,000 and like the master plan, does not assume any in-house labor, donations, sponsorships, etc.

POLICY EXPLANATION:
The Council has the final authority to approve the master plan for the dog park. The Dog Park Master Plan will be used for park planning and budgeting purposes including Phase One which is included in the plan. The master plan will also be used for grant submittals, fundraising and other similar efforts to gather additional public and private support for the park project.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	Purchase Amount	After Encumber
N/A	N/A	N/A

ACTION ALTERNATIVES:
1. Approve Resolution 2025-407 for the approval of the Dog Park Master Plan.
2. Do not approve Resolution 2025-407 for the Dog Park Master Plan.
3. Other actions as directed by Council.

ATTACHMENTS:
Resolution No. - 2025-407 - Dog Park Master Plan Approval - Pdf

RESOLUTION NO. 2025-407

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, ACCEPTING THE DOG PARK MASTER PLAN; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City Council of Duncanville, Texas desires to create a master plan for the development of a dog park; and

WHEREAS, The City Council of Duncanville, Texas approved Resolution 2024-275 for the procurement of consultant services from Kimley-Horn on June 4, 2024 for dog park master planning services; and

WHEREAS, The City Council of Duncanville, Texas approved Resolution 2024-280 for the creation on a Dog Park Master Plan Advisory Committee on June 4, 2024 to guide the dog park master planning process; and

WHEREAS, Kimley-Horn and the Dog Park Master Plan Advisory Committee has developed a proposed master plan through property data collection, best practices, budget considerations, and extensive community input and feedback.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of Duncanville, Texas hereby accepts the Dog Park Master Plan dated January 2025 and attached herein.

SECTION 2. This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney







DUNCANVILLE DOG PARK MASTER PLAN

JANUARY, 2025

Duncanville
City of Champions

TABLE OF CONTENTS

1 PROJECT PROCESS & PURPOSE

2 COMPARISON TABLE

3 TREE PRESERVATION PLAN

4 INVENTORY & ANALYSIS

5 FINAL MASTER PLAN

6 INSPIRATION IMAGERY

7 OPINION OF PROBABLE COST

8 3D RENDERINGS

9 3D RENDERINGS

10 3D RENDERINGS

11 PHASE 1 EXHIBIT

12 PHASE 1 OPINION OF PROBABLE COST

DUNCANVILLE DOG PARK

DUNCANVILLE, TEXAS

Kimley»Horn

JANUARY 2025

PROJECT PURPOSE & OVERVIEW:

THE DUNCANVILLE DOG PARK AIMS TO PROVIDE A SAFE, FUNCTIONAL, AND ENJOYABLE RECREATIONAL SPACE FOR PETS AND THEIR OWNERS, WHILE PRESERVING THE SITE'S NATURAL ASSETS AND SUPPORTING THE COMMUNITY'S VISION FOR IMPROVED PUBLIC AMENITIES. THIS PROJECT WILL TRANSFORM THE 5.9-ACRE SITE AT 805 W. WHEATLAND ROAD INTO THE CITY'S FIRST DOG PARK, LEVERAGING ITS HEAVILY TREED LANDSCAPE FOR NATURAL SHADE, DIRECT ACCESS TO ARTERIAL ROADS, AND PROXIMITY TO ROTARY PARK. SUPPORTED BY ARPA FUNDING, THE PROJECT WILL ENHANCE THE QUALITY OF LIFE FOR DUNCANVILLE RESIDENTS AND THEIR FURRY COMPANIONS.

SITE LOCATION & INFORMATION:

- LOCATION: 805 W. WHEATLAND ROAD, AT THE NORTHEAST CORNER OF WHEATLAND ROAD AND VENICE DRIVE.
- FEATURES: A 5.9-ACRE PROPERTY CHARACTERIZED BY MATURE TREE COVER, WHICH OFFERS NATURAL SHADING, DIRECT ACCESSIBILITY TO WHEATLAND ROAD AND VENICE DRIVE, AND ADJACENCY TO ROTARY PARK, WHICH PROVIDES ADDITIONAL AMENITIES SUCH AS PARKING AND A PLAYGROUND.
- CURRENT USE: MAINTAINED AS OPEN SPACE BY THE CITY OF DUNCANVILLE.

PUBLIC MEETING SUMMARY:

- AN OVERALL SUMMARY OF TWO CONCEPTS WERE PRESENTED TO THE PUBLIC.
- ATTENDEES BROKE OUT INTO THREE STATIONS TO DISCUSS NEEDS FOR THE PARK.
- HIGH PRIORITIES INCLUDED SAFETY, MAINTENANCE, ENTRY REGULATION, AND FUND RAISING.

PROJECT PROCESS:

SITE ANALYSIS:

- ASSESSED THE SITE'S LOCATION, EXISTING CONDITIONS, AND NATURAL FEATURES.
- FOCUSED ON PRESERVING THE MATURE TREE CANOPY FOR SHADE.
- PLANNED INTEGRATION WITH ADJACENT ROTARY PARK FOR SEAMLESS CONNECTIVITY.

OPPORTUNITIES AND CHALLENGES:

- IDENTIFIED KEY OPPORTUNITIES FOR SUSTAINABLE AND FUNCTIONAL DESIGN.
- ADDRESSED POTENTIAL CHALLENGES TO OPTIMIZE THE SITE'S USABILITY AND IMPACT.

COMMUNITY ENGAGEMENT:

- GATHERED PUBLIC INPUT THROUGH OPEN HOUSE MEETINGS AND FOCUS GROUP SESSIONS.
- ALIGNED THE PARK'S DESIGN WITH COMMUNITY NEEDS AND EXPECTATIONS.

DESIGN DEVELOPMENT:

- DREW INSPIRATION FROM COMPARABLE PROJECTS TO PROPOSE INNOVATIVE FEATURES AND LAYOUTS.
- BALANCED FUNCTIONALITY, ACCESSIBILITY, AND AESTHETICS IN THE DESIGN APPROACH.

FINAL DELIVERABLES:

- A COMPREHENSIVE MASTER PLAN WITH AN OPINION OF PROBABLE COST
- DETAILED ENLARGEMENTS OF CRITICAL AREAS.
- PERSPECTIVE RENDERINGS TO ILLUSTRATE THE PARK'S VISION.
- A PHASE 1 MASTER PLAN WITH AN OPINION OF PROBABLE COST.

DUNCANVILLE DOG PARK

Comparison Table

Special Feature	Central Bark Dog Park Grand Prairie (9.7 mi)	Elmwoof Dog Park Dallas (11 mi)	Trails'N Tails Dog Park Arlington (13 mi)	My Best Friends Dog Park Dallas (16.1 mi)	Wagging Tail Dog Park Dallas (30 mi)	North Bark Dog Park Dallas (31.5 mi)	Wood Family Dog Park Little Elm (40 mi)	Ruff Range Dog Park Frisco (40 mi)
2+ Fenced Areas	✓		✓		✓	✓	✓	✓
Pond						✓		
Shade Canopy	✓		✓			✓	✓	✓
Large Open Space	✓		✓		✓	✓	✓	✓
Drinking Fountain	✓		✓	✓	✓	✓	✓	✓
Looped Natural Trail						✓	✓	
Gathering Space						✓		
Agility Features	✓							
Dog Wash Station			✓				✓	✓
Site Furnishing	✓	✓	✓	✓	◐	✓	✓	✓
Lighting	✓		✓				✓	◐
Adequate Parking	✓		✓		✓	✓		✓
Theming	✓		✓			✓		✓

TAG#	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	MULTIPLE STEMMED	STATUS
6001	12.1	eastern redcedar	Juniperus virginiana	Declining	Single	Remain
6002	18.2	hackberry	Celtis laevigata	Healthy	Single	Remain
6003	18.9	hackberry	Celtis laevigata	Healthy	Single	Remain
6004	19.0	hackberry	Celtis laevigata	Healthy	Single	Remain
6005	9.4	hackberry	Celtis laevigata	Healthy	Single	Remain
6006	17.4	hackberry	Celtis laevigata	Hazard	Single	Remove
6007	18.2	hackberry	Celtis laevigata	Healthy	Single	Remain
6008	18.1	hackberry	Celtis laevigata	Healthy	Single	Remain
6009	13.2	hackberry	Celtis laevigata	Healthy	Single	Remain
6010	12.7	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6011	9.4	hackberry	Celtis laevigata	Healthy	Forked	Remain
6012	14.4	hackberry	Celtis laevigata	Healthy	Single	Remain
6013	14.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6014	13.9	hackberry	Celtis laevigata	Healthy	Forked	Remain
6015	11.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6016	8.7	hackberry	Celtis laevigata	Healthy	Single	Remain
6017	12.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6018	16.2	hackberry	Celtis laevigata	Healthy	Single	Remain
6019	23.1	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6020	9.1	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6021	10.2	hackberry	Celtis laevigata	Healthy	Single	Remain
6022	10.7	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6023	20.8	pecan	Carya illinoinensis	Healthy	Single	Remain
6024	8.7	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6025	12.0	hackberry	Celtis laevigata	Healthy	Single	Remain
6026	16.7	hackberry	Celtis laevigata	Healthy	Single	Remain
6027	12.4	hackberry	Celtis laevigata	Healthy	Single	Remain
6028	17.8	American elm	Ulmus americana	Healthy	Single	Remain
6029	10.2	hackberry	Celtis laevigata	Healthy	Single	Remain
6030	12.8	hackberry	Celtis laevigata	Healthy	Single	Remain
6031	11.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6032	15.1	hackberry	Celtis laevigata	Healthy	Single	Remain
6033	9.1	hackberry	Celtis laevigata	Healthy	Single	Remain
6034	8.9	hackberry	Celtis laevigata	Healthy	Single	Remain
6035	8.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6036	8.7	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6037	12.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6038	9.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6039	20.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6040	18.1	hackberry	Celtis laevigata	Healthy	Single	Remain
6041	9.8	cedar elm	Ulmus crassifolia	Healthy	Single	Remain
6042	13.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6043	13.1	pecan	Carya illinoinensis	Healthy	Single	Remain
6044	8.4	pecan	Carya illinoinensis	Healthy	Single	Remain
6045	10.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain

TAG#	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	MULTIPLE STEMMED	STATUS
6046	12.1	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6047	7.7	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6048	7.7	pecan	Carya illinoinensis	Healthy	Single	Remain
6049	6.0	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6050	13.6	pecan	Carya illinoinensis	Healthy	Single	Remain
6051	11.6	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6052	12.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6053	9.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6054	17.4	Osage-orange	Maclura pomifera	Healthy	Single	Remain
6055	9.6	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6056	8.2	hackberry	Celtis laevigata	Healthy	Single	Remain
6057	10.1	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6058	8.1	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6059	13.8	American elm	Ulmus americana	Healthy	Single	Remain
6060	12.1	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6061	10.8	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6062	11.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6063	29.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6064	10.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6065	7.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6066	18.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6067	8.0	live oak	Quercus virginiana	Healthy	Single	Remain
6068	8.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6069	11.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6070	11.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6071	10.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6072	10.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6073	20.1	Osage-orange	Maclura pomifera	Healthy	Single	Remain
6074	8.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6075	11.7	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6076	11.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6077	7.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6078	11.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6079	8.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6080	10.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6081	15.6	hackberry	Celtis laevigata	Healthy	Single	Remain
6082	7.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6083	7.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6084	8.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6085	10.2	live oak	Quercus virginiana	Healthy	Single	Remain
6086	31.0	Osage-orange	Maclura pomifera	Multi	Single	Remain
6087	12.9	hackberry	Celtis laevigata	Hazard	Single	Remove
6088	19.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6089	20.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6090	13.5	eastern redcedar	Juniperus virginiana	Healthy	Forked	Remain
6091	26.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6092	19.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6093	29.5	live oak	Quercus virginiana	Healthy	Single	Remain
6094	12.5	Shumard oak	Quercus shumardii	Healthy	Single	Remain

TAG#	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	MULTIPLE STEMMED	STATUS
6095	12.1	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6096	11.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6097	6.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6098	9.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6099	14.2	American elm	Ulmus americana	Healthy	Single	Remain
6100	10.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6101	10.0	Hercules-club	Zanthoxylum clava-herculis	Healthy	Single	Remain
6102	9.9	Osage-orange	Maclura pomifera	Healthy	Single	Remain
6103	7.5	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6104	7.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6105	21.0	eastern redcedar	Juniperus virginiana	Healthy	Forked	Remain
6106	14.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6107	30.5	Osage-orange	Maclura pomifera	Multi	Single	Remain
6108	8.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6109	11.7	live oak	Quercus virginiana	Healthy	Single	Remain
6110	8.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6111	8.1	Hercules-club	Zanthoxylum clava-herculis	Healthy	Single	Remain
6112	8.9	hackberry	Celtis laevigata	Healthy	Single	Remain
6113	10.6	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6114	10.6	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6115	13.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6116	7.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6117	18.5	hackberry	Celtis laevigata	Healthy	Single	Remain
6118	14.5	live oak	Quercus virginiana	Healthy	Single	Remain
6119	11.8	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6120	20.4	hackberry	Celtis laevigata	Healthy	Single	Remain
6121	29.0	eastern redcedar	Juniperus virginiana	Multi	Single	Remain
6122	13.5	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6123	14.3	live oak	Quercus virginiana	Healthy	Single	Remain
6124	11.6	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6125	8.5	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6126	10.7	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6127	10.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6128	12.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6129	8.4	pecan	Carya illinoinensis	Healthy	Single	Remain
6130	13.9	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6131	6.9	pecan	Carya illinoinensis	Healthy	Single	Remain
6132	10.2	hackberry	Celtis laevigata	Healthy	Single	Remain
6133	32.0	hackberry	Celtis laevigata	Healthy	Single	Remain
6134	32.2	hackberry	Celtis laevigata	Healthy	Single	Remain
6135	14.6	American elm	Ulmus americana	Healthy	Single	Remain
6136	10.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6137	10.1	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6138	7.0	green ash	Fraxinus pennsylvanica	Healthy	Single	Remain
6139	8.9	American elm	Ulmus americana	Healthy	Single	Remain
6140	11.4	Hercules-club	Zanthoxylum clava-herculis	Healthy	Single	Remain
6141	7.2	pecan	Carya illinoinensis	Healthy	Single	Remain
6142	6.0	pecan	Carya illinoinensis	Healthy	Single	Remain
6143	9.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6144	10.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6145	17.3	hackberry	Celtis laevigata	Healthy	Forked	Remain

TAG#	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	MULTIPLE STEMMED	STATUS
6146	7.1	eastern redcedar	Juniperus virginiana	Healthy	Forked	Remain
6147	20.5	hackberry	Celtis laevigata	Declining	Single	Remove
6148	9.4	eastern redcedar	Juniperus virginiana	Healthy	Forked	Remain
6149	10.0	hackberry	Celtis laevigata	Healthy	Single	Remain
6150	10.8	hackberry	Celtis laevigata	Declining	Single	Remove
6151	10.8	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6152	11.6	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6153	11.8	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6154	9.9	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6155	9.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6156	9.9	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6157	8.8	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6158	7.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6159	9.5	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6160	10.7	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6161	17.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6162	9.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6163	9.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6164	9.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6165	11.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6166	10.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6167	9.6	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6168	8.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6170	12.6	live oak	Quercus virginiana	Healthy	Single	Remain
6171	8.3	hackberry	Celtis laevigata	Healthy	Single	Remain
6172	10.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6173	10.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6174	9.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6175	11.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6176	7.2	Sardina cherry laurel	Prunus caroliniana	Healthy	Single	Remain
6177	10.0	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6178	11.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6179	14.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6180	16.8	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6181	14.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6182	10.6	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6183	16.6	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6184	13.5	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6185	8.7	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6186	9.2	pecan	Carya illinoinensis	Healthy	Single	Remain
6187	7.8	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6188	8.4	pecan	Carya illinoinensis	Healthy	Single	Remain
6189	14.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6190	9.6	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6192	9.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6193	9.5	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6194	6.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6195	6.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6196	8.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain

TAG#	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	MULTIPLE STEMMED	STATUS
6197	8.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6198	11.7	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6199	9.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6200	28.2	Osage-orange	Maclura pomifera	Healthy	Multi	Remain
			Tags 6201-6500 were not used.			
6501	9.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6502	7.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6503	11.3	American elm	Ulmus americana	Healthy	Single	Remain
6504	7.5	American elm	Ulmus americana	Healthy	Single	Remain
6505	21.0	pecan	Carya illinoinensis	Healthy	Single	Remain
6506	14.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6507	11.8	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6508	9.4	live oak	Quercus virginiana	Healthy	Single	Remain
6509	10.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6510	10.5	live oak	Quercus virginiana	Healthy	Single	Remain
6511	12.3	live oak	Quercus virginiana	Healthy	Single	Remain
6512	10.6	live oak	Quercus virginiana	Healthy	Single	Remain
6513	9.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6514	8.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6515	9.0	live oak	Quercus virginiana	Healthy	Single	Remain
6516	9.0	cedar elm	Ulmus crassifolia	Healthy	Single	Remain
6517	11.4	American elm	Ulmus americana	Healthy	Single	Remain
6518	9.0	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6519	11.3	live oak	Quercus virginiana	Healthy	Single	Remain
6520	15.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6521	9.2	American elm	Ulmus americana	Healthy	Single	Remain
6522	13.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6523	11.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6524	13.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6525	10.8	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6526	10.5	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6527	9.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6528	11.7	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6529	9.6	hackberry	Celtis laevigata	Healthy	Single	Remain
6530	25.6	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6531	10.8	Osage-orange	Maclura pomifera	Healthy	Single	Remain
6532	11.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6533	8.6	American elm	Ulmus americana	Healthy	Single	Remain
6534	15.1	American elm	Ulmus americana	Healthy	Single	Remain
6535	11.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6536	13.4	Shumard oak	Quercus shumardii	Healthy	Forked	Remain
6537	19.1	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6538	8.6	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6539	9.0	hackberry	Celtis laevigata	Healthy	Single	Remain
6540	9.8	hackberry	Celtis laevigata	Healthy	Single	Remain
6541	39.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6542	17.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6543	11.0	hackberry	Celtis laevigata	Healthy	Single	Remain
6544	16.3	Hercules-club	Zanthoxylum clava-herculis	Healthy	Single	Remain
6545	13.5	American elm	Ulmus americana	Healthy	Single	Remain
6546	10.8	hackberry	Celtis laevigata	Declining	Single	Remain

TAG#	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	MULTIPLE STEMMED	STATUS
6547	14.1	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6548	10.9	hackberry	Celtis laevigata	Healthy	Single	Remain
6549	11.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6550	14.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6551	11.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6552	10.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6553	11.5	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6554	10.0	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6555	12.4	hackberry	Celtis laevigata	Healthy	Single	Remain
6556	9.3	hackberry	Celtis laevigata	Healthy	Single	Remain
6557	11.1	hackberry	Celtis laevigata	Healthy	Single	Remain
6558	11.6	American elm	Ulmus americana	Healthy	Single	Remain
6559	35.0	hackberry	Celtis laevigata	Healthy	Multi	Remain
6560	37.2	eastern redcedar	Juniperus virginiana	Healthy	Multi	Remain
6561	14.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6562	9.3	live oak	Quercus virginiana	Healthy	Single	Remain
6564	9.3	live oak	Quercus virginiana	Healthy	Single	Remain
6565	13.1	live oak	Quercus virginiana	Healthy	Single	Remain
6566	29.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6567	14.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6568	8.4	hackberry	Celtis laevigata	Healthy	Single	Remain
6569	9.6	live oak	Quercus virginiana	Healthy	Single	Remain
6570	13.0	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6571	8.8	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6572	11.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6573	8.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6574	18.5	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6575	37.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6576	19.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6577	8.9	live oak	Quercus virginiana	Healthy	Single	Remain
6578	12.0	live oak	Quercus virginiana	Healthy	Single	Remain
6579	12.0	live oak	Quercus virginiana	Healthy	Single	Remain
6580	7.2	pecan	Carya illinoinensis	Healthy	Single	Remain
6581	14.2	live oak	Quercus virginiana	Healthy	Single	Remain
6582	8.0	pecan	Carya illinoinensis	Healthy	Single	Remain
6583	6.0	pecan	Carya illinoinensis	Healthy	Single	Remain
6584	13.4	Shumard oak	Quercus shumardii	Healthy	Single	Remain
6585	10.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6586	27.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6587	26.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6588	7.6	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6589	8.6	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6590	9.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6591	14.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6592	6.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6593	6.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6595	9.1	hackberry	Celtis laevigata	Healthy	Single	Remain
6596	13.0	hackberry	Celtis laevigata	Hazard	Single	Remove
6597	11.1	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain

TAG#	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	MULTIPLE STEMMED	STATUS
6598	13.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6599	9.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
6400	28.2	Osage-orange	Maclura pomifera	Healthy	Multi	Remain
			Tags 6601-8100 were not used.			
8101	9.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8102	7.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8103	11.3	American elm	Ulmus americana	Healthy	Single	Remain
8104	7.5	American elm	Ulmus americana	Healthy	Single	Remain
8105	7.2	pecan	Carya illinoinensis	Healthy	Single	Remain
8106	14.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8107	11.8	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8108	9.4	live oak	Quercus virginiana	Healthy	Single	Remain
8109	9.4	live oak	Quercus virginiana	Healthy	Single	Remain
8110	10.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8111	12.3	live oak	Quercus virginiana	Healthy	Single	Remain
8112	10.6	live oak	Quercus virginiana	Healthy	Single	Remain
8113	9.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8114	8.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8115	14.0	live oak	Quercus virginiana	Healthy	Single	Remain
8116	9.0	cedar elm	Ulmus crassifolia	Healthy	Single	Remain
8117	11.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8118	11.6	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8119	9.9	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8120	9.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8121	7.9	cedar elm	Ulmus crassifolia	Healthy	Single	Remain
8122	20.1	Osage-orange	Maclura pomifera	Healthy	Single	Remain
8123	25.5	hackberry	Celtis laevigata	Healthy	Forked	Remain
8124	10.6	hackberry	Celtis laevigata	Healthy	Single	Remain
8125	8.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8126	6.3	pecan	Carya illinoinensis	Healthy	Single	Remain
8127	6.6	pecan	Carya illinoinensis	Healthy	Single	Remain
8128	10.9	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8129	9.1	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8130	24.2	Shumard oak	Quercus shumardii	Healthy	Forked	Remain
8131	8.2	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8132	18.2	American elm	Ulmus americana	Healthy	Single	Remain
8133	9.2	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8134	9.9	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8135	9.6	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8136	8.1	pecan	Carya illinoinensis	Healthy	Single	Remain
8137	9.6	pecan	Carya illinoinensis	Healthy	Single	Remain
8138	12.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8140	11.6	pecan	Carya illinoinensis	Healthy	Single	Remain
8141	15.3	hackberry	Celtis laevigata	Healthy	Single	Remain
8142	9.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8143	24.8	Osage-orange	Maclura pomifera	Declining	Forked	Remain
8144	20.9	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8145	7.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8146	11.6	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8147	10.6	American elm	Ulmus americana	Healthy	Single	Remain

TAG#	DBH	COMMON NAME	SCIENTIFIC NAME	CONDITION	MULTIPLE STEMMED	STATUS
8148	18.3	American elm	Ulmus americana	Declining	Single	Remain
8149	13.2	live oak	Quercus virginiana	Healthy	Single	Remain
8150	14.4	hackberry	Celtis laevigata	Hazard	Single	Remove
			Tags 8151-8500 were not used.			
8351	18.8	hackberry	Celtis laevigata	Healthy	Single	Remain
8352	30.4	American elm	Ulmus americana	Healthy	Single	Remain
8353	10.3	live oak	Quercus virginiana	Healthy	Single	Remain
8354	8.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8355	16.8	cedar elm	Ulmus crassifolia	Healthy	Single	Remain
8356	19.3	hackberry	Celtis laevigata	Healthy	Single	Remain
8357	12.8	Osage-orange	Maclura pomifera	Healthy	Single	Remain
8358	6.4	hackberry	Celtis laevigata	Healthy	Single	Remain
8359	8.6	hackberry	Celtis laevigata	Hazard	Single	Remove
8360	14.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8361	14.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8362	8.3	hackberry	Celtis laevigata	Healthy	Single	Remain
8363	10.3	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8364	9.2	hackberry	Celtis laevigata	Healthy	Single	Remain
8365	8.3	hackberry	Celtis laevigata	Healthy	Single	Remain
8366	23.4	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8367	39.5	American elm	Ulmus americana	Healthy	Single	Remain
8368	12.1	Osage-orange	Maclura pomifera	Healthy	Single	Remain
8369	6.0	pecan	Carya illinoinensis	Healthy	Single	Remain
8370	7.6	hackberry	Celtis laevigata	Hazard	Single	Remove
8371	18.0	American elm	Ulmus americana	Healthy	Single	Remain
8372	8.3	pecan	Carya illinoinensis	Healthy	Single	Remain
8373	8.3	American elm	Ulmus americana	Healthy	Single	Remain
8374	30.0	eastern redcedar	Juniperus virginiana	Healthy	Single	Remain
8375	8.8	hackberry	Celtis laevigata	Healthy	Single	Remain
8376	8.6	hackberry	Celtis laevigata	Healthy	Single	Remain
8377	9.8	live oak	Quercus virginiana	Healthy	Single	Remain
8378	10.3	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8379	14.5	American elm	Ulmus americana	Healthy	Single	Remain
8380	15.3	American elm	Ulmus americana	Healthy	Single	Remain
8381	11.7	Shumard oak	Quercus shumardii	Healthy	Single	Remain
8382	14.5	Osage-orange

LEGEND

- MAIN ENTRANCE
- LARGE DOG PARK
- OPEN SPACE DOG PARK
- SMALL DOG PARK
- WATER FEATURE DOG PARK
- LANDSCAPE BUFFER
- PARKING
- MAIN TRAIL
- SECONDARY TRAIL



NORTH

GRAPHIC SCALE IN FEET
0 25 50 100

DUNCANVILLE DOG PARK

DUNCANVILLE, TEXAS

INVENTORY & ANALYSIS

Kimley»Horn

JANUARY 2025

4



DUNCANVILLE DOG PARK

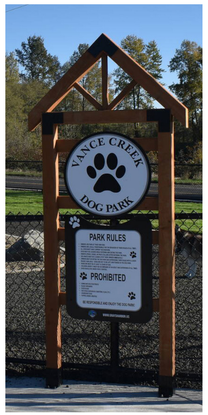
DUNCANVILLE, TEXAS **MASTER PLAN CONCEPT**

Kimley»Horn

JANUARY 2025

5

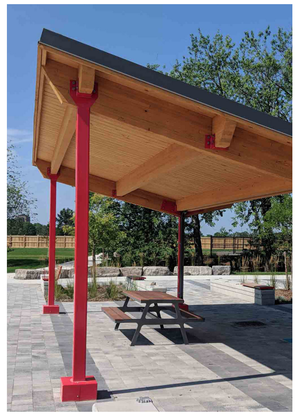


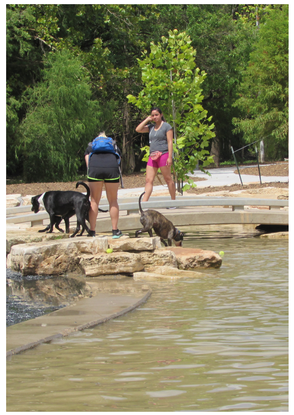












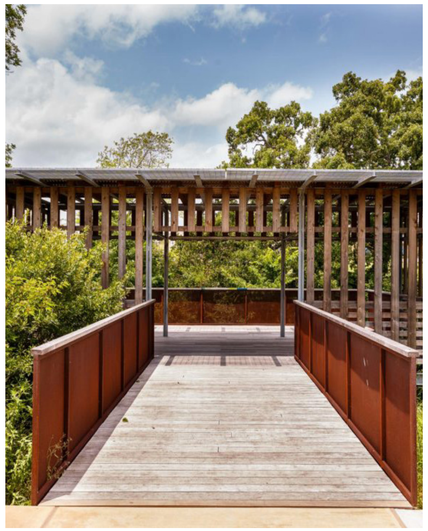


















DUNCANVILLE DOG PARK

DUNCANVILLE, TEXAS **INSPIRATION IMAGERY**

Kimley»Horn

JANUARY 2025

Duncanville Dog Park Master Plan
Opinion of Probable Cost
Prepared by Kimley-Horn
Tuesday, November 26, 2024

Entry/Perimeter	
Hardscape Subtotal:	$787,254.60
Softscape Subtotal:	$199,495.12
Utilities, Lighting, and Electrical subtotal:	$182,230.00
Wayfinding & Signage	$62,500.00
GRAND TOTAL:	**$1,231,479.72**
Water Dog Park	
Hardscape Subtotal:	$405,485.00
Softscape Subtotal:	$8,168.41
Utilities, Lighting, and Electrical Subtotal:	$31,000.00
Wayfinding & Signage	$8,500.00
GRAND TOTAL:	**$453,153.41**
Open Space Dog Park	
Hardscape Subtotal:	$250,860.00
Softscape Subtotal:	$21,274.97
Utilities, Lighting, and Electrical Subtotal:	$46,000.00
Wayfinding & Signage	$8,500.00
GRAND TOTAL:	**$326,634.97**
Small Dog Park	
Hardscape Subtotal:	$223,822.50
Softscape Subtotal:	$14,866.62
Utilities, Lighting, and Electrical Subtotal:	$31,000.00
Wayfinding & Signage	$8,500.00
GRAND TOTAL:	**$278,189.12**
Large Dog Park	
Hardscape Subtotal:	$292,472.50
Softscape Subtotal:	$24,746.40
Utilities, Lighting, and Electrical Subtotal:	$64,000.00
Wayfinding & Signage	$8,500.00
GRAND TOTAL:	**$389,718.90**
Subtotal (Excluding Contingency):	**$2,679,176.12**
Contingency/ Inflation (10%)	**$267,917.61**
GRAND TOTAL:	**$2,947,093.73**

NOTE: The Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Duncanville Dog Park Master Plan
Opinion of Probable Cost (Entry/Perimeter)
Prepared by Kimley-Horn
Tuesday, November 26, 2024

Hardscape — $ 787,254.60

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Stuctures					
Restroom (Conditioned)	$ 213,887.00	ls	CorrVorth 16'x21' Model B213CEDF	1	$ 213,887.00
Entry Monument Sign	$ 30,000.00	ls	Allowance	1	$ 30,000.00
Arch Entry	$ 50,000.00	ls	Allowance	1	$ 50,000.00
Berm Screening	$ 7.00	cy	Earthwork	1,127	$ 7,889.00
Fence					
Split Rail Fence	$ 60.00	lf	Cedar	141	$ 8,460.00
Bridges / Boardwalks / Crossinos					
Pedestrian Bridge (Wood)	$ 52.00	sf	Wood construction (Varies w/ Design)	300	$ 15,600.00
Paving					
Concrete Sidewalk	$ 9.00	sf	Standard Color, Broom Finish	5,343	$ 48,087.00
Crosswalk Striping	$ 12.60	lf	Reflective Pavement Marking, 24" x 6'	26	$ 327.60
Parking Lot Curb	$ 50.00	lf	6" concrete curb and gutter	525	$ 26,250.00
Parking Lot	$ 26.50	sf	Decomposed granite w/ True Grid & Limestone Sub Grade	6,330	$ 167,745.00
Decomposed Granite	$ 7.50	sf	4" depth with stabilizer	11,906	$ 89,295.00
Site Furnishings					
Dog Water Station	$ 10,000.00	ea	7215 by Dog On It Parks	1	$ 10,000.00
Dog Wash Station	$ 5,000.00	ea	PW722D- Dual Dog Wash Station by Dog On It Parks	1	$ 5,000.00
Dog Waste Station	$ 800.00	ea	Complete Dog Waste Station-Single Pull-Round by Dog On It Parks	5	$ 4,000.00
Trash Receptacle	$ 600.00	ea	Allowance	5	$ 3,000.00
6' Bench	$ 1,000.00	ea	Boulevard Bench 72" by Belson Outdoors	4	$ 4,000.00
Chair	$ 800.00	ea	LAZY-Laurel Adirondack Chair by Keystone Ridge	5	$ 4,000.00
Picnic Table	$ 3,500.00	ea	Classic Picnic Table Style or Concrete Picnic Table	3	$ 10,500.00
Miscellanous					
Steel Edge	$ 8.00	lf	3/16" black heavy steel edging, 6" width	4083	$ 32,664.00
Brazos River Rock - Extra Large	$ 260.00	cy	6" depth, River Rock - Whiz-Q stone cost & doubled for labor	80	$ 20,800.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	40-Large Mix of Moss Sandstone & Sandstone at 4'-8'	108	$ 27,000.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	39-Small Mix of Moss Sandstone & Sandstone at 2'-4'	35	$ 8,750.00

Utilities, Lighting & Electrical — $ 182,230.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Outdoor Lighting	$ 3,000.00	ea	Allowance	20	$ 60,000.00
Convenience Outlet	$ 500.00	ea	Allowance	8	$ 4,000.00
Wiring & Circuitry	$ 15,000.00	ls	Allowance	1	$ 15,000.00
Electrical Meter	$ 10,000.00	ea	Allowance	1	$ 10,000.00
Water Line Tap For Restroom	$ 10,000.00	ea	Allowance	1	$ 10,000.00
Water Main For Dog Water Station & Restoom	$ 75.00	lf	1.5" min with 50gpm @ 60psi	190	$ 14,250.00
Water Line For Dog Water Station	$ 60.00	lf	1/2" min.	358	$ 21,480.00
Sanitary Line Tap For Restroom	$ 10,000.00	ea	Allowance	1	$ 10,000.00
Sanitary Line For Restroom	$ 100.00	lf	4" PVC Sanitary Sewer Pipe - SDR-35	375	$ 37,500.00

Signage & Wayfinding — $ 62,500.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Wayfinding Sign	$ 20,000.00	ls	iZone Signage	1	$ 20,000.00
Park Rules	$ 8,500.00	ea	iZone Signage	5	$ 42,500.00

Softscape — $ 199,495.12

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Trees					
Canopy Tree	$ 1,100.00	ea	4" Caliper Minimum	36	$ 39,600.00
Ornamental Tree	$ 600.00	ea	3" Caliper Minimum	14	$ 8,400.00
Evergreen Tree	$ 450.00	ea	2.5" Caliper Minimum	28	$ 12,600.00
Shrubs					
Large Shrubs and Groundcover	$ 40.00	ea	3-5 Gallon (Average)	224	$ 8,960.00
Medium Shrubs and Groundcover	$ 20.00	ea	1-3 Gallon (Average)	227	$ 4,540.00
Small Shrubs and Groundcover	$ 12.00	ea	1 Gallon (Average)	97	$ 1,164.00
Groundcover					
Blue Fescue	$ 0.17	sf	Hydroseed	46,913	$ 7,975.21
Wildflower Seed	$ 0.23	sf	Wildflower Seed with Promatrix Hydromulch Cap	49,777	$ 11,448.71
Irrigation					
Irrigation - Permanent Shrub	$ 2.65	sf	Drip Irrigation	4314	$ 11,432.10
Irrigation - Source Equipment	$ 10,000.00	ea	M, BF, MCV, FS, Controller	1	$ 10,000.00
Irrigation - Tree Bubblers	$ 250.00	ea	One per Tree	78	$ 19,500.00
Irrigation - Temp	$ 0.50	sf	PVC Pipe placed on-grade	96,690	$ 48,345.00
Sleeving	$ 3.00	lf	Sch. 40 pipe	300	$ 900.00
Misc.					
Fine Grading	$ 0.10	sf	Landscape Finish Grading	101,004	$ 10,100.40
Bed Prep	$ 0.60	sf	Tilling beds	4314	$ 2,588.40
Hardwood Mulch	$ 0.45	sf	Color to be dark brown	4314	$ 1,941.30

Duncanville Dog Park Master Plan
Opinion of Probable Cost (Water)
Prepared by Kimley-Horn
Tuesday, November 26, 2024

Hardscape — $ 405,485.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Stuctures					
Dog Splash Pool	$ 200,000.00	ea	Allowance - Per In-Control Aquatic Consultant	1	$ 200,000.00
Play Structure Mound	$ 7.00	sf	Earthwork	246	
Log Steppers	$ 225.00	ea	Natural Log Stepper or Seat Model NAT0020 by Spaces for Play	44	$ 9,900.00
Log Play Feature	$ 20,000.00	ea	UCP parks - Concrete Log	1	
Shade Structure	$ 50,000.00	ea	20'x14' - 413 sf	1	$ 50,000.00
Walls / Columns					
Pedestrian Arch Entry	$ 20,000.00	ea	10' Wide	1	$ 20,000.00
Fence					
6'-0" Ornamental Iron Fence	$ 60.00	lf	Color to be black	656	$ 39,360.00
4'-0" Pedestrian Gate	$ 2,000.00	ea	Color to be black	2	$ 4,000.00
Bridges / Boardwalks / Crossinos					
Pedestrian Bridge (Wood)	$ 52.00	sf	Wood construction (Varies w/ Design)	150	$ 7,800.00
Paving					
Concrete Sidewalk	$ 9.00	sf	Standard Color, Broom Finish	945	$ 8,505.00
Site Furnishings					
Dog Water Station	$ 10,000.00	ea	7215 by Dog On It Parks	1	$ 10,000.00
Dog Wash Station	$ 5,000.00	ea	PW722D- Dual Dog Wash Station by Dog On It Parks	1	$ 5,000.00
Log Bench	$ 2,000.00	ea	Allowance	3	$ 6,000.00
6' Bench	$ 1,000.00	ea	Boulevard Bench 72" by Belson Outdoors	3	$ 3,000.00
Curved Bench	$ 100.00	lf	18" H x 24" W, Cedar with Metal Supports	80	$ 8,000.00
Dog Waste Station	$ 800.00	ea	Complete Dog Waste Station-Single Pull-Round by Dog On It Parks	2	$ 1,600.00
Miscellanous					
Decomposed Granite	$ 6.50	sf	DG	1340	$ 8,710.00
Brazos River Rock - Extra Large	$ 260.00	cy	6" depth, River Rock - Whiz-Q stone cost & doubled for labor	11	$ 2,860.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	23-Large Mix of Moss Sandstone & Sandstone at 4'-8'	62	$ 15,500.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	23-Small Mix of Moss Sandstone & Sandstone at 2'-4'	21	$ 5,250.00

Utilities, Lighting & Electrical — $ 31,000.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Outdoor Lighting	$ 3,000.00	ea	Allowance	5	$ 15,000.00
Convenience Outlet	$ 500.00	ea	Allowance	2	$ 1,000.00
Wiring & Circuitry	$ 15,000.00	ls	Allowance	1	$ 15,000.00

Signage & Wayfinding — $ 8,500.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Park Sign	$ 8,500.00	ea	iZone Signage	1	$ 8,500.00

Softscape — $ 8,168.41

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Groundcover					
Bermuda Seed	$ 0.17	sf	Hydroseed	5,248	$ 892.16
Irrigation					
Irrigation - Temp	$ 0.50	sf	PVC Pipe placed on-grade	5,248	$ 2,624.00
Misc.					
Fine Grading	$ 0.10	sf	Landscape Finish Grading	9,550	$ 955.50
Hardwood Mulch	$ 0.45	sf	Color to be dark brown	8,210	$ 3,696.75

Duncanville Dog Park Master Plan
Opinion of Probable Cost (Open)
Prepared by Kimley-Horn
Tuesday, November 26, 2024

Hardscape — $ 250,860.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Stuctures					
Log Steppers	$ 225.00	ea	Natural Log Stepper or Seat Model NAT0020 by Spaces for Play	23	$ 5,175.00
Shade Structure	$ 50,000.00	ea	10'x30'	1	$ 50,000.00
Walls / Columns					
Pedestrian Arch Entry	$ 20,000.00	ea	10' Wide	1	$ 20,000.00
Fence					
6'-0" Ornamental Iron Fence	$ 60.00	lf	Color to be black	860	$ 51,300.00
4'-0" Pedestrian Gate	$ 2,000.00	ea	Color to be black	2	$ 4,000.00
Bridges / Boardwalks / Crossinos					
Pedestrian Bridge (Wood)	$ 10,000.00	ea	Wood construction (Varies w/ Design)	2	$ 20,000.00
Paving					
Concrete Sidewalk	$ 9.00	sf	Standard Color, Broom Finish	763	$ 6,867.00
Site Furnishings					
Dog Water Station	$ 10,000.00	ea	7215 by Dog On It Parks	1	$ 10,000.00
Log Bench	$ 5,000.00	ea	Natural Log Bench	2	$ 10,000.00
6' Bench	$ 1,000.00	ea	Boulevard Bench 72" by Belson Outdoors	3	$ 3,000.00
Curved Bench	$ 100.00	lf	18" H x 24" W, Cedar with Metal Supports	85	$ 8,500.00
Dog Waste Station	$ 800.00	ea	Complete Dog Waste Station-Single Pull-Round by Dog On It Parks	2	$ 1,600.00
Miscellanous					
Brazos River Rock - Extra Large	$ 260.00	cy	6" depth, River Rock - Whiz-Q stone cost & doubled for labor	21.5	$ 5,590.00
Decomposed Granite	$ 6.50	sf	DG	1632	$ 10,608.00
Sand	$ 240.00	cy	18" depth, White Sand - Whiz-Q stone cost & doubled for labor	53	$ 12,720.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	20-Large Mix of Moss Sandstone & Sandstone at 4'-8'	108	$ 27,000.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	20-Small Mix of Moss Sandstone & Sandstone at 2'-4'	18	$ 4,500.00

Utilities, Lighting & Electrical — $ 46,000.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Outdoor Lighting	$ 3,000.00	ea	Allowance	5	$ 15,000.00
Convenience Outlet	$ 500.00	ea	Allowance	2	$ 1,000.00
Wiring & Circuitry	$ 30,000.00	ls	Allowance	1	$ 30,000.00

Signage & Wayfinding — $ 8,500.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Park Sign	$ 8,500.00	ea	iZone Signage	1	$ 8,500.00

Softscape — $ 21,274.97

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Groundcover					
Bermuda Seed	$ 0.17	sf	Hydroseed	22,336	$ 3,797.12
Irrigation					
Irrigation - Temp	$ 0.50	sf	PVC Pipe placed on-grade	22,336	$ 11,168.00
Misc.					
Fine Grading	$ 0.10	sf	Landscape Finish Grading	12,253	$ 1,225.30
Hardwood Mulch	$ 0.45	sf	Color to be dark brown	11,299	$ 5,084.55

Duncanville Dog Park Master Plan
Opinion of Probable Cost (Small)
Prepared by Kimley-Horn
Tuesday, November 26, 2024

Hardscape — $ 223,822.50

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Stuctures					
Log Steppers	$ 225.00	ea	Natural Log Stepper or Seat Model NAT0020 by Spaces for Play	10	$ 2,250.00
Log Play Feature	$ 20,000.00	ea	UCP Parks - Concrete Log	1	$ 20,000.00
Walls / Columns					
Pedestrian Arch Entry	$ 20,000.00	ea	10' Wide	1	$ 20,000.00
Fence					
6'-0" Ornamental Iron Fence	$ 60.00	lf	Color to be black	780	$ 46,800.00
4'-0" Pedestrian Gate	$ 2,000.00	ea	Color to be black	2	$ 4,000.00
Bridges / Boardwalks / Crossinos					
Pedestrian Bridge (Wood)	$ 52.00	sf	Wood construction (Varies w/ Design)	100	$ 5,200.00
Paving					
6' Concrete Sidewalk	$ 9.00	sf	Standard Color, Broom Finish	135	$ 1,215.00
Site Furnishings					
Dog Water Station	$ 10,000.00	ea	7215 by Dog On It Parks	1	$ 10,000.00
Curved Bench	$ 100.00	lf	18" H x 24" W, Cedar with Metal Supports	136	$ 13,600.00
Dog Waste Station	$ 800.00	ea	Complete Dog Waste Station-Single Pull-Round by Dog On It Parks	2	$ 1,600.00
Miscellanous					
Brazos River Rock - Extra Large	$ 260.00	cy	6" depth, River Rock - Whiz-Q stone cost & doubled for labor	23.5	$ 6,110.00
Decomposed Granite	$ 6.50	sf	4" depth	5,455	$ 35,457.50
Sand	$ 240.00	cy	18" depth, White Sand - Whiz-Q stone cost & doubled for labor	16	$ 3,840.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	34-Large Mix of Moss Sandstone & Sandstone at 4'-8'	184	$ 46,000.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	34-Small Mix of Moss Sandstone & Sandstone at 2'-4'	31	$ 7,750.00

Utilities, Lighting & Electrical — $ 31,000.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Outdoor Lighting	$ 3,000.00	ea	Allowance	5	$ 15,000.00
Convenience Outlet	$ 500.00	ea	Allowance	2	$ 1,000.00
Wiring & Circuitry	$ 15,000.00	ea	Allowance	1	$ 15,000.00

Signage & Wayfinding — $ 8,500.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Park Sign	$ 8,500.00	ea	Allowance	1	$ 8,500.00

Softscape — $ 14,866.62

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Groundcover					
Bermuda Seed	$ 0.17	sf	Hydroseed	11,411	$ 1,939.87
Irrigation					
Irrigation - Temp	$ 0.50	sf	PVC Pipe placed on-grade	11,411	$ 5,705.50
Misc.					
Fine Grading	$ 0.10	sf	Landscape Finish Grading	13366	$ 1,336.60
Hardwood Mulch	$ 0.45	sf	Color to be dark brown	13,077	$ 5,884.65

Duncanville Dog Park Master Plan
Opinion of Probable Cost (Large)
Prepared by Kimley-Horn
Tuesday, November 26, 2024

Hardscape — $ 292,472.50

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Stuctures					
Play Structure Mounds	$ 7.00	cy	Earthwork	388	$ 2,695.00
Pump Track - Hills/Tunnels	$ 50,000.00	ls	427 lf, 5 rolling hills, 2 tunnels	1	$ 50,000.00
Log Steppers	$ 225.00	ea	Natural Log Stepper or Seat Model NAT0020 by Spaces for Play	30	$ 6,750.00
Log Play Feature	$ 20,000.00	ea	UCP Parks - Concrete Log	1	$ 20,000.00
Walls / Columns					
Pedestrian Arch Entry	$ 20,000.00	ea	10' Wide	1	$ 20,000.00
Fence					
6'-0" Ornamental Iron Fence	$ 60.00	lf	Color to be black	948	$ 56,880.00
4'-0" Pedestrian Gate	$ 2,000.00	ea	Color to be black	2	$ 4,000.00
Paving					
Concrete Sidewalk	$ 9.00	sf	Standard Color, Broom Finish	135	$ 1,215.00
Decomposed Granite	$ 7.50	sf	4" depth with stabilizer	1883	$ 14,122.50
Site Furnishings					
Dog Water Station	$ 10,000.00	ea	7215 by Dog On It Parks	1	$ 10,000.00
Log Bench	$ 5,000.00	ea	Natural Log Bench	4	$ 20,000.00
Curved Bench	$ 100.00	lf	18" H x 24" W, Cedar with Metal Supports	65	$ 6,500.00
Dog Waste Station	$ 800.00	ea	Complete Dog Waste Station-Single Pull-Round by Dog On It Parks	2	$ 1,600.00
Miscellanous					
Steel Edge	$ 8.00	lf	3/16" black heavy steel edging, 6" width	625	$ 5,000.00
Brazos River Rock - Extra Large	$ 260.00	cy	6" depth, River Rock - Whiz-Q stone cost & doubled for labor	10.5	$ 2,730.00
Sand	$ 240.00	cy	18" depth, White Sand - Whiz-Q stone cost & doubled for labor	102	$ 24,480.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	38-Large Mix of Moss Sandstone & Sandstone at 4'-8'	160	$ 40,000.00
Landscape Boulders (Rough / Natural Boulder)	$ 250.00	ton	37-Small Mix of Moss Sandstone & Sandstone at 2'-4'	26	$ 6,500.00

Utilities, Lighting & Electrical — $ 64,000.00

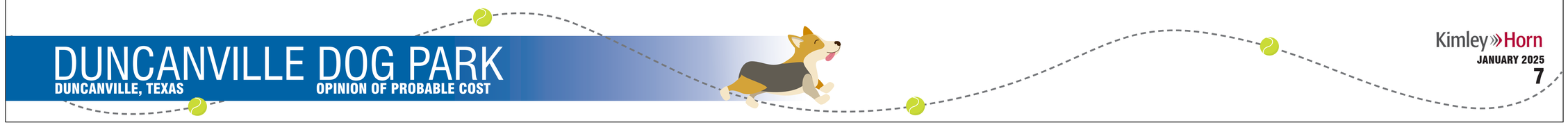
ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Outdoor Lighting	$ 3,000.00	ea	Allowance	10	$ 30,000.00
Convenience Outlet	$ 500.00	ea	Allowance	8	$ 4,000.00
Wiring & Circuitry	$ 30,000.00	ea	Allowance	1	$ 30,000.00

Signage & Wayfinding — $ 8,500.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Park Rules	$ 8,500.00	ea	iZone Signage	1	$ 8,500.00

Softscape — $ 24,746.40

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Misc.					
Fine Grading	$ 0.10	sf	Landscape Finish Grading	46,494	$ 4,649.40
Hardwood Mulch	$ 0.45	sf	Color to be dark brown	44,660	$ 20,097.00



Agenda Item #4.L.
Page 305 of 438









DUNCANVILLE DOG PARK

DUNCANVILLE, TEXAS

Kimley»Horn

JANUARY 2025

8









DUNCANVILLE DOG PARK

DUNCANVILLE, TEXAS

Kimley»Horn

JANUARY 2025









DUNCANVILLE DOG PARK

DUNCANVILLE, TEXAS

Kimley»Horn

JANUARY 2025



LEGEND

- FENCING
- CONCRETE SIDEWALK
- DOG WASTE STATION (5)
- DOG FOUNTAIN (2)
- TRASH RECEPTACLE (3)
- CROSSWALK

NORTH

0 5' 15' 30' 60'

SCALE: 1"=30'

DUNCANVILLE DOG PARK

DUNCANVILLE, TEXAS — **PHASE 1 EXHIBIT**

Kimley»Horn

JANUARY 2025

11

Duncanville Dog Park Master Plan
Opinion of Probable Cost (Phase 1)
Prepared by Kimley-Horn
Tuesday, November 26, 2024

Hardscape	
Fencing:	$147,040.00
Paving:	$21,234.60
Site Furnishings:	$25,800.00
Miscellanous	$2,500.00
GRAND TOTAL:	**$196,574.60**

Utilities, Lighting & Electrical	
Waterline Connection:	$31,555.00
GRAND TOTAL:	**$31,555.00**

Signage Wayfinding	
Signage:	$17,000.00
GRAND TOTAL:	**$17,000.00**

Subtotal (Excluding Contingency):	**$245,129.60**
Contingency/ Inflation (10%)	**$24,512.96**
PHASE 1 GRAND TOTAL:	**$269,642.56**

NOTE: The Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Duncanville Dog Park Master Plan
Opinion of Probable Cost (Phase 1)
Prepared by Kimley-Horn
Tuesday, November 26, 2024

Hardscape — $ 196,574.60

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Fence					
6'-0" Ornamental Iron Fence	$ 80.00	lf	Color to be black	1,738	$ 139,040.00
8' Pedestrian Gate	$ 2,000.00	ea	Color to be black	4	$ 8,000.00
Paving					
Concrete Sidewalk	$ 9.00	sf	Standard Color, Broom Finish	2,323	$ 20,907.00
Crosswalk Striping	$ 12.60	lf	Reflective Pavement Marking, 24" x 6'	26	$ 327.60
Site Furnishings					
Dog Water Station	$ 10,000.00	ea	7215 by Dog On It Parks	2	$ 20,000.00
Dog Waste Station	$ 800.00	ea	Complete Dog Waste Station-Single Pull-Round by Dog On It Parks	5	$ 4,000.00
Trash Receptacle	$ 600.00	ea	Allowance	3	$ 1,800.00
Miscellanous					
Demo Freight	$ 2,500.00	ea	35 cy per truck load, 27/35 = ~1	1	$ 2,500.00

Utilities, Lighting & Electrical — $ 31,555.00

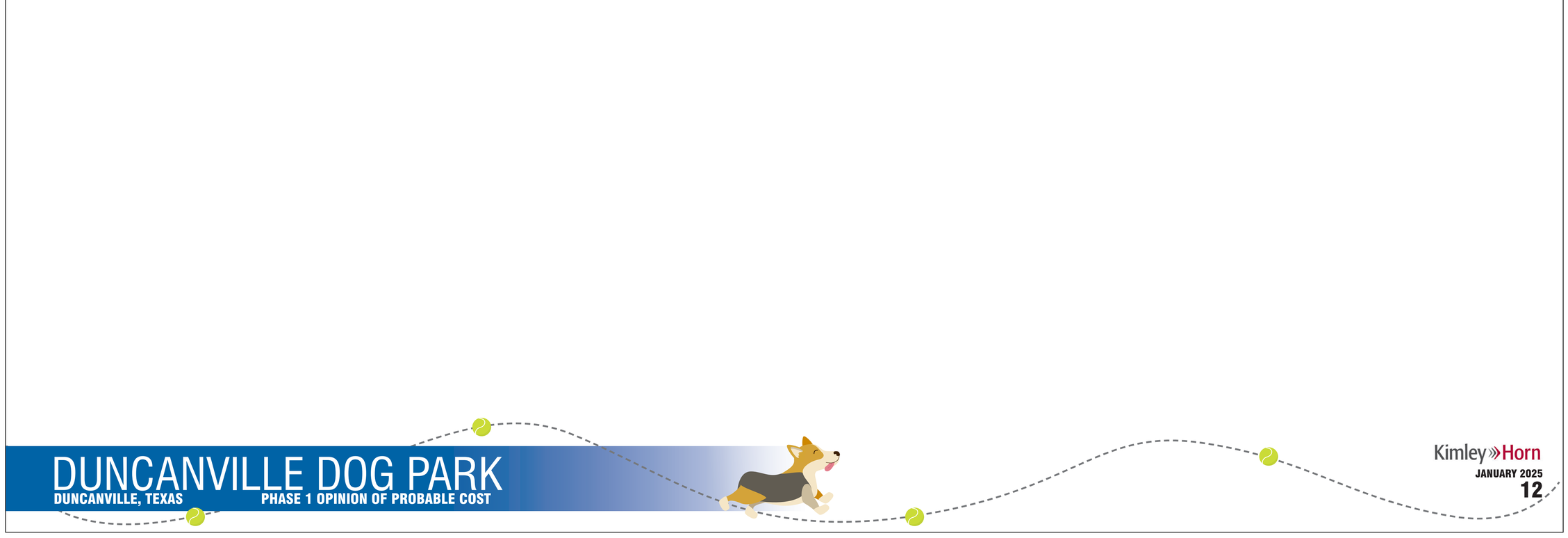
ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Water Line Connection					
Water Line Tap For Dog Water Station	$ 10,000.00	ea	Allowance	1	$ 10,000.00
Water Main For Dog Water Station & Future Restoom	$ 75.00	lf	1.5" min with 50gpm @ 60psi	145	$ 10,875.00
Water Line For Dog Water Station	$ 60.00	lf	1/2" min	178	$ 10,680.00

Signage & Wayfinding — $ 17,000.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
Signage					
Park Rules	$ 8,500.00	ea	iZone Signage	2	$ 17,000.00

Bid Alternates — $ 121,660.00

ITEM	UNIT COST	UNIT	REMARKS	(total quantity)	(total price)
1. 6'-0" Vinyl Coated Chain Link Fence	$ 70.00	lf	Color to be black	1,738	$ 121,660.00



STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Wheatland Plaza PD Amendment

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

STAFF RESPONSIBLE:
Victor Barrera, Economic Development Director

BACKGROUND/HISTORY:
The property owner has requested an amendment to the approved PD Ordinance for Wheatland Plaza to include specific uses that are not included in the original PD list of permitted uses. The city attorney, Mr. Hager, has prepared the draft PD amendment for your consideration and approval based on the input provided at the last meeting from the City Council.

POLICY EXPLANATION:
This PD amendment request has had two public hearings. One was held at the Planning and Zoning Commission level on December 30th, and they recommended approval by a vote of 3-2. The second was conducted on January 7th at the City Council meeting. At both public hearings, no members of the public were present to speak in favor or in opposition to the requested amendments to the PD Ordinance.

FUNDING SOURCE:

ORG and Object Number
NA

Available Budget	Purchase Amount	After Encumber
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
1. Other actions as directed by Council.

ATTACHMENTS:
Wheatland Plaza PD Amendment

ORDINANCE NO. 2535

AN ORDINANCE OF THE CITY OF DUNCANVILLE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP, AS HERETOFORE AMENDED, BY AMENDING THE WHEATLAND PLAZA, PLANNED DEVELOPMENT DISTRICT, TO WHEATLAND PLAZA, PLANNED DEVELOPMENT (R-1) TO ADD A LOR BASE ZONING DISTRICT, AND ADDITIONAL USES ON APPROXIMATELY 7.5+/- ACRES OF REAL PROPERTY WHEATLAND PLAZA SHOPPING CENTER, BLOCK 1, LOT A & ABANDONED ALLEY, MORE COMMONLY KNOWN AS 402 EAST WHEATLAND ROAD, DUNCANVILLE, DALLAS COUNTY, TEXAS, AS DESCRIBED AND DEPICTED ON EXHIBITS "A" AND "A-1" ATTACHED HERETO AND INCORPORATED HEREIN; PROVIDING FOR ADDITIONAL OR AMENDED DEVELOPMENT REGULATIONS, AS SET FORTH IN EXHIBITS ATTACHED HERETO; HEREIN AS EXHIBIT "D"; PROVIDING FOR SUB-AREA DEVELOPMENT ZONES FOR HEIGHTS AS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT "C"; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS ($2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and City Council of the City of Duncanville, in compliance with state laws with reference to amending the Comprehensive Zoning Ordinance, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally, the City Council is of the opinion and finds that the Comprehensive Zoning Ordinance and Map should be amended as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The Comprehensive Zoning Ordinance and Map of the City of Duncanville, Texas, as heretofore amended, be, and the same are hereby amended by changing the zoning from Planned Development "PD" District, to Planned Development (R-1) on approximately 7.5 +/- acres of real property at Wheatland Plaza Shopping Center, being Block 1, Lot A & Abandoned Alley, more commonly known as 402 East Wheatland Road, Duncanville, Dallas County, Texas, as described and depicted in Exhibits A and A-1.

SECTION 2. That said Property and Planned Development shall hereinafter be amended, and shall be used, developed, and maintained only in the manner and for the purposes provided for this Ordinance, as amended, Comprehensive Zoning Ordinance of the City of Duncanville, as heretofore amended, and in conformance with this Ordinance and the Site Plan, Exhibit B, which is attached hereto and incorporated herein, subject to the following additional development regulations:

A. Property shall be developed in accordance with the Site Plan and as set forth in Exhibit B and as provided in Sub Area Height Plan, which is attached hereto and incorporated as Exhibit C, as incorporated herein, into the ordinance.

B. Property shall meet all city, state, and federal regulations for building, fire, and accessibility codes, statutes, and regulations.

C. Allowed uses within the PD shall include all uses allowed in the LOR zone as of right, excluding special use permits for such district, except wireless communication tower(s) and country club and uses as follows:

(1) Residential
- (a) Live-Work Unit
- (b) Mixed-Use Development
- (c) Multiple-Family Dwelling/Townhomes

(2) Educational, Institutional, Public and Special Uses
- (a) Adult Day Services
- (b) Art Gallery and Museum
- (c) Medical, Clinic or Office
- (d) Medical, Rehab Care (w/o Live-In)
- (e) Place of Worship
- (f) Radio or TV Broadcasting w/o Tower
- (g) Research and Development Lab (Tech)
- (h) School (Business/Trade/Vocational, College/University, Primary/Secondary Public and Private

Private
- (i) Child Care Facility or Daycare
- (j) Community Center, Public
- (k) Library

(3) Recreational and Entertainment Uses
- (a) Amusement, Indoor
- (b) Amusement, Outdoor (Temporary)
- (c) Theater, Indoor Only
- (d) Theater, Performing Arts

(4) Retail and Service Uses
- (a) Art Instruction Studio
- (b) Art Studio
- (c) Bar (>75% Alcohol Sales)
- (d) Financial Institution
- (e) Food Truck Park
- (f) Grocery, Local Scale

(g) Grocery, Neighborhood Scale
(h) Gym and Fitness Facilities
(i) Nursery, Retail
(j) Personal Care Service Shop
(k) Postal Mart
(l) Professional Office, Local Scale
(m) Restaurant, Limited Seating
(n) Restaurant, Seated Service
(o) Retail, Convenience Store
(p) Convenience Store w/ Restaurant
(q) Retail, Local Scale
(r) Retail, Neighborhood Scale
(s) Retail, Sundry
(t) Seasonal Sales

(u) Tattoo or Piercing Studio
(v) Alcohol Production and Tasting/Tap Room, Micro w/ Food Sales
(w) Boutique Hotel
(x) Laundry, Dry Cleaning Drop-Off/Pick-Up
(y) Laundromat

(5) Automobile and Transportation Uses
(a) Auto Dealership (Inside Only)

D. Uses that require an additional approved site plan and special conditions:

(1) Recreational and Entertainment Uses shall be approved by Planning and Zoning Commission and City Council and shall contain additional regulations to ensure compatibility with the uses set forth herein and adjacent neighborhood.
(a) Banquet or Event Center

E. Specific PD Glossary of New or Modified Use Definitions:

(1) Research and Development Lab (Tech): A facility under 10,000 square feet that includes laboratories and experimental equipment for prototype design, engineering, and product testing.

(2) Amusement Outdoor (Temporary): Any temporary outdoor amusement center where there may or may not be an admission charge, and which may include such activities as rides, entertainment, games, booths, food services and sales, and exhibitions. This use type will be limited to Subarea 1 on the site.

(3) Banquet or Event Center: A building, facility, room, or portion thereof, that is rented, leased, or otherwise made available to any person or group for a private event function that is not open to the general

public, regardless of whether a fee is charged. Includes reception facilities and wedding venues. Limited to 10,000 square feet.

(4) Food truck park: An area designated for mobile vendors (e.g., food trucks) to park and sell food, beverages, and other retail items or services to patrons. This use type will be limited to Subareas 1, 2, and 3 on the site. The hours of operation for the designated food truck area will be 7 am-10 pm. Restrooms will be provided in buildings located in Subareas 1 and 2. All electrical, water, and wastewater connections shall be provided, and above ground utility connections shall not interfere with pedestrian or vehicular safety and shall not be located in customer service areas or customer parking lots. Detached signage for mobile vendors is allowed while within the property boundary. Waste receptacles will be provided on site.

(5) Retail, Sundry: A retail store 10,000 square feet or under, also commonly referred to and promoted and advertised as a dime or dollar store, selling various miscellaneous small items that are usually of no large value and not important enough to be mentioned individually such as dry goods, toiletries, household supplies and perishable and nonperishable food. Only one such use is allowed in the PD area.

(6) Seasonal Sales: Temporary outdoor retail operations (restricted to Subarea 1, 2, and 3) including but not limited to:
- (a) Farmer's markets;
- (b) Seasonal sales of Christmas trees, pumpkins, firewood, or other seasonal items; or
- (c) Semi-annual sales of art or handcrafted items in conjunction with community festivals or art shows.

(6) Tattoo or Piercing Studio: An establishment or facility under 3,000 square feet in which tattooing and/or body piercing is performed as defined by Chapter 146 of the Texas Health and Safety Code. This does not include the tattooing of permanent makeup. Only one such use is allowed in the PD area.

(7) Boutique Hotel: Generally small, owner-operated businesses. Room numbers range from four (4) to twenty (20). Reservations may be made directly with the property. A boutique hotel offers a limited set of services, which typically include: a business center, meeting rooms, fitness room, laundry facility, and swimming pools. A boutique hotel might have a specialty restaurant, but only offer a limited menu and select days, or have small-scale meeting facilities and special events.

(8) Auto Dealership (Inside Only): The display for sale of more than two motor vehicles or any type of trailer in an enclosed environment, and where repair or body work is incidental to the operation of the new or used vehicle sales. Motor vehicles sales includes motor vehicle retail or wholesale sales. Outside storage of motor vehicles for sale does not exist. Limited to 5,000 square feet and one use in the PD area.

F. A 0 – 10-foot building setback shall be allowed in place of the required 25-foot side setback.

G. A 15-foot minimum side setback shall be allowed in place of the required 25-foot side setback.

H. A 20-foot minimum rear setback shall be allowed in place of the required 25-foot rear setback.

I. The minimum/maximum rules dictating lot size shall be removed for any future subdivision within the district.

J. A maximum height of two (2) stories will be allowed within 25 feet of single-family residential structures.

K. Subareas, as shown in Exhibit “C”, will dictate the height of buildings within the “property” as follows: a maximum height of one story in Subarea 1; a maximum height of three stories within Subarea 2 with an additional fourth floor allowed for roof access structures, roof terraces, and stairwells for up to 5% of the residential ground floor area; a maximum height of two stories in Subarea 3; and a maximum height of one story in Subarea 4.

L. Up to 45% maximum lot coverage will be allowed to incorporate the proposed housing and new commercial development.

M. The “property” will be exempt from building articulation requirements set forth in the Comprehensive Zoning Ordinance.

N. Additional residential design standards shall include:
(1) The ground floor level shall be a minimum of 10 feet tall in Subarea 2.
(2) Buildings in Subarea 2 shall have a minimum of 15% window glass on external facing facades.
(3) Buildings in Subarea 3 shall have a minimum of 10% window glass on external facing facades.
(4) Buildings in Subareas 2 and 3 should have an articulated porch, balcony, or significant entry feature along a total of 50% of the linear length of a façade, with said feature at any story contributing towards the percentage.

O. Commercial design standards shall allow main entrances of building sites to be located on any side of the building provided they follow the aesthetic design requirements for front entrances including features such as signage, an overhang, appropriate lighting, and other security features.

P. Collection of garbage, recycling and other waste will be allowed to take place outside of the rear of the building. The applicant proposes to designate waste collection zones. Waste collection zones will be approved by the City Planner. Such zones will follow current screening and buffering requirements.

Q. Dumpsters behind existing buildings on the property will be exempt from screening requirements.

R. All non-residential buildings over 1,000 square feet in ground area shall have a flat roof and a 3-foot parapet wall to screen rooftop equipment. All equipment must be set back 5 feet minimum from the exterior roof boundary.

S. Permeable surfaces shall be allowed to be used in required parking space areas.

T. Required parking shall be allowed to be blocked during approved community events, except parking in high traffic areas or emergency uses. During phases of new construction, temporary no parking signs will be posted 5 to 10 feet around the perimeter of the construction site. Fire lanes will remain clear at all times.

U. The shared parking agreement establishes the ability to balance peak parking demand through a time-of-day shift (daytime, evening and overnight). Based on projection of expected tenants at the time of adoption, the number of required parking spaces allows a flexible mixture up to a threshold of 288 spaces (day/evening) before needing to revisit the shared parking plan. Certificate of Occupancies for individual suites can be issued through a simple update of the PD totals based on the designation of time-of-day peak use. All residential and hotel uses are assumed to be peak overnight uses and therefore do not functionally contribute to the peak daytime/evening total. The total number of parking spaces required is calculated per suite exactly to two decimal places and rounded up to the nearest whole number at the final total of the entire PD.

V. As it relates to all uses specifically allowed in the PD, the shared parking agreement parking requirements between the owners and occupants of the uses set forth in this subsection shall be as follows: all medical, clinic

or medical office uses will be 1 space per 400 sf; all retail, service or general office space uses of all scales and categories will be 1 space per 400 sf; all restaurant limited seating or alcohol production/tap rooms will be 1 space per 400 sf; all restaurant seated service will be 1 space per 200 sf; tattoo or piercing studio will be 1 space per 400 sf; banquet or event center will be 1 space per 20 non-fixed seats and boutique hotel will be 1 space per guest room. For purposes of calculating parking space requirements for residential structures, 1 parking space is required for studio or 1-bedroom units and 1.5 spaces for 2-bedroom units. All suites will be required to have only the parking required based on the ratio of spaces per square foot and no additional use-specific requirements.

W. A variable width buffer shall be allowed along the northern property line and into the underutilized right-of-way along Wheatland Road. On-street parking shall be implemented along the underutilized travel lane closest to the curb as shown in Exhibit “C”.

X. The required minimum landscaped lot area shall be reduced to 5% of the lot area, excluding additional parking landscape requirements.

Y. Irrigation shall be added throughout the property and shall utilize natural rainwater as an additional backup irrigation source. Rainwater catchment areas shall be included within the required landscaped areas and shall not require additional screening.

Z. The PD will apply to all parcels as defined in the legal description and any future parcels that are derived from within the current parcels. Any future derived parcels will calculate their parking requirements, open space, lot coverage, landscaping, and any other area-based requirements as a part of the total of the entire PD and shared parking arrangement, not treated as a separate site with separate totals. Parcel splits or divisions will be handled administratively where allowed by law.

AA. Up to twenty (20) percent of the ground floor within the Multi-family Housing Boundary as provided in Exhibit “C” can be utilized as Retail and/or Office.

BB. That Landscaping and green space plan shall be filed and approved administratively in accordance with the Exhibit “D” and the provisions of this ordinance.

CC. All uses permitted under the existing use chart at the time this ordinance was adopted shall remain permissible for the duration of this Planned Development District. Any future uses added to the base zoning shall be permitted in the same manner as outlined in the base zoning. Suites within Wheatland Plaza that have been previously occupied by a use

permitted under this ordinance shall continue to be eligible for occupancy under that same use. New occupancy-related conditions or requirements shall not apply to suites previously occupied or listed under the current use chart as of the adoption of this ordinance.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 4. That all provisions of the Ordinance of the City of Duncanville in conflict with provisions of this Ordinance be, and same are hereby repealed, and all other provisions of the ordinances of the City of Duncanville not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5. That the above-described property shall be used only in the manner and for the purposes provided for in the Comprehensive Zoning Ordinance of the City of Duncanville, as amended herein by the granting of this planned development; and, all provisions of Ordinance 2461, except as amended herein shall continue in full force and effect.

SECTION 6. That any person, firm or corporation violating any of the provisions or terms of this Ordinance or of the Comprehensive Zoning Ordinance as amended hereby shall be deemed guilty of a misdemeanor, and subject to the same penalty as provided for in the Comprehensive Zoning Ordinance, and upon conviction shall be punished by fine not to exceed the sum of Two Thousand Dollars ($2,000.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense.

SECTION 7. That this Ordinance shall take effect immediately from and after its passage and the publication of the caption of said Ordinance, as the law in such cases provides.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the ___ day of _____ 2025.

APPROVED:

_____

Greg Contreras Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION

Being Wheatland Plaza Shopping Center, Block 1, Lot A & Abandoned Alley, more commonly known as 402 East Wheatland Road, Duncanville, Dallas County, Texas.

EXHIBIT “A-1”

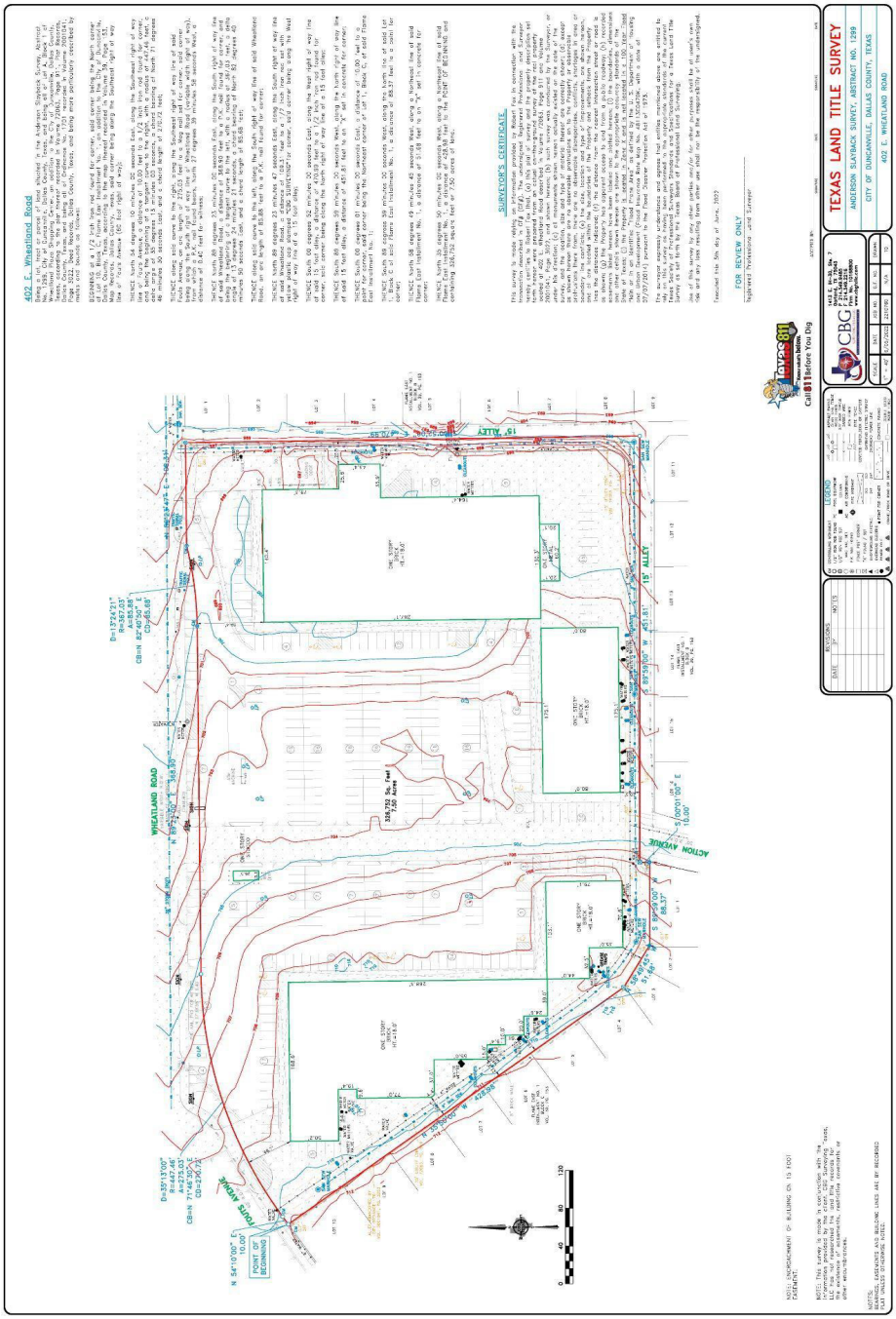

TEXAS LAND TITLE SURVEY
ANDERSON SLAYBACK SURVEY, ABSTRACT NO. 1299
CITY OF DUNCANVILLE, DALLAS COUNTY, TEXAS
402 E. WHEATLAND ROAD
SURVEYOR'S CERTIFICATE
FOR REVIEW ONLY
WHEATLAND ROAD
15' ALLEY
ACTION AVENUE
POINT OF BEGINNING
LEGEND

EXHIBIT "B"

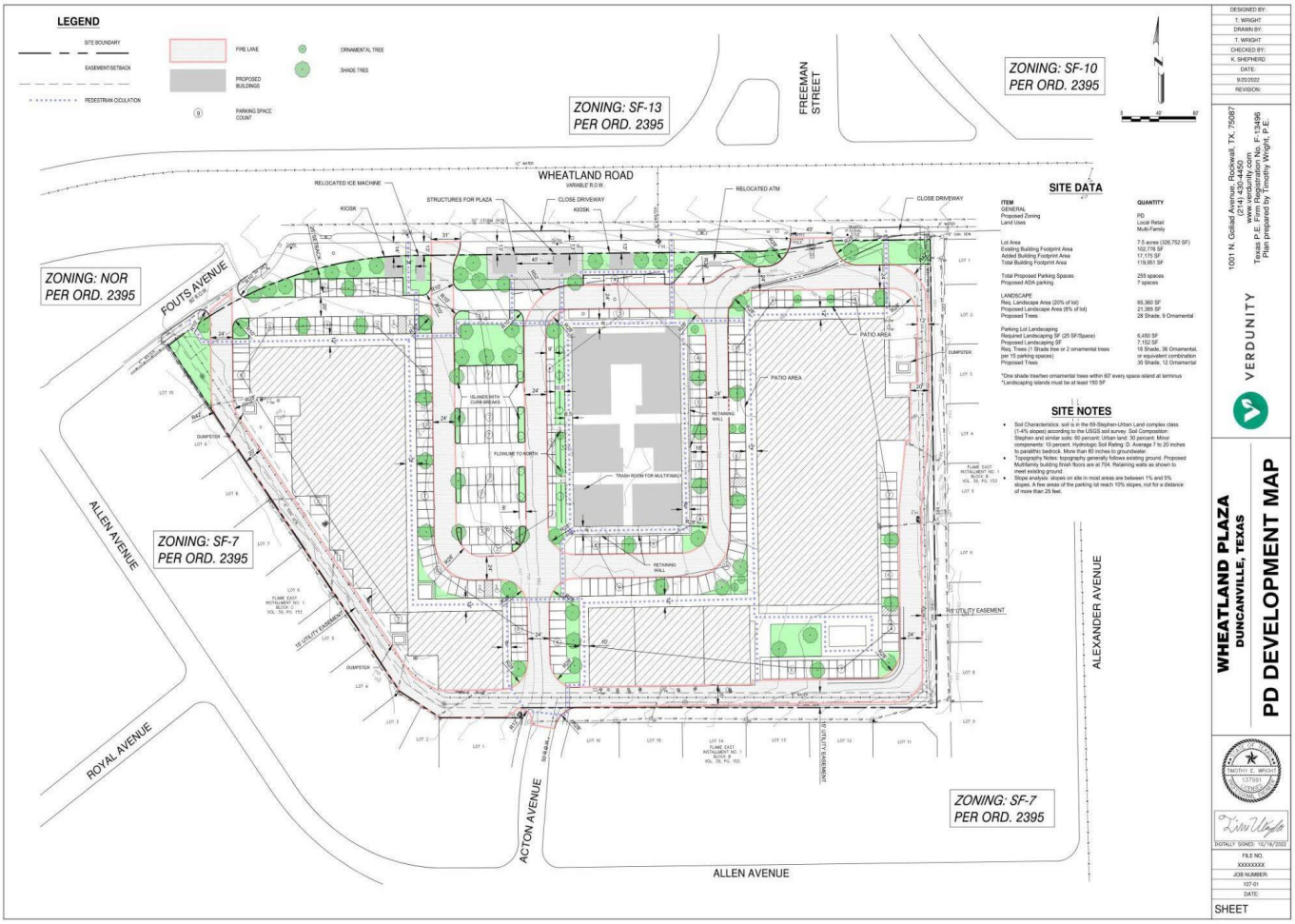

LEGEND
SITE BOUNDARY
EASEMENT/SETBACK
PEDESTRIAN CIRCULATION
FIRE LANE
PROPOSED BUILDINGS
PARKING SPACE COUNT
ORNAMENTAL TREE
SHADE TREE
ZONING: SF-13 PER ORD. 2395
ZONING: SF-10 PER ORD. 2395
FREEMAN STREET
WHEATLAND ROAD
VARIABLE R.O.W.
RELOCATED ICE MACHINE
KIOSK
STRUCTURES FOR PLAZA
CLOSE DRIVEWAY
RELOCATED ATM
ZONING: NOR PER ORD. 2395
FOUTS AVENUE
ZONING: SF-7 PER ORD. 2395
ALLEN AVENUE
ROYAL AVENUE
ACTON AVENUE
ALEXANDER AVENUE
PATIO AREA
DUMPSTER
RETAINING WALL
TRASH ROOM FOR MULTI-FAMILY
FLOWLINE TO NORTH
ISLANDS WITH CURB BREAKS
10' UTILITY EASEMENT
SITE DATA
SITE NOTES
VERDUNITY
1001 N. Gallatin Avenue, Rockwall, TX. 75087
(214) 449-4459
www.verdunity.com
Texas P.E. Firm Registration No. F-13486
Plan prepared by Timothy Wright, P.E.
WHEATLAND PLAZA
DUNCANVILLE, TEXAS
PD DEVELOPMENT MAP
DESIGNED BY: T. WRIGHT
DRAWN BY: T. WRIGHT
CHECKED BY: K. SHEPHERD
DATE: 9/20/2022
REVISION:
FILE NO.: XXXXXXXX
JOB NUMBER: 107-01
DATE:
SHEET

EXHIBIT "C"

Exhibit C

(Updated to reflect 2 story nature of proposed housing throughout entire multi-family zone inside the dashed boundary)

Exhibit 2: Sub Area Diagram

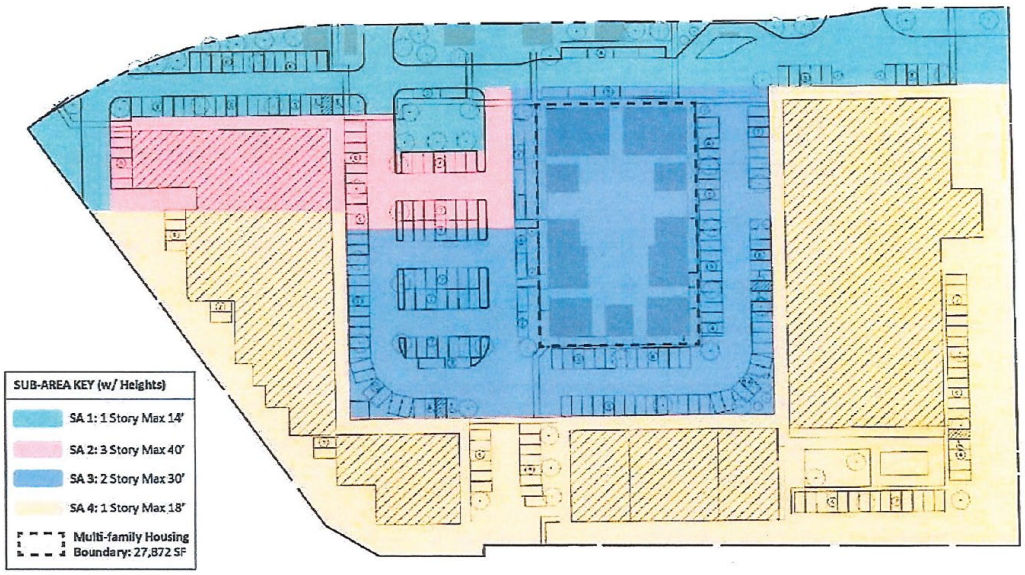


EXHIBIT "D"

Main Landscaping Requirements								
Thresholds based on overall site SF Above		65,350	20%		Parking Lot Landscaping Proposed	7,152	2.19%	
		49,013	15%		Parking Lot Landscaping Required (25	6375		
		32,675	10%		Open Space + Parking Landscaping	28,537	8.73%	
		16,338	5%		Additional Wheatland Road ROW	7,107		
Open Space Proposed		21,385	6.54%		East and South Alley Area	13,691		
Proposed Open Space Threshold			5%		Total with Additional Offsite Landscapir	49,335		

Landscape Requirement Exemptions	§4.08	General Zoning	**Exemptions:** Exempted from §4.08.C Requirements for Single-Family, Duplex, and Townhome Development; §4.07.D.1.c (No Landscape Architect be required to develop site plan); §4.07.D.2 Required Landscaped Areas on Lot; §4.07.D.4 Required Landscape Buffer; §4.07.D.5 Continuous Shrub Buffer
Required Landscaped Areas on Lot	§4.08.D.2	General Zoning	**Modified:** A minimum of 5% of the lot area will be landscaped (not including the additional parking requirements)
Required Landscaped Areas within Parking Lots	§4.08.D.3	General Zoning	**No Change:** a) Landscaped areas within parking lots shall be provided in addition to the requirements in 2. Required Landscaped Areas on a Lot above; b) Landscaped areas within parking lots shall be at least nine (9) feet wide and one hundred fifty (150) square feet in area; c) At least twenty-five (25) square feet of landscaped area shall be provided per parking space; d) There shall be a minimum of one (1) Shade Tree or two (2) Ornamental Trees planted in the parking area for every fifteen (15) parking spaces; e) There shall be a landscaped area with at least one (1) Shade Tree or two (2) Ornamental Trees within sixty (60) feet of every parking space; f) A landscape island shall be located at the terminus of all parking rows, and shall contain at least one (1) Ornamental Tree.
Concrete Curb	§4.08.D.6	General Zoning	**No Change:** All landscaped areas shall be protected by a raised six (6) inch concrete curb with openings to allow for the drainage of stormwater into the landscaped areas (see Figure 4.08.2).
Irrigation Requirements	§4.08.D.7	General Zoning	**No Change:** All required landscaped open space shall be provided with adequate and inconspicuous irrigation systems. Freeze cut-off monitors shall be provided.
Additional Irrigation Requirements		None	**New:** The site will be broken into three irrigation zones that will utilize natural rainwater in addition to a backup irrigation source. The use of rainwater catchment systems will be allowed on the property without any additional screening required.
Planting Requirements	§4.08.D.8	General Zoning	**No Change:** a) See Chapter 12 of the City's Code of Ordinances, Article XVII Tree Preservation for information on credit for existing landscaping and required Tree Removal Permits; b) All required plantings shall be selected from the City's Approved Plant List. Native and drought tolerant species are preferred; c) Complete coverage of required landscaped areas shall be provided with Shrubs, Groundcover, and/or Ornamental Grass with a Rock Landscape Base or a Mulch Base.

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a Resolution to authorize a contract with CentralSquare Technologies for the management of residential and business alarm services.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**

STAFF RESPONSIBLE:
Matthew Stogner, Chief of Police

BACKGROUND/HISTORY:
In 2017, RFP #17-91 Alarm Permit Management Services was publicly advertised. Seven firms expressed interest. On September 21st, two proposals were received and opened. CentralSquare Technologies, LLC was selected as the better proposal, to ensure customer service needs are met and the accuracy of customer accounts are well maintained.

The services include, but are not limited to: deployment of a software package that maintains and tracks false alarm data and generates related report; distribution of alarm permit applications for renewals and "unregistered" users; download "call data" on a daily basis; distribution of letters, notices, and invoices to residences and businesses for false alarms as per the ordinance; collect fees; and provision and management of City of Duncanville website portal allowing citizens to apply for and manage alarm permit activity. The cost of the permit and services are borne by the customer who enters into an agreement with the provider. The provider bares the costs and implementation of the program, and remits a portion of the permit fee to the City. The City has been under contract with CentralSquare Technologies, LLC., since November, 2017. The current agreement expired in December, 2019 with an option to renew annually.

Over the past several years the alarm monitoring and billing service provided by CentralSquare Technologies has met standards.

POLICY EXPLANATION:
The contract has been reviewed by the city's Chief Procurement Officer who agrees no changes need to be made, as the original agreement will be used to continue the program. The agreement between the City of Duncanville and CentralSquare is budget neutral, as CentralSquare receives a percentage of the revenue collected through the services they provide.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	**Purchase Amount**	**After Encumber**
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
1. Approved CentralSquare contract.
2. Do not approve CentralSquare contract.
3. Other actions as directed by Council.

ATTACHMENTS:
Attachment 1 - Original Central Square Contract
Attachment 2 - Resolution No. - 2025-409 - Alarm Permit Management Services

Agreement #17-091
Alarm Permit Management Services

This services Agreement ("Agreement") is made as of the Effective Date by and between **Public Safety Corporation,** hereinafter called "CONTRACTOR", and the **City of Duncanville, Texas**, hereinafter called "CITY".

Section 1. Scope of Services
Upon execution of this Agreement by CITY, CONTRACTOR agrees to provide to CITY the **goods and services** as set forth in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference ("the Scope of Services").

Section 2. Term of Agreement
The term of this Agreement shall begin on the last date of execution hereof (the "Effective Date") and continue through **December 31, 2019.** The contract will be eligible for renewal on the anniversary date thereafter if both parties agree. If the CONTRACTOR intends to non-renew, it shall notify the City in writing at least (30) days prior to the anniversary date. Each renewal will be in one (1) year increments, with the total contract length not to exceed **five (5)** years, unless sooner terminated as provided in Section 8, below.

Section 3. Contractor Obligations

A. CONTRACTOR shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should CITY require additional services not included under this Agreement, CONTRACTOR shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by CITY; and without decreasing the effectiveness of the performance of services required under this Agreement.

B. To the extent reasonably necessary for CONTRACTOR to perform the services under this Agreement, CONTRACTOR shall be authorized to engage the services of any agents, assistants, persons, or corporations that CONTRACTOR may deem proper to aid or assist in the performance of the services under this Agreement with the prior written approval of CITY. The cost of such personnel and assistance shall be a reimbursable expense to CONTRACTOR only if authorized in writing in advance by CITY.

C. CONTRACTOR shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform all services set forth in the Scope of Services.

Section 4. Payment
CITY agrees to pay CONTRACTOR for all services authorized in writing and properly performed by CONTRACTOR in accordance with the Payment Schedule set forth in Exhibit "A", attached hereto and incorporated herein by reference, subject to additions or deletions for changes or extras agreed upon in writing. All fees paid to CONTRACTOR, by CITY, shall be based on invoices submitted by CONTRACTOR for work performed monthly by CITY, less any previous payments, Payments shall be made within 30 days of receipt of invoice by CITY.

CITY reserves the right to delay, without penalty, any partial payment when, in the opinion of CITY, CONTRACTOR has not made performed in a satisfactory manner based on the Scope of Services.

The total CONTRACTOR fee shall be as specified in Exhibit "A". CITY may deduct from any amounts due or to become due to CONTRACTOR any sum or sums owing by CONTRACTOR to CITY. In the event of any breach by CONTRACTOR of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against CITY, or the CITY's premises, arising out of CONTRACTOR's performance of this Agreement, CITY shall have the right to retain out of any payments due or to become due to CONTRACTOR an amount sufficient to completely protect the CITY from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by CONTRACTOR.

Section 5. Responsibilities

A. CONTRACTOR shall be responsible for the quality for goods and services furnished by CONTRACTOR under this Agreement. CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in the services.

B. Neither CITY's review, approval or acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and CONTRACTOR shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONTRACTOR's negligent performance of any of the services furnished under this Agreement.

C. The rights and remedies of CITY under this Agreement are as provided by law.

Section 6. Time for Performance

A. CONTRACTOR shall perform all services as provided for under this Agreement in a proper, efficient and professional manner in accordance with CITY's requirements. As time is of the essence of this Agreement, such services shall be completed on date as specified in Exhibit "A", after receiving a Notification to Proceed from CITY to CONTRACTOR.

B. In the event CONTRACTOR's performance of this Agreement is delayed or interfered with by acts of the CITY or others, CONTRACTOR may request an extension of time for the performance of same as hereinafter provided, but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

C. No allowance of any extension of time, for any cause whatever, shall be claimed or made to CONTRACTOR, unless CONTRACTOR shall have made written request upon CITY for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless CITY and CONTRACTOR have agreed in writing upon the allowance of additional time to be made.

Section 7. Documents

A. CITY shall own, have, keep and retain all rights, title and interest in and to all documents, including all ownership, common law, statutory, and other reserved rights, including copyrights (except copyrights held by the CONTRACTOR) in and to all project documents, whether in

draft form or final form, which are produced at CITY's request and in furtherance of this Agreement.

Section 8. Termination

A. CITY may suspend or terminate this Agreement for cause or without cause at any time by giving 30 days' written notice to CONTRACTOR. In the event suspension or termination is without cause, payment to CONTRACTOR, in accordance with the terms of this Agreement, will be made on the basis of services reasonably determined by CITY to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to CITY.

B. Should CITY require a modification of this Agreement with CONTRACTOR, and in the event CITY and CONTRACTOR fail to agree upon a modification to this Agreement, CITY shall have the option of terminating this Agreement and CONTRACTOR's services hereunder at no additional cost other than the payment to CONTRACTOR, in accordance with the terms of this Agreement, for the services reasonably determined by CITY to be properly performed by CONTRACTOR prior to such termination date.

C. If Agreement is terminated by the CONTRACTOR for convenience, the CONTRACTOR shall provide an option for the CITY to transition operation of the alarm program to CITY facilities and staff using the CONTRACTOR's proprietary Software.

D. CONTRACTOR may terminate for cause if the CITY does not perform its duties or exercise its responsibilities in accordance with this Agreement including the maintenance of the systems of fees and fines in effect at the beginning of the contract period. Upon an event of cause by the CITY (non-performing party), the CONTRACTOR shall provide thirty (30) days prior written notice to the CITY that the Contract terms have not been carried out in accordance with this Agreement. If the event of cause is not corrected by the CITY to the reasonable satisfaction of the CONTRACTOR, the CONTRACTOR may terminate this Agreement after a thirty (30) day written cure notice to the CITY.

Section 9. Assignment

CONTRACTOR shall not assign or sublet this Agreement, or any part thereof, without the prior written consent of CITY.

Section 10. Applicable Laws

CONTRACTOR shall comply with all Federal, State, County and Municipal laws, ordinances, regulations, safety orders, resolutions and building codes relating or applicable to services to be performed under this Agreement. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court

Section 11. Execution becomes Effective

This Agreement will be effective upon execution of the Agreement by and between CONTRACTOR and CITY.

Section 12. Agreement Amendments

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or

effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the parties except as may be otherwise provided therein.

Section 13. Severability

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

Section 14. Independent Contractor

It is understood and agreed by and between the parties that CONTRACTOR in satisfying the conditions of this Agreement, is acting independently, and that the CITY assumes no responsibility or liabilities to any third party in connection with CONTRACTOR's actions. All services to be performed by CONTRACTOR pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of CITY. CONTRACTOR shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. There is no intended third party beneficiary to this Agreement.

Section 15. Notice

Any notice required or permitted to be delivered hereunder may be sent by first class mail, email, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If to CITY:

City of Duncanville
Attn: Charlie Oberrender
PO Box 380280
Duncanville, TX 75138
(972) 780-5058
coberrender@ci.duncanville.tx.us

If to CONTRACTOR:

Public Safety Corporation
103 Paul Mellon Court
Waldorf, Maryland 20602
Attention: Contract Administration
jwilliams@publicsafetycorp.com
(877) 729-9653 x106

Section 16. Exhibits
The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

Section 17. Survival of Obligations
Any of the representations and obligations of the parties, as well as any rights and benefits of the parties pertaining to a period of time following the termination of this Agreement shall survive termination.

Section 18. Prohibition of Boycott of Israel
By executing this agreement, CONTRACTOR verifies that it does not Boycott Israel, and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

Section 19. Business Prohibitions
By executing this agreement, CONTRACTOR verifies that, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, it does not appear on the Comptroller of the State of Texas listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization, as identified under Section 806.051, Section 807.051 or Section 2253.253, listing of companies.

Section 20. Insurance

A. The CONTRACTOR shall provide and maintain Workman's Compensation and Employer's Liability Insurance for the protection of CONTRACTOR's employees, as required by law. CONTRACTOR shall also provide and maintain in full force and effect during the term of this Agreement, insurance (including, but not limited to, insurance covering the operation of automobiles, trucks and other vehicles) protecting CONTRACTOR and CITY against liability from damages because of injuries, including death, suffered by any person or persons other than employees of CONTRACTOR, and liability for damages to property, arising from or growing out of CONTRACTOR's operations in connection with the performance of this Agreement.

B. Such insurance covering personal and bodily injuries or death shall be in the sum of not less than One Million Dollars ($1,000,000.00) for one (1) person, and not less than One Million Dollars ($1,000,000.00) for any one (1) occurrence. Insurance covering damages to property shall be in

the sum of not less than One Million Dollars ($1,000,000.00) for any one (1) occurrence, and One Million Dollars ($1,000,000.00) aggregate.

C. CONTRACTOR shall also provide and maintain Professional Liability Insurance coverage to protect CONTRACTOR and CITY from liability arising out of the performance of professional services, if any, under this Agreement. Such coverage shall be in the sum of not less than One Million Dollars ($1,000,000.00).

D. A signed Certificate of Insurance, satisfactory to CITY, showing compliance with the requirements of this section shall be furnished to CITY before any services are performed under this Agreement, and shall further indicate that each and every policy for liability insurance coverage as required herein includes a "Contractual Liability Coverage" endorsement covering the Agreement. Such Certificate of Insurance shall provide for thirty (30) days written notice to CITY prior to the cancellation or modification of any insurance referred to therein.

E. The CONTRACTOR agrees that it shall add the CITY, its elected and appointed officials, officers, employees, agents, and successors in interest to the CONTRACTOR's liability insurance policies as additional insureds. The CONTRACTOR shall require its insurance carrier or agent to certify that this requirement has been satisfied on all Insurance Certificates issued under this Contract.

Section 21. Indemnification for Injury and Performance

CONTRACTOR hereby agrees to protect, defend, indemnify and hold harmless the CITY, its officers, agents, servants and employees (hereinafter individually and collectively referred to as "Indemnitees"), from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, omission or neglect of CONTRACTOR, its officers, employees, servants, agents or subcontractors, or anyone else under CONTRACTOR's direction and control, and arising out of, occurring in connection with, resulting from or caused by the performance or failure of performance of any work or services called for by this Agreement, or from conditions created by the performance or non-performance of said work or services. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, CONTRACTOR shall be obligated to indemnify CITY as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

Section 22. Indemnification for Unemployment Compensation

CONTRACTOR agrees that it is an independent contractor and not an agent of the CITY, and that CONTRACTOR is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve CITY of any responsibility or liability from treating CONTRACTOR's employees as employees of CITY for the purpose of keeping records, making reports or payments of Unemployment Compensation taxes or contributions. CONTRACTOR further agrees to indemnify and hold CITY harmless and reimburse it for any expenses or liability incurred under said Statutes in connection with employees of CONTRACTOR.

Section 23. Indemnification for Performance
CONTRACTOR shall defend and indemnify CITY against and hold CITY and the premises harmless from any and all claims, suits or liens based upon or alleged to be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation and management costs incurred by CONTRACTOR in performing this Agreement.

Section 24. Cooperative Purchases.
This Agreement may be used by other government agencies. The CONTRACTOR has agreed to offer similar services to other agencies under the same terms and conditions as stated herein except that the revenue share percentage (Compensation) may be negotiated between the CONTRACTOR and other agencies based on the specific revenue expectations, agency reimbursed costs, and other agency requirements. The CITY will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchases by such agencies.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this the 9 day of November, 20 17.

CITY:
City of Duncanville, Texas

By: [signature]

Title: City Manager

CONTRACTOR:
Public Safety Corporation

By: [signature]

Title: President

ATTACHMENT A

Scope of Services

Purpose

The purpose of this Scope of Services is to describe the duties and responsibilities of Public Safety Corporation ("PSC" or "CONTRACTOR"), and the CITY OF Duncanville, Texas ("Duncanville" or "CITY").

CONTRACTOR Responsibilities

PSC Responsibilities

1. At the beginning of the project, electronic conversion/import to PSC computer server(s) of any CITY alarm program records required to support the proposed CONTRACTOR services. These records may contain historical CITY alarm business, alarm system location, responsible party and other alarm data previously developed by or for Duncanville. CONTRACTOR shall obtain this data directly from Duncanville and relies on the CITY for the accuracy and completeness of any such historical data;

2. Update alarm business, alarm system location and responsible party information and renew permits and alarm registrations in accordance with the CITY Alarm Ordinance ("Ordinance"). Updated information may be processed by mail, electronically, in person and / or online;

3. Register, renew and bill the registration of alarm systems in accordance with the Ordinance. Registrations and renewals may be processed by mail, telephone, electronically, in person and / or online. Notices related to registration may be sent by email or mail based on the alarm user contact information maintained;

4. Automatically import daily into the CONTRACTOR's CryWolf® alarm billing system, alarm incident data (in formats prescribed by PSC) extracted by the CITY from the Superion CAD System;

5. Create and host a dedicated, secure (SSL encrypted) Duncanville Alarm Program website for CITY citizens and businesses to obtain false alarm reduction educational information, review alarm ordinance and appeal requirements, access and update alarm account information, and pay alarm fees online if preferred. This website may be linked by the CITY to the CITY website if desired;

6. Initialize, maintain, secure and back-up Program databases including alarm business, alarm system location and incident data; alarm-related financial transactions and accounts receivable information. PSC will comply with the provisions of the Alarm Ordinance, and update Program business rules to comply with Alarm Ordinance changes as supported by the PSC software;

7. Process false alarm incident data, including the matching of false alarm incidents with the alarm system location database maintained by PSC;

8. Bill and correspond with alarm businesses and alarm users in accordance with the Alarm Ordinance provisions. This will include but may not be limited to invoices and delinquent payment

notices. A warning notice will be sent to each alarm user on the occasion of the alarm user's first false alarm immediately preceding the first chargeable alarm incident. Warning notices may be sent by mail, email or other electronic method based on the alarm user's accepted contact method(s);

9. Provide CITY alarm users access to online information on false alarm reduction and Ordinance requirements to include an Online Alarm School.

10. Answer telephone inquiries from CITY alarm users that are placed to a false alarm program toll-free customer service number established for the CITY;

11. Process fee / penalty payments mailed to and deposited in a nearby CITY-approved bank lockbox and account, and received from other payment channels, e.g. online, as agreed on by PSC and the CITY, and apply these payments to alarm accounts;

12. Support alarm hearings and appeals by notifying the CITY of any such appeals, providing a CITY Alarm Program representative with documentation supporting noticing / billing decisions; and updating the system with the disposition of any hearing results;

13. Provide and maintain computer equipment, software, mailing equipment and furniture at PSC's Program processing facilities;

14. Provide the CITY secure (SSL encrypted), online, on-demand access to alarm management information and reports including, but not limited to, alarm account transaction history, alarm system information, and financial transactions/balances with format and content specified by the CryWolf® Alarm Management System and the designated Bank, and agreed on between the CITY and PSC; and,

15. Perform special collection functions as directed and authorized by the CITY such as retaining a third party collection agency or providing delinquent account information to other CITY agencies. To the extent permitted by local law, third-party collection fees will be added to the delinquent amounts.

PSC is responsible for all costs of carrying out these responsibilities including, but not limited to, the costs of staff, facilities, equipment, consumable supplies. Only third-party bank and credit card fees, mailing supply costs (paper and envelopes), first class postage,
third party collection costs (if any), e.g. collection agency fee, and citizen overpayments, if any, will be shared by the parties through payment from gross collections before revenue sharing.

DUNCANVILLE Responsibilities

1. Appointing a CITY Alarm Administrator ("Administrator") and backup administrator who will be the primary points of contact between PSC and the CITY. The Administrator(s) is responsible for overseeing PSC's operation of the False Alarm Management Services Program ("Program") and accessing Program information, as needed, via PSC provided online access;

2. Requesting or supporting PSC's requests of Alarm Companies, as needed, to provide alarm system information;

3. Making any and all decisions about alarm call response, determining whether calls are false alarms, providing any on-scene communication of alarm related information to alarm users, and for entering any alarm related information within the Superion CAD system;

4. Extracting false alarm call incident data from the Superion CAD System and transferring this data electronically to PSC (via PSC's FTP site). The data extraction format will be provided by PSC and PSC will provide the CITY additional software for automating the daily transfer of alarm incident files to PSC;

5. Scheduling, conducting and making appeal decisions for any false alarm hearings;

6. Conducting any general public education programs on false alarms; and,

7. Transferring any and all financial information from the Program generated alarm reports to other Duncanville financial systems, as needed.

The CITY is responsible for all costs of carrying out the CITY's responsibilities, including, but not limited to the costs of staff, facilities, computer equipment and consumable supplies.

[Remainder of Page Intentionally Left Blank]

ATTACHMENT B
PAYMENT TERMS

1. Revenue Sharing Percentage

For the provision of all Services and technology outlined in this Contract, CONTRACTOR shall obtain payment exclusively from the revenues CONTRACTOR helps generate. There shall be no upfront systems development, licensing, conversion, equipment, travel, support or other costs. CONTRACTOR shall purchase, configure, install, and customize all systems and processes CONTRACTOR requires to provide the Services described herein. The CONTRACTOR's Revenue Share is 19%.

The only amounts that shall be paid from the total collected revenue and subtracted from the total collected revenue before the revenue sharing percentages are applied are:

1. Any overpayments by alarm users to be refunded or held for application against future charges, as directed by the CITY;
2. ~~Bank fees charged by the CITY-approved lockbox bank;~~
3. ~~Correspondence mailing costs (envelopes and paper) including postage (at first class postage rates); and~~
4. ~~Third-party credit card processing charges, if any.~~

Any certified mail requirements will be paid from the City's revenue share.

The revenue share percentages are based on several assumptions over which the CONTRACTOR has little or no control:

- The Ordinance fee and fine schedules remain at levels equal to or greater than at the Contract effective date;
- The CITY adopts a fair, but firm approach to granting appeals. Appeals and CITY waived charges are expected to reduce collections by no more than 5% annually; and
- The CITY actively supports enforcement of the Alarm Ordinance, including support of reasonable measures to collect all amounts due for violations of the Alarm Ordinance.

Revenue Share Payment Process

CITY and CONTRACTOR agree as follows:

1. All false alarm related fee collections from any payment method, including but not limited to bank lockbox and online credit card, shall be deposited, as soon as practical, in a False Alarm Bank Account ("False Alarm Account") to be established at a mutually agreeable Commercial Bank;
2. CITY and CONTRACTOR agree to maintain a positive balance of available funds ("Minimum Balance") at all times in the False Alarm Account;
3. At the beginning of each month, CONTRACTOR will reconcile the alarm related deposits for the most recent completed month and report the same to CITY. Upon CITY's approval, CITY and CONTRACTOR shall authorize and cause the issuance of electronic (ACH) transfers to CITY and to CONTRACTOR as follows:

a. With regard to the transfer to CONTRACTOR, the amount will be calculated for CONTRACTOR based on the Revenue Share described above. That amount, not to exceed 19% for revenue collected during the preceding month, shall be transferred to a bank and account authorized by CONTRACTOR; and,
b. The remaining balance of the revenue collected during the preceding month of no less than 81% shall be transferred to a bank and CITY account specified by CITY.

4. At the termination of this Contract, any remaining balance shall be transferred to CONTRACTOR and to CITY on the same prorata basis, e.g. 19% and 81% respectively. In addition, Contractor will continue to collect payments from the lockbox and record such payments for the City on an Excel spreadsheet which will be provided to the City on a weekly basis for 90 days. At the end of each month, for the 90-day period, Contractor will reconcile the bank statement and spreadsheet of payments after termination date and Contractor shall share those payments collected in the lockbox with the City and be compensated at 19% for those 90 days of payments collected after termination date.

Delinquent Account Terms

The parties shall define a mutually agreeable process and methods for collecting amounts due from delinquent accounts. If organizations other than the CITY and CONTRACTOR are retained to collect overdue amounts, the parties agree that the collection costs shall to the extent permitted by State of Texas law be added to the delinquent amounts owed by alarm system users or be borne by the parties on a pro-rata basis by deducting the third party collection fees from the gross third party collections before the revenue shares are calculated.

The CITY Payment Upon Early Termination

If, within the initial two (2) years of the effective date, this Contract is terminated by the CITY for convenience, or is terminated by CONTRACTOR for cause as defined in this Agreement, CONTRACTOR shall be due a one-time Program Termination fee, not to exceed $24,000.00, to reimburse CONTRACTOR for startup costs. This fee shall be in addition to any other amounts due CONTRACTOR under the Contract. The $24,000.00 shall be amortized (reduced) on a straight-line basis ($1,000 per month) over the initial two (2) year period.

RESOLUTION NO. 2025-409

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AWARD A BID AND AUTHORIZE A CONTRACT WITH CENTRALSQUARE, FOR CONTRACT #17-91 ALARM PERMIT MANAGEMENT SERVICES TO PROVIDE ALARM PERMITTING AND MONITORING SERVICES TO COMMERCIAL AND RESIDENTIAL PROPERTY OWNERS; PROVIDING FOR TERMS AND CONDITIONS; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL DOCUMENTS; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary to procure alarm permit management services to the Police Department; and

WHEREAS, the City of Duncanville collects revenue for alarm permits; and

WHEREAS, the City of Duncanville has publicly advertised and obtained proposals through RFP #17-91 Alarm Permit Management Services; and

WHEREAS, staff has evaluated the proposals to determine the most advantageous proposal; and

WHEREAS, the most advantageous proposal was submitted by CentralSquare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. That the City of Duncanville, Texas hereby award the bid and approves the execution of an agreement for the procurement of alarm permit management services with CentralSquare Technologies, LLC to provide alarm permitting and monitoring services to commercial and residential property owners, and provide terms and conditions.

SECTION 2. That the City manager is authorized to execute the appropriate and necessary documents and/or purchase orders.

SECTION 3. This resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

Docusign Envelope ID: C054D181-BF80-4948-B9A3-6CB1D586926B

EXTENSION AMENDMENT TO THE AGREEMENT BETWEEN CITY OF DUNCANVILLE, TEXAS AND SUPERION, LLC, (formerly Public Safety Corporation), A CENTRALSQUARE TECHNOLOGIES, LLC COMPANY ALARM PERMIT MANAGEMENT SERVICES AGREEMENT #17-091

This Extension Amendment between the City of Duncanville, (the "City") and Superion, LLC, a CentralSquare Technologies, LLC company (the "Contractor"), executed this _ day of December 2024, is made part of the original Agreement dated November 9, 2017, Agreement #17-091 (the "original Agreement") incorporated herein by reference. The City and Contractor hereby agree as follows:

1. OPTION TO RENEW. The parties hereby wish to extend and renew the original Agreement for a term of five (5) years. The contract will be eligible for renewal on the anniversary date thereafter if both parties agree. If the Contractor intends to non-renew, it shall notify the City in writing at least thirty (30) days prior to the anniversary date of the renewal period. Each renewal will be in one (1) year increments, with the total contract length not to exceed five (5) years, unless sooner terminated as provided in Section 8 of the original Agreement.

2. PRICING. The County and Contractor have agreed upon pricing as set forth in Attachment "A" of the original Agreement.

3. AMENDMENT. The parties wish to amend Section 2. Term of Agreement, of the original Agreement to extend for five (5) years as outlined in Section 1 herein.

4. OTHER PROVISIONS REMAIN IN EFFECT. Except as specifically modified herein and terms and conditions of the original agreement between the parties, dated November 9, 2017, and any amendments thereto, shall remain in full force and effect.

5. CONFLICT PROVISIONS. The terms, conditions, statements, requirements, or provisions contained in the Extension Amendment thereof shall prevail and be given superior effect and priority over any conflicting or inconsistent terms, statement, requirements or provisions contained in any other document or attachment.

Docusign Envelope ID: C054D181-BF80-4948-B9A3-6CB1D586926B

IN WITNESS WHEREOF, the parties hereto have executed this Agreement with renewals on the day of the year first written above.

SUPERION, LLC, a CentralSquare Company

DocuSigned by:
Steve Castle
7B1217E7ADD94A9...

TITLE: Director of Renewals

Steve Castle

CITY OF DUNCANVILLE, TEXAS

ATTEST:

By: _____

(Name and Title)

_____

(Name and Title)

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a resolution authorizing approval of incentive grants by the Duncanville Community & Economic Development Corporation (DCEDC) to Succeed Forever Community Transformation in an amount not to exceed $7,950 for exterior signage for The Outlet Thrift Store located at 914 S. Cedar Ridge Drive, Duncanville, Texas 75137

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Promote: Innovative Ideas for Development and Re-development**
  - **Pursue a diverse and robust economy through various business, housing, and employment opportunities that encourage forward-thinking community and economic development.**

STAFF RESPONSIBLE:
Marcela Perez, Economic Development Coordinator

BACKGROUND/HISTORY:
Succeed Forever Community Transformation is a nonprofit organization founded in 2014 within the local community. They serve students and their families, to help set a positive vision for their students' lives, along with specific goals to get there. Their programs are centered around goal setting seminars, outdoor events such as Vision Hikes, and various athletics.

The Outlet Thrift Store first opened in 2018 to not only reach families with affordable, high-quality shopping, but also to help fund Succeed Forever Community Transformation nonprofit programs. They are excited to expand into Duncanville with their largest store yet. Some of their programs are based out of the Duncanville Fieldhouse, including a Homeschool PE program, VisionHackers Athletic programs, and strength and agility training gym for kids in the community.

The first store opened in Midlothian with 950 sq feet located inside a coffee shop. Within a year and a half, they expanded and moved to a new location in Midlothian with 2100 sq feet. In 2021, a second thrift store was opened in Cedar Hill in a space of just over 2100 square feet. Both stores fed off each other's success and increased business.

In July 2024, the 3rd 'super store' opened in Duncanville as the largest store with 5000 sq feet. Based on figures provided for the other locations, there is a proven increase in sales Year Over Year (YOY.)

Within six months, they have already exceeded first year sales at the Duncanville location, as compared to Midlothian and Cedar Hill. If these results continue, this will provide increasing sales tax for the city.

The Outlet Thrift Store is known for being clean, organized, with new merchandise daily. Donations are only accepted during store hours, and they do not have donation bins; which will help prevent neighborhood blight.

They have signed a 5-year lease agreement in Duncanville and plan to stay longer. Their sign and logo is known by customers in neighboring cities, and new signage would increase their presence in our city. The proposed signage dimensions have been reviewed and meet the city's current sign code ordinance.

POLICY EXPLANATION:
The application by Succeed Forever Community Transformation was approved by the DCEDC on January 6, 2025, for an incentive grant totaling $7,950. The grant requires final approval by the City Council.

FUNDING SOURCE:

ORG and Object Number
12051000 (Development Incentives) - 708501 (Economic Development Incentives)

Available Budget	**Purchase Amount**	**After Encumber**
$1,328,386.17	$7,950.00	$1,320,436.17

ACTION ALTERNATIVES:
1. Approve the DCEDC incentive grant.
2. Do not approve the DCEDC incentive grant.
3. Other actions as directed by Council.

ATTACHMENTS:
Attachment 1 - Succeed Forever App Packet
Resolution No. - 2025-404 - Approval of Succeed Forever Communit
EXHIBIT A - Outlet Thrift Store Development Incentive Agreement

Incentives & Grants Assistance Application

Property Owner Descuento 75%, Inc
Mailing Address 914 S Cedar Ridge Dr
City Duncanville State & Zip TX 75137
Phone 214.718.3873 Fax _____ Email daniellevelasquez921@gmail.com

Project Representative Emily Dock
Mailing Address 921 Vedral Pl
City Cedar Hill State & Zip TX 75104
Phone 972.935.6645

Business Name The Outlet Thrift Store
Property Address 914 S Cedar Ridge Dr; Duncanville
Will You Lease or Own the Property? Lease Legal Incorporation (Sole Proprietor, LLC, etc) Nonprofit 501(c)3 organization.
Type of Business Thrift store/nonprofit Years in Business 10 years as a nonprofit, 6 years as a thrift store
Business Plan and Portfolio Available? no (If yes, please attach)

Project Description

Signage for our thrift store included illuminated channel letter sign to go on the building replacing the previous business signage, as well as a 2 sided road sign.

Square footage of Project: ___ Date Projected for Occupation of Project/Initiation of Operations ASAP in 2024

Fiscal Impact / Financial Background
Current Real Property Value $ 25,000 - we do not own the building (lease)
Estimated Property Investment (if applicable) $ _____
Current Sales / Gross Receipts / Revenue Generated $ July through Oct 15: $38,000 - new location
Additional Revenue to be Generated from Business Expansion (if applicable) $ signage is anticpated to increase sales by a minimum of 50%
Sales Growth Expectations: Year One $167,000 Year Two $220,000 Year Three $265,000
Projected Total Annual Operating Budget of this Facility $ $167,000
Business Liabilities $ As a nonprofit, all income is utilized for fund the mission of the organization.
What infrastructure construction would be required? n/a

Interior Investments $ _____ Exterior Investments $ _____

Are you entering into a Loan? no If yes, please answer the following:
Loan Amount $ _____
Down Payment $ _____
Construction Price of Improvements or Buildings $ _____
Lending Institution _____
Lender's Address _____
Lender's Contact Person _____

Employment Impact
Total Number of Jobs 3 Total Annual Payroll $ $45,000
Type of Jobs Created Customer service, store staffing, donation processing, etc.

Percentage of Employees who will be Duncanville Residents 33%
Number of Full-time Employees 1 Number of Part-time Employees 2 but will increase as we grow

IMPORTANT PARTICIPATION REQUIREMENTS FOR *EACH GRANT*:

- Applicant's buildings must be subject to property taxes.
- Work cannot have started prior to submitting a completed application.
- Only fully completed applications will be eligible for consideration.
- All City/State laws, ordinances, and policies must be followed.
- The applicant must submit a current photo and a schematic/rendering of the property requiring the grant.
- 3 detailed bids; Duncanville businesses are preferred if the service is offered locally.
    - Bid information should also include the following:
        - Business Name
        - Contact Name
        - Contact Phone Number
        - Business Address
        - Cost of Services
- Grants, by default, are paid as a ***REIMBURSEMENT*** unless otherwise agreed upon.
- The City will take a "Before" photo of the property. After the **PAID Invoice** has been submitted, the City will inspect the work and take an "After" photo for comparison prior to issuing funds.
- An ***Attestation of Completion of Work*** will be required when requesting the grant disbursement.
- The approved project must be completed within six (6) months of City Council approval date, or the applicant will be required to present a project update to the DCEDC Board in order to ensure continued funding of project.
- The project and request for disbursement of the grant funds must be made prior to the one-year approval anniversary.
- Project funding is not a guarantee and is at the discretion of the DCEDC Board and the City Council.

TYPE OF INCENTIVE GRANTS: *Place a check mark in the corresponding box of the grant(s) you are applying for.*

☐ Sales Tax Grant

Amount Requested $ _____

Estimated Annual Sales Generated $ _____

Program Specifications:

1. New and existing businesses may qualify for a rebate grant based on a percentage of sales received by the City.
2. Sales Tax Grants are for a maximum of ten (10) years.
3. Grants are paid in annual installments within ninety (90) days after the end of each twelve-month calendar period following the issuance of a certificate of occupancy or other commencement date if no certificate of occupancy is required.

☐ Business Retention and Expansion Grant

Amount Requested $ _____

Program Specifications:

1. Duncanville businesses operating within City limits for at least three (3) years that are at-risk of relocating or are looking to expand business operations outside of Duncanville are eligible for up twenty-five hundred dollars ($2,500) per full-time employee making at least eighty-percent (80%) of the Dallas County median wage.
2. To qualify, businesses must prove through a bonafide incentive offer or pending lease agreement that they are seeking relocation or expansion outside of Duncanville. A notarized attestation may substitute the lease or incentive agreement.

☐ Paint Grant

Amount Requested $ _____

Program Specifications:

1. The Paint Grants were established to assist small business owners with refurbishing the exterior of a commercial building in need of fresh paint.
2. Eligible costs include: Supplies, cost to appropriately prepare surfaces of the building, and labor costs.
3. Only buildings that have been previously painted and need to be repainted qualify for a grant unless special circumstances arise.
4. New construction projects are not eligible.
5. Buildings can only qualify every five (5) years for a paint grant unless special circumstances arise.

Attach the following documentation to the application:

1. Current photo of building.
2. A sketch, drawing, architectural rendering, or computer image of the proposed building or a current photo of the building that shows where the different paint colors will be applied.
3. Color samples of proposed paint. Be sure to identify brand/name/number of color.

☐ **Landscape Grant** Amount Requested $ _____

Program Specifications:

1. Landscape Grants were established to broaden the City's focus on curb appeal and encompass Duncanville's business corridors.
2. Eligible costs include: Materials, labor costs, permit/tap fees.
3. Plants must be perennials.
4. Drought tolerant and/or Texas native plants are encouraged.
5. Properties can only qualify every five (5) years for a landscaping grant unless special circumstances arise.

Attach the following documentation to the application:

1. A photo of the current landscaping and property.
2. A sketch, drawing, architectural rendering, or computer image of proposed landscape including a list of all plants to be used.
3. Contractor license irrigation number on each bid. A working irrigation system is required for a Landscape Participation Grant.
4. A letter describing how your company plans to maintain the landscaping.

☒ **Signage Grant** Amount Requested $ 79507965

Program Specifications:

1. Signage Grants were established to assist small existing business owners with the costs associated with replacing and updating nonconforming signs tc the City's current standards, or new signs for existing businesses that have been at the current location for a minimum of one (1) year, or for new businesses that have been in business outside the city limits for a minimum of three (3) years.
2. Eligible costs include sign, labor costs, sign permit fee.
3. A City of Duncanville sign permit is required in order to receive reimbursement for the sign.

Attach the following documentation to the application:

1. A current photograph of the business showing the sign to be replaced.
2. A sketch, drawing or computer image of proposed new signage.

☐ **Façade and Architectural Improvement Grant** Amount Requested $ _____

Program Specifications:

1. The architectural aesthetic and beauty of the façade of a building enhances property values and encourages people to visit Duncanville.
2. The DCEDC will consider all Façade and Architectural Improvement Grants that enhance that façade and beautifies the building and surrounding area.

☐ **Pavement Grant** Amount Requested $ _____

Program Specifications:

1. The paving and repaving of impervious surfaces is one of the most expensive and frequent barriers to the redevelopment of commercial locations.
2. The DCEDC shall consider incentives to assist in the repaving of impervious surfaces to bring them up to code and safety standards to ensure code compliance promote business expansion and investment.

☐ **Demo, Redevelopment, Reuse Grant** Amount Requested $ _____

Program Specifications:

1. Applicant's buildings must be subject to property taxes and applicant must be current on all taxes.
2. Applicant must agree to demolish, redevelop, or renovate the existing residential or commercial structure and build back a structure of greate value at the same location.
3. Applications must be submitted with an estimated project budget documentation and approved by the DCEDC and/or City Council before projects are started.
4. Rebuild, redevelopment, reuse, or renovations must equate to at least 51% of the most recent August 1 Dallas County Appraisal District assessec value.
5. Residential and Commercial structures must be built back in accordance with the agreement signed with the City or the incentive will be forfeited and any funds dispersed must be returned to the City within a reasonable timeframe not to exceed six (6) months or the City is entitlec to pursue legal action to recover said funds and reasonable attorneys' fees and expenses incurred by reason of such action.
6. All applications must include renderings (site plans) of the proposed project and include the current value of the property and the proposec value of the demo, redevelopment, or reuse.
7. Demo, Redevelopment, or Reuse of the building must be completed within twelve (12) months of receiving the building permit to be eligible fo the reimbursement of the incentive.
8. For single-family projects, ownership must be transferred to an individual that will occupy the home within two years of project completion.

☐ **Infrastructure Grant** Amount Requested $ _____

Program Specifications:

1. Type B EDC's may assist in the development of infrastructure that has a public benefit.
2. Eligible costs include exterior water and sewer improvements, grease traps, and street and drainage related improvements.

Attach the following documentation to the application:

1. Stamped engineering plans that outline in detail the scope of work.

☐ **Other Incentive**_____ Amount Requested $ _____

_____

_____

Total Grant Amount Requested $ 7950

******If all requirements are not followed, the DCEDC Board has the authority to reject the grant request as well as not issue the grant funds for approved requests.***

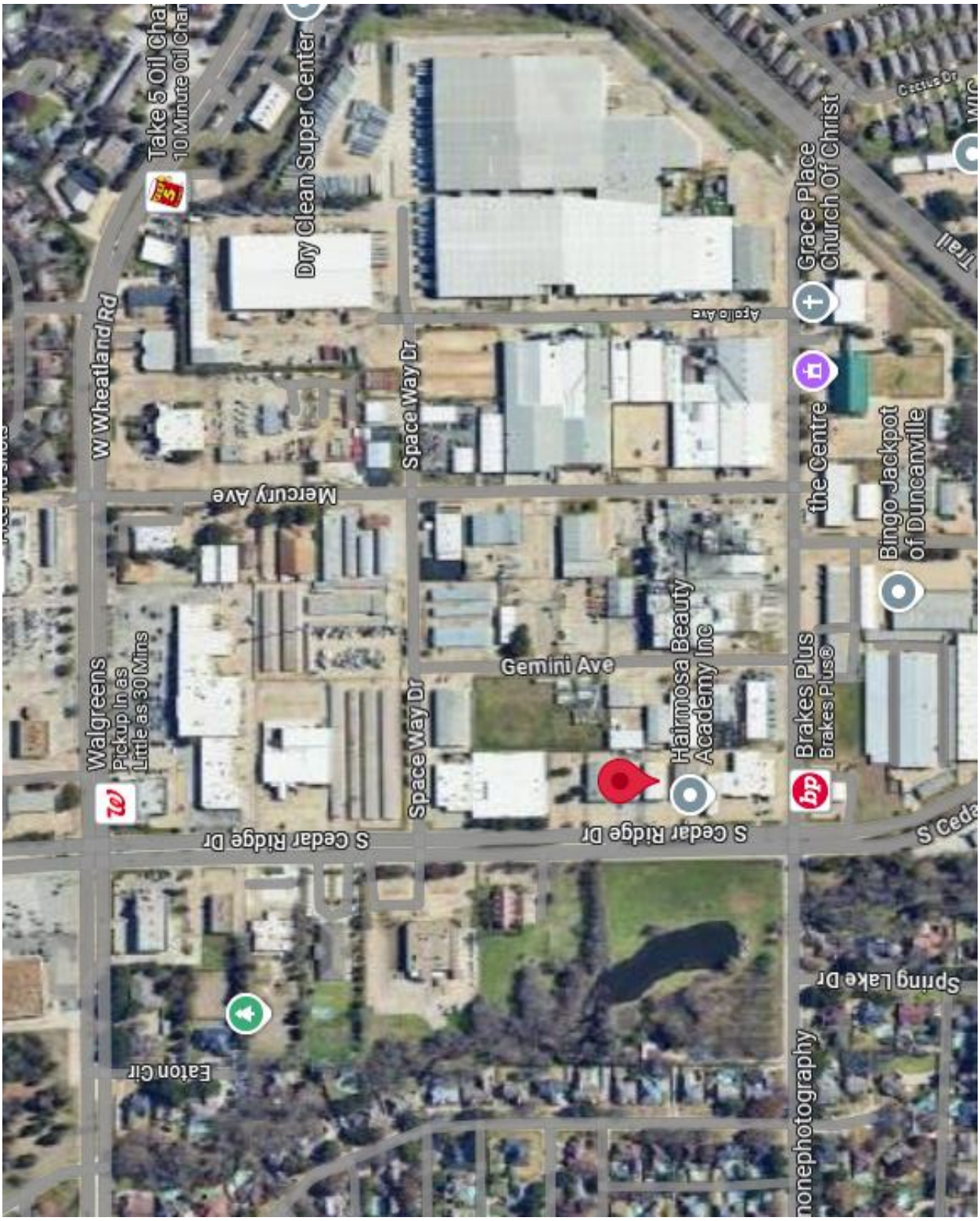
AGREEMENT: I hereby certify that, to the best of my knowledge, all information submitted in the above Incentives & Grants Application and all attachments are correct and accurate. I understand that by completing this application, I am making a formal request to receive an economic development grant for our company that is contingent based upon the acceptance/approval of the DCEDC Board and Duncanville City Council. I understand that the project workmanship must be approved by the City before grant money can be disbursed. Additionally, I understand that incentive or grant money is traditionally paid at the completion of the project as a reimbursement and that in order to be eligible for any type of DCEDC funding, a request must be made prior to the commencement of the project. I also understand that the review and approval process will take a minimum of 30 days and that it is my responsibility to ensure that our project meets all City ordinances and/or requirements. I understand that all completed work is required to be reviewed and inspected by the Building Official or their designee. A Letter or Attestation of Completion of Work must be submitted to the City. I also understand that the approval of an incentive or grant is effective for one year from the date of City Council approval, and the project and request for disbursement of the grant funds must be made prior to the one-year approval anniversary unless otherwise approved through corrective action. In addition, if the project is not completed within six months of the City Council approval date, I will be required to present an update to the DCEDC Board at their next regular meeting.

Printed Name Emily Dock **Date** 10/15/2024

Signature _____

Duncanville
City of Champions

City of Duncanville
Economic Development
203 E. Wheatland Road
Duncanville, TX 75116
972.780.5090
www.DuncanvilleEDC.com


Take 5 Oil Cha
10 Minute Oil Char
Dry Clean Super Center
W Wheatland Rd
Space Way Dr
Mercury Ave
Grace Place
Church Of Christ
the Centre
Bingo Jackpot
of Duncanville
Walgreens
Pickup In as
Little as 30 Mins
Gemini Ave
Hairmosa Beauty
Academy Inc
Brakes Plus
Brakes Plus®
S Cedar Ridge Dr
Eaton Cir
Spring Lake Dr

Outlook

The Outlet Thrift Store/Succeed Forever Community Transformation

From Emily Dock <emilymaedock@gmail.com>
Date Tue 12/10/2024 3:40 PM
To Victor Barrera <victor.barrera@duncanvilletx.gov>; Marcela Perez <marcela.perez@duncanvilletx.gov>

5 attachments (6 MB)
Descuento.jpg; Midlothian Outlet Sign.jpg; Cedar Hill Sign.jpg; descuento building sign.jpg; descuento road sign.jpg;

Succeed Forever Community Transformation is a nonprofit organization that was founded in 2014 in our local community. We work with students, and their families, to help students set a positive vision for their life, and specific goals to get there. We do this through athletics, goal setting seminars, outdoor events such as Vision Hikes and other various avenues. The events and programs are highly interactive and students are able to apply positive change, growth and future goals very practically at each meeting.

The Outlet Thrift Store was first opened in 2018 as part of the nonprofit organization, to not only reach families with affordable, high quality shopping, but also to help fund Succeed Forever Community Transformation nonprofit programs.

The first store was opened in 2018 in Midlothian in 950 sq feet located inside a coffee shop. Within a year and a half, we expanded and moved to a new location in Midlothian expanding to 2100 sq feet.

In 2021, we opened our second thrift store in Cedar Hill in a space of just over 2100 square feet. The stores were able to feed off of each other in order to increase business.

In July 2024, we expanded again and opened our 3rd location in Duncanville. This location is considered our 'super store' as it is our largest store at 5000 sq feet.

Over the years we have refined our processes and offer only high quality items to families in the community. We are known for being clean, organized, with new merchandise daily. We accept donations during store hours (we do not have a donation bin at any of our locations).

Here are our sales at each location over the years:

Midlothian
2018: July-Dec: $9300
2019: $15,800
2020: $58,700
2021: $95,700
2022: $118.600
2023: $133,800
2024: $128,200 (YTD Dec 9)

Cedar Hill:
2021: Sept-Dec: $21,200
2022: $98,000
2023: $111,200
2024: $109,500 (YTD Dec 9)

Duncanville:
2024: July-YTD (Dec 9): $57,500

We are excited about the opportunity to expand into Duncanville with a larger store. Some of our nonprofit programs are also based out of the Duncanville Fieldhouse including our Homeschool PE program, our VisionHackers Athletic programs, and our strength and agility training gym for kids in the community.

Our current signage is from the previous store (and the landlords) and it is causing much confusion as customers come in expecting a different store. This funding would absolutely increase our sales and our presence in Duncanville. Our sign and logo is known by our customers and the community, and having the sign would alert the community that we are here. We have signed a 5 year lease for this location in Duncanville, and plan to stay past that.

I've attached a picture of our other stores' signage, as well as the current signage at 914 S Cedar Ridge Dr. In a previous email, I sent pictures of the inside of the Duncanville store.

I will also get the updated art work for the road sign sent over to you guys asap.

Thank you and please let me know if you have any questions, or need more info.

Emily Dock

MIDLOTHIAN & CEDAR HILL LOCATIONS





EXISTING EXTERIOR SIGNAGE





INTERIOR PHOTOS OF DUNCANVILLE LOCATION

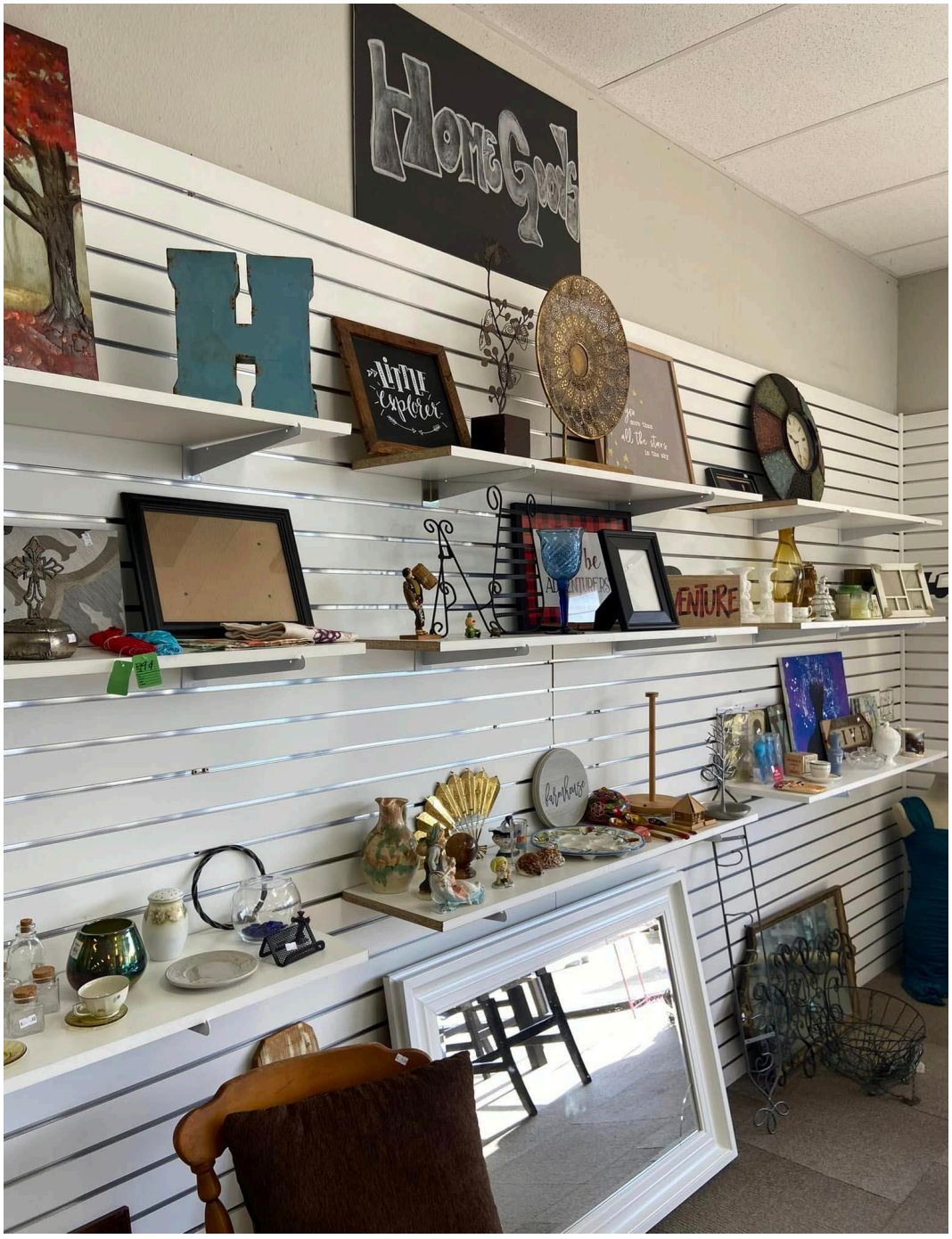










Image 212
4451 Dale Earnhardt Way D12
Northlake, TX 76262

(214) 214-7446

ESTIMATE
E24-2478

Estimate Date: 09/09/24

Follow Up Date : 09/12/24

Payment Terms: 50/50 Customer

Description: The Outlet Thrift Store Channel Letters and Replacement Polycarb

Bill To:
The Outlet Thrift Store
914 South Cedar Ridge Drive
Duncanville TX 75137
US

Installation :

Ordered By:
Emily Dock
emilymaedock@gmail.com
(972) 935-6645

Salesperson: Brandie Wall

Entered By: Brandie Wall

	ITEMS	QTY	UNIT PRICE	LINE TOTAL
1	Survey	1	$452.00	$452.00
2	Permit Acquisition + City Fees to be added after billing	1	$360.00	$360.00
3	Storefront Channel Letters on Wireway	1	$8,692.65	$8,692.65
4	Replacement Flex Face Banners	2	$800.00	$1,600.00
5	Installation	1	$2,262.00	$2,262.00

Subtotal	$13,366.65
Pre-Tax Total	$13,366.65
Tax	$1,102.75
Total	$14,469.40

Generated on: 09/09/24

signs manufacturing

4610 Mint Way, Dallas, TX 75236
(214) 339-2227 fax:(214) 339-9987
www.SignsManufacturing.com

Sales Order #: SO83024CY Date: Aug 30, 2024 Your Sales Consultant is **Cole Young**

BILLING ADDRESS		**PROJECT / SHIPPING ADDRESS**	
Name:	Emily Dock	Name:	Same
Company:	The Outlet	Company:	Same
Address:	Same	Address:	914 S Cedar Ridge Dr.
City, State, Zip:	Same	City, State, Zip:	Duncanville, Tx
PO #:		Email:	emilymaedock@gmail.com
Phone #:	9729356645	Phone #:	9729356645

JOB DESCRIPTION

Remove and dispose of existing pole sign faces and channel letters.

Prepare new sign artwork including measurements, callouts, colors (if known) and a cross-section (if needed) for the customer's approval.

Fabricate 23" (nominal) front-lit channel letters reading "THE OUTPOST" with mechanically welded construction (not stapled) and 1 stroke of SolarBrite™ LED lighting.
1in trimcap will be used, Jewelite, with an aluminum core and SolarGuard™ protection (color TBD).
Faces will be 1/8in Plexiglas (color TBD).
Returns will be 5" deep, .040 aluminum (color TBD).
Letter backs will be made of .063 aluminum.

Fabricate (3) 19"x19" (nominal) front-lit channel capsules with "mechanically welded construction (not stapled) and 4 strokes of SolarBrite™ LED lighting.
(1) color of vinyl overlay will be used, color TBD.
1in trimcap will be used, Jewelite with an aluminum core and SolarGuard™ protection (color TBD).
Faces will be 1/8in Plexiglas (color TBD).
Returns will be 5" deep, made from .040 aluminum (color TBD).
Channel backs will be made of .063 aluminum.

These channels will be mounted on an aluminum raceway approximately 18'-4" long (total, although it may be built as multiple sections for installation purposes) painted using our SignLux automotive grade paint system for maximum lifespan, color TBD.

This sign will be UL or ETL Listed for installation anywhere Listing is required (anywhere in Texas).

Permit application/preparation and inspection labor are included.

Installation is included.

Survey pole sign cabinet for new faces. Prepare new sign artwork including measurements, callouts and colors (if known) for the customer's approval.

The 5' x 10' (approximate) sign faces will be removed and disposed of. New sign faces will be provided and installed using the existing attachment method/hardware.

The sign faces will be Plexiglas™ (or equivalent), color will be white.

Cut vinyl (3M) will be used on the face of the sign with SolarGuard™ protective clear coating applied to maximize the durability of the graphics. 2 colors will be used, specific color TBD.

If the existing hardware is not usable (too old, rusted, falling apart, etc.) then there may be an additional cost to repair or replace it as needed to support the new sign faces.





YOUR COST*: **$15,723.00**
EXTENDED WARRANTY: Offered by separate contract
ENGINEER'S DRAWING: n/a
INSTALLATION: included
ELECTRICAL HOOK-UP**: Included within 6 feet of the sign
TOTAL TAX: **plus tax $1,297.14**
PERMITTING FEES: additional (at cost) if required
3RD-PARTY FEES: additional (at cost) if required
DEPOSIT: **50%**
BALANCE DUE: before install

* Monthly payment plans available. 3% service fee is charged on credit card payments.
** Our warranty does not apply to electric signs fed by improper wiring.

Permit Necessary? YES

Customer Signature

Proposal Valid for 7 Days

18% APR WILL BE CHARGED ON PAST DUE BALANCES

SEE TERMS & CONDITIONS (ATTACHED)

Hourly calculations also include travel to/from the job location.

Regulated by the Texas Department of Licensing and Regulation
P.O. Box 12157, Austin, Texas 78711 1-800-803-9202 512-463-6599
License #TSCL 18015, TSCL 18016, TECL 17503 | www.tdlr.texas.gov

BAKER SIGN CO.

5213 SUN VALLEY DR. - FT. WORTH, TX. 76119

METRO: (817) 572-7346 - Fax # (817) 483-0839

Email: bakersigns@sbcglobal.net

Proposal and Contract

Date: 10-10-2024

Company: The Outlet New and Thrift Superstore

Address: 914 S. Cedar Ridge – Duncanville, Texas 75137

Job Location: 914 S. Cedar Ridge - Duncanville, Texas 75137

Proposal:

Fabricate and install one set of internally illuminated letters to read: The Outlet Thrift Store as per furnished artwork. Letters are to be fabricated from aluminum using pre painted gloss black for the returns of the letters. The faces are to be Plexiglas with 1" trim around the letters. Illumination to be LED lighting.

Purchase Price……..$ 6,350.00

Fabricate and install replacement faces for existing pole sign to read: The Outlet New and Thrift Superstore.

Purchase Price……..$ 1,600.00

Total Purchase Price……$ 7,950.00

LIMITED ONE (1) YEAR WARRANTY:

1. If you should have problems within the first ninety days from initial installation, we will repair, or replace, without charge, defects in material and workmanship.
2. The merchandise described above is guaranteed for one (1) full year against any imperfections in material or workmanship to be repaired or replaced at the Manufacturer's option with the exception of fluorescent bulbs. Since we do not manufacture the bulbs and we receive no warranty from the Manufacturer we cannot guarantee fluorescent bulbs.
3. This warranty does not include repair of damages to sign or sign components caused by acts of God, vandalism, abuse, mis-use, air pollution, power failure or causes beyond our control such as rust, corrosion, and normal fading of exposed painted surfaces.
4. Manufacturer will not be responsible for any representation, understanding, or agreement as accepted by Manufacturer for any changes or alterations in the printed forms.

BUYER AGREES:

1. The merchandise described herein is not an article or general trade or utility, but is to be designed and is to be constructed for the specific purposes of the Buyer and is of no value to the Seller or Manufacturer.
2. That the title of the merchandise described passes to buyer, upon acceptance of Seller's order by the Manufacturer and thereafter the Buyer will not cancel this agreement for any reason, whatsoever.
3. The deposit is not refundable whatsoever.

4. That upon delivery of the merchandise described herein, the buyer will promptly accept said merchandise and pay the balance due thereon.

CONDITIONS OF SALE:

1. The electric hook up for the sign is not included unless there is an existing sign circuit already in place. If the proper power is in place we will hook up to that power.
2. The balance is due upon completion of signage.
3. The price includes installation unless otherwise specified.
4. The deposit is to pay with the order unless otherwise specified.
5. There is a full one (1) year material and workmanship guarantee excluding bulbs.
6. Permit fees and sales tax will be charged in addition to any contract agreement unless it is included in the contract price breakdown.

7
SELLER: _____Eddie Baker_____ DATE: _10-10-2024_____

This signature serves as acceptance of order by Seller.

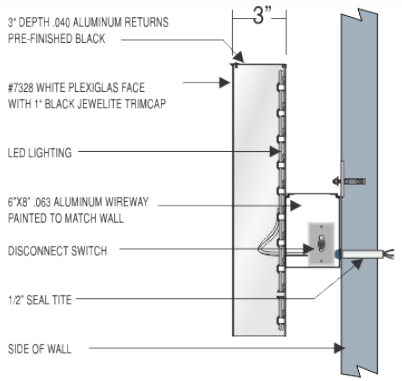
BUYER : _____ DATE: _____
This signature serves as acceptance of order by Buyer.



SCALE: 1/2"=1'-0"

FABRICATE AND INSTALL ONE SET OF 3" DEPTH INTERNALLY ILLUMINATED CHAN. LTRS. #7328 WHITE PLEXIGLAS FACE WITH 1" BLACK JEWELITE TRIMCAP. -.040 ALUMINUM RETURNS PAINTED BLACK. WHITE LED FOR ILLUMINATION. 14"X6" .040 ALUMINUM WIREWAY PAINTED TO MATCH WALL.





SEAL WALL PENETRATIONS WATERTIGHT.

**CUSTOMER TO SUPPLY 120V/16A PRIMARY ELECTRICAL CIRCUIT TO WITHIN 6' OF SIGN LOCATION

BAKER SIGN COMPANY
bakersigns@sbcglobal.net
5213 SUN VALLEY DR. FT. WORTH, TX. 76119
Phone# 817-572-7346 FAX# 817-483-0839

The design is sole property of Baker Sign Company. Any unauthorized use or duplication of this drawing is prohibited.

Created for the approval of: Scale: 3/8"=1'-0" Location:

Approved by: Salesman: EDDIE BAKER Date: JUN. 17, 2024 Drawing#:



REPLACED TWO 4'X10' FACES ON AN EXISTING POLE SIGN. WHITE LEXAN FACE WITH 3M VINYL GRAPHICS.

BAKER SIGN COMPANY
bakersigns@sbcglobal.net
5213 SUN VALLEY DR. FT. WORTH, TX. 76119
Phone# 817-572-7346 FAX# 817-483-0839

The design is sole property of Baker Sign Company. Any unauthorized use or duplication of this drawing is prohibited.

Created for the approval of: Scale: 3/8"=1'-0" Location:

Approved by: Salesman: EDDIE BAKER Date: JUN. 17, 2024 Drawing#:

MOCKUP FOR POLE SIGNAGE AT DUNCANVILLE LOCATION



RESOLUTION NO. 2025-404

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF INCENTIVE GRANTS BY THE DUNCANVILLE COMMUNITY AND ECONOMIC DEVELOPMENT CORPORATION (DCEDC) TO SUCCEED FOREVER COMMUNITY TRANSFORMATION FOR SIGNAGE, IN AN AMOUNT THAT SHALL NOT EXCEED $7,950.00 FOR THE OUTLET THRIFT STORE LOCATED AT 914 S. CEDAR RIDGE DRIVE, DUNCANVILLE, TX 75137 AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Duncanville Community & Economic Development Corporation (DCEDC) offers economic development incentive grants to encourage redevelopment and beautification by providing financial resources to business owners for property improvements; and

WHEREAS, Succeed Forever Community Transformation, is seeking to add new signage on the property located at 914 S. Cedar Ridge Drive, Duncanville, Texas 75137; and

WHEREAS, the DCEDC Board of Directors voted to affirmatively approve an application of incentive grants for signage in an amount not to exceed seven thousand nine hundred and fifty dollars and zero cents ($7,950.00); and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. That the City Council of the City of Duncanville, Texas, hereby approves the terms and conditions of an incentive grant by the Duncanville Community and Economic Development Corporation to Succeed Forever Community Transformation for reimbursement of improvements made for signage in an amount not to exceed seven thousand nine hundred and fifty dollars and zero cents ($7,950.00), which is attached hereto and incorporated herein as Exhibit 'A'; and authorizing the City Manager to execute said grant agreements, after approval as to form by the City Attorney.

SECTION 2. If any provision of this Resolution is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Resolution shall remain in full force and effect.

SECTION 3. That this resolution shall take effect immediately from and after its passage as the law and charter in such cases provide.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of January, 2025.

APPROVED:

_____

Greg Contreras, Mayor

ATTEST:

_____

Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____

Robert E. Hager, City Attorney

EXHIBIT "A"

STATE OF TEXAS	§	**ECONOMIC DEVELOPMENT**
	§	**INCENTIVE AGREEMENT**
COUNTY OF DALLAS	§	

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

This Economic Development Incentive Agreement ("Agreement") is made by and between the Duncanville Community and Economic Development Corporation, a Texas non-profit corporation (the "DCEDC") acting by and through Marlon Goff its duly authorized DCEDC President, and Succeed Forever Community Transformation acting by and through Emily Dock, its duly authorized representative (the "Applicant").

RECITALS

WHEREAS, the Duncanville Community and Economic Development Corporation (DCEDC) established incentive policies and guidelines in order to locate, retain, and expand business activities in Duncanville; and

WHEREAS, the Applicant, has requested economic development assistance from the DCEDC for their property located at 914 S. Cedar Ridge Drive Duncanville, TX 75137 hereinafter known as the "Project"; and

WHEREAS, the incentive funds awarded are to be utilized for qualified expenditures on a reimbursement basis related to a signage improvement in an amount not to exceed Seven Thousand Nine Hundred Fifty dollars and Zero cents ($7,950); and

WHEREAS, the signage improvements shall mean a channel letter signage approximately twenty feet wide and two feet by five inches in height and illuminated with LED or neon lighting and installation of new sign faces approximately ten feet wide and four feet in height for a sign pole located as part of the Project; and

WHEREAS, reimbursement of incentive funds is conditional on the Applicant bringing the property up to compliance with all City of Duncanville codes and ordinances; and

WHEREAS, the Applicant, meets all program requirements in order to be considered for incentive grant assistance; and

WHEREAS, pursuant to Texas Local Government Code Chapters 501 through 505, (the Development Corporation Act), the DCEDC has determined that the request constitutes an authorized project and DCEDC is willing to provide the Applicant with economic assistance in the form of cost reimbursements as hereinafter set forth on the terms and conditions stated herein and the Applicant, is willing to accept all terms and conditions stated in this Agreement; and

WHEREAS, the DCEDC has determined that making economic development grants in accordance with this Agreement will further the objectives of the DCEDC and will benefit the DCEDC, the City, and the city's residents by helping to stimulate local economic development through beautification and site readiness for investment and development, increase the City's yearly ad valorem collections, increase sales tax, and encourage economic vitality in the City.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I. AUTHORIZATION

1.01. The City Council finds and determines that this Agreement is authorized and governed by Texas Local Government Code Chapters 501 through 505.

ARTICLE II. TERM

2.02. This Agreement shall be effective as of the date of execution by all parties with specific performance standards being met by **July 6, 2025**, unless otherwise terminated as provided for in this agreement; and, the compliance provisions of this agreement shall service for a period of five (5) years from the effective date.

ARTICLE III. GRANT

3.01. **Economic Development Incentives**.

As an economic development incentive grant to assist the Applicant located at 914 S. Cedar Ridge Drive in Duncanville, Texas, the DCEDC agrees to provide a one-time reimbursement incentive grant in an amount not to exceed a total of $7,950.00 for signage improvements to the building located at said address, occupied by the Applicant subject to the terms and conditions set forth in this Agreement. Grant reimbursement payment will be made if funds are available from sales tax proceeds once all the Applicant performance standards have been met and nothing contained herein shall constitute a contract for goods or services under the law.

3.02. The Applicant shall file a written proposal and plans with the DCEDC which shall provide detailed plans concerning the use of funds to achieve the purposes recited herein.

ARTICLE IV. COVENANTS OF SUCCEED FOREVER COMMUNITY TRANSFORMATION

4.01. As a condition precedent and in consideration of the DCEDC agreeing to make the economic development incentive grant described above, and to be eligible to receive reimbursement, the Applicant agrees to do the following:

(a) Cause the improvements as defined herein to be permitted and installed at the address indicated herein in compliance with the local ordinance; and

(b) Provide a verified grant reimbursement request form along with original copies of the actual paid invoices for expenses within the provisions to Article III the business incurred before July 6, 2025 at 5 p.m.; and

(c) Provide proof of legal occupancy of the specified location of 914 S. Cedar Ridge Drive Duncanville, TX 75137; and

(d) Incentive grant shall mean one-time cash grant not to exceed $7,950.00 for improvements (Project) to the property located at 914 S. Cedar Ridge Drive Duncanville, TX 75137; and

(e) Pay and be current to the ad valorem and sales during the term of this Agreement and through a period of five (5) years from the effective date; and

(f) Development and maintain the property in conformity to the local Comprehensive Zoning Ordinance and other local applicable regulation codes; and

(g) During the term of this Agreement, the Applicant, agrees not to knowingly employ any undocumented workers or unlicensed contractors and/or subcontractors at the development, and if convicted of a violation under 8 U.S.C Section 1324a(f), the Applicant, shall repay the amount of the grant payments received within 130 business days after the date the Applicant, is notified by the City of such violation, and this agreement automatically terminates.

(h) If work is found to be incomplete within the timeline provided in Article IV, the Applicant, may request via written documentation an extension of 30 business days to complete work. If the work remains incomplete by the end of this extension, the Applicant, will be found in violation of this agreement and shall repay any grants under the provisions of Section 5.2 of this agreement is terminated and the Applicant will indemnify the DCEDC of any obligations related to grants and incentives that are withheld.

ARTICLE V. GENERAL PROVISIONS

5.01. **Termination and Default.** This Agreement terminates upon any one of the following:

(a) By the Applicant, through mutual written agreements of both parties; and

(b) By DCEDC, if the Applicant, files any false documentation concerning the application or receipt of the Grant; and

(c) By DCEDC and the Applicant, respectively, if the other party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof by the non-breaching party; and

(d) By DCEDC, if any taxes, fees, impositions or charges owed to the DCEDC, the City of Duncanville, or the State of Texas by the Applicant, shall have become delinquent (provided, however, that such taxes, fees, or charges shall not be considered delinquent for purposes of this Section 5.1(c) until any proper and timely protest or contest of such taxes or fees has become final) for a period of five (5) years from the effective date; and

(e) By DCEDC, if the Applicant suffers an Event of Bankruptcy or Insolvency; and

(f) By DCEDC and the Applicant, respectively, if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid or illegal; and

(g) By DCEDC, if insufficient funding is available to provide the grant contemplated herein. In such event, the DCEDC shall give the Applicant not less than fifteen (15) days notice of its intent to terminate; and

(h) By DCEDC, if any other material provisions of this Agreement is breach by the Applicant.

"Event of Bankruptcy or Insolvency" shall mean the dissolution or termination of the Applicant existence, insolvency, employment of receiver for any part of the Property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors or the commencement of any proceedings under any bankruptcy or insolvency laws by or against the Applicant and Owner and such proceedings are not dismissed within ninety (90) days after the filing thereof,

5.02. **Recapture Provision.** In the event the Applicant does not comply with the terms of this Agreement or is otherwise in default as provided herein, the Applicant pursuant to the provisions herein shall refund the DCEDC the Grant Payments actually paid by DCEDC and received by the Applicant immediately preceding the date of such termination. If the payment is not refunded within 30 days of termination, the Applicant will indemnify the DCEDC of any fees or costs related to recuperating funds owed to the DCEDC, plus interest and attorney fees.

5.03. **Mutual Assistance.** The Applicant and the DCEDC shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out the terms and provisions hereof.

5.04. **Representations and Warranties.** The Applicant represents and warrants to the DCEDC that it is a duly organized company under the laws of the State of Texas and is in good standing and can execute the terms of this agreement.

5.05. **Employee Hiring, Materials, and Supplies Purchased.** Although not a condition of this Agreement, the DCEDC requests that the Applicant when feasible, satisfies its needs for all

additional employees from Duncanville residents and/or purchases materials and supplies from Duncanville merchants and businesses.

5.06. **Section or Other Headings.** Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

5.07. **Verification and Compliances.** The Applicant agrees to allow the DCEDC's lawful representative to conduct an audit on all of the Applicant business records, documents, and agreements or other instruments, subject to appropriate confidentiality, in furtherance of the following purposes only:

(a) To ensure the Applicant compliance with the affirmative covenants set forth in this Agreement; and

(b) To determine the existence of a default or breach of the terms of this Agreement; and

(c) To ensure compliance with the prerequisites for paying a Reimbursement Incentive; and

(d) To determine whether the correct amount of sales taxes are being collected and reported.

The DCEDC will provide the Applicant with written notice of any request for an audit and shall cooperate with the Applicant to schedule audit activities so as to minimize disruption of the Applicant normal business operations.

5.08. **Indemnification.** IN PERFORMING ITS OBLIGATIONS UNDER THIS AGREEMENT, THE APPLICANT IS ACTING INDEPENDENTLY, AND THE DCEDC ASSUMES NO RESPONSIBILITIES OR LIABILITIES TO THIRD PARTIES IN CONNECTION WITH THE APPLICANT BUSINESS OR PROPERTY. THE DCEDC SHALL NOT BE LIABLE TO THE APPLICANT, ITS AGENTS, EMPLOYEES OR CONTRACTORS, FOR ANY DAMAGE TO PERSONS OR PROPERTY. IN THIS RESPECT, THE APPLICANT AGREES TO INDEMNIFY AND HOLD THE DCEDC HARMLESS AGAINST ANY AND ALL CLAIMS, LIABILITY, DEMANDS, DAMAGES, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM THE CONDUCT OR MANAGEMENT OF THE APPLICANT, OR FROM ANY BREACH ON THE PART OF THE APPLICANT OF ANY CONDITIONS OF THIS AGREEMENT OR FROM ANY ACT OF NEGLIGENCE OF THE APPLICANT, ITS AGENTS, CONTRACTORS, OR EMPLOYEES.

5.09. **Attorneys Fees.** In the event any legal action or process is commenced to enforce or interpret provisions of this Agreement, the prevailing party in any such legal action shall be entitled to recover its necessary and reasonable attorneys' fees and expenses incurred by reason of such action.

5.10. **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the transaction contemplated herein.

5.11. **Amendment.** This Agreement may only be amended, altered, or revoked by a written instrument signed by the Applicant, DCEDC, and the City.

5.12. **Successors and Assigns.** This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. The Applicant may not assign all or any part of its rights and obligations hereunder without prior written approval of the DCEDC.

5.13. **Notice.** Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing:

Owner:	Succeed Forever Community Transformation Attention: Emily Dock 914 S. Cedar Ridge Drive Duncanville, TX 75137	With a copy to: Brandon Shelby Shelby Law, PLLC P.O Box 1316 Sherman, Texas 75091
City:	City of Duncanville Attention: Douglas E. Finch P.O. Box 380280 Duncanville, Texas 75138-0280	
DCEDC:	Duncanville Community and Economic Development Corporation Attention: Marlon Goff P.O. Box 380280 Duncanville, Texas 75138-0280	

5.14. **Interpretation.** Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.

5.15. **Applicable Law.** This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas and venue shall lie in Dallas County, Texas.

5.16. **Severability.** In the event that any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

5.17. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

5.18. **No Joint Venture.** Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.

5.19. **Boycott Israel, Boycott Energy Companies, and Prohibition of Discrimination Against Firearm Entities and Firearm Trade Associations.**

(a) Contractor verifies that it does not Boycott Israel and agrees that during the term of the Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

(b) Contractor verifies that it does not Boycott Energy Companies and agrees that during the term of this Agreement will not Boycott Energy Companies as that term is defined in Texas Government Code Section 809.001, as amended.

(c) Contractor verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association as those terms are defined in Texas Government Code Section 2274.001, as amended; and (ii) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

(d) This section does not apply if Contractor is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Contractor has ten (10) or more fulltime employees and (ii) this Agreement has a value of $100,000.00 or more to be paid under the terms of this Agreement.

5.20. **Approval by the City of Duncanville, Texas.** This Agreement was approved by the City Council at its meeting on _____.

EXHIBIT "A"

SUCCEED FOREVER COMMUNITY TRANSFORMATION

_____
By: Emily Dock
Its: Duly Authorized Representative
Date: _____ __, 2025

DUNCANVILLE COMMUNITY AND ECONOMIC DEVELOPMENT CORPORATION

_____
By: Marlon Goff
Its: Board President
Date: 01 10, 2025

CITY OF DUNCANVILLE

_____
By: Douglas E. Finch
Its: City Manager
Date: _____ __, 2025

EXHIBIT "A"

Succeed Forever Community Transformation Acknowledgement

STATE OF TEXAS §

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority in and for Dallas County, Texas, on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that they are the duly authorized representative of Succeed Forever Community Transformation, and that they are authorized by said to execute the foregoing instrument as the act of such Succeed Forever Community Transformation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 10th day of January, 2025.

Lisa Wren
Notary Public in and for the State of Texas

Lisa Wren
Type or Print Notary's Name

My Commission Expires:

06/08/2026

NOTARY PUBLIC STATE OF TEXAS
Lisa Wren
Notary Public
State of Texas
ID # 13375772-7
Comm. Expires 06/08/2026

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Consider a Resolution that authorizes the City Manager to execute the Purchase and Sale Agreement (PSA) of 302 N. Main Street, along with the closing documents and any other necessary paperwork, following approval as to form by the City Attorney and establishing an effective date.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

STAFF RESPONSIBLE:
Douglas Finch, City Manager
Victor Barrera, Director of Economic Development

BACKGROUND/HISTORY:
The purchase terms for the property located at 302 N. Main Street are set at $1.5 million from Dan and Janice Jespersen. The agreement includes a 30-day due diligence period and states that the property will be sold in its as-is condition.

POLICY EXPLANATION:
Acquiring this property is necessary to preserve the building's character and intended use. This purchase is essential for promoting strategic investments in the Main Street corridor, which will encourage further investment, enhance economic vitality, attract more visitors to the community, and ultimately increase revenue.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	Purchase Amount	After Encumber
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
1. Approve
2. Deny
3. Other actions as directed by Council.

ATTACHMENTS:
302_n_main_street_1142025
Duncanville.RESO. Authorizing Signature of Purchase Agreement-302 North Main St. 4924-0835-9952 v.2

Triple L/The Venator Group

NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT OF SALE

[Check all boxes applicable to this Contract - Boxes not checked do not apply to this Contract]

In consideration of the agreements in this Commercial Contract of Sale (the **"Contract"**), Seller shall sell and convey to Purchaser, and Purchaser shall buy and pay for, the Property (defined below) pursuant to the provisions, and subject to the conditions, of this Contract.

1. **PARTIES.** The parties to this Contract are:

Seller: Dan and Janice Jespersen
Address: 8021 Saint Nicholas Court
Cleburne, Texas 76033
Phone: (214)597-1889 Fax: _____
Email: benfranklinapothecary@gmail.com
Tax ID No.: _____

Purchaser: DCEDC/City of Duncanville
Address: 203 E. Wheatland Road
Duncanville, Tx 75116
Phone: (972)780-5000 Fax: _____
Email: victor.berrera@duncanvilletx.gov
Tax ID No.: _____

2. **PROPERTY.** The address of the Property is:
302 N. Main Street
Duncanville
_____, Texas 75116.
The Property is located in Dallas County, Texas, the land portion of which is further described as:
ORIG TOWN DUNCANVILLE 1) Property Legal Description BLK 1 PT LTS 6-10 ACS 0.3848 AT WES JESPERSEN WAY BLK 1 LOT 5 & 15 LOT 6

or as described in **Exhibit "A", LEGAL DESCRIPTION** and/or shown on **Exhibit "B", SITE PLAN**. The Property includes all improvements, fixtures, and personal property situated thereon, and all rights and appurtenances pertaining thereto, including any right, title and interest of Seller in and to adjacent streets, alleys, and rights-of-way (such land, improvements, fixtures, personal property, rights, and appurtenances being collectively referred to in this Contract as the **"Property"**).

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

3. PURCHASE PRICE.

A. Amount and Payable. The purchase price for the Property is $ **1,500,000.00** (the **"Purchase Price"**), payable at the Closing as follows (with the Earnest Money to be applied to the Purchase Price) ***[Check only one]*:**

[X] (1) All in cash (meaning Good Funds, as defined in Section 4.F. below). If this Contract is subject to approval for Purchaser to obtain financing from a third party, then **Addendum B-1, THIRD PARTY FINANCING** is attached.

[ ] (2) Part in cash (Good Funds), in the following amount or percentage ***[Check only one]:***

[ ] (a) $ _____ .

[ ] (b) _____ percent (_____ %) of the Purchase Price.

If only part of the Purchase Price is to be paid in cash, then the balance of the Purchase Price will be paid according to the provisions in **Addendum B-2, SELLER FINANCING**. If part of the Purchase Price is to be paid by Purchaser assuming, or taking the Property subject to, an existing promissory note secured by the Property, then **Addendum B-3, EXISTING LOAN**, is attached.

B. Adjustment. If this box is checked [ ] then this Section 3.B. applies and the Purchase Price will be adjusted up or down based upon the land area of the Property as determined by the Survey. If the box in the preceding sentence is not checked, then none of this Section 3.B. applies to this Contract. The land area will be multiplied by the following amount per acre or square foot, as applicable, and the product will become the Purchase Price at the Closing ***[Check only one]*:** [ ] $ _____ per acre; or [ ] $ _____ per square foot. The land area for purposes of determining the Purchase Price will be the gross land area of the Property unless this box [ ] is checked, in which case the land area for purposes of determining the Purchase Price will be the Net Land Area [as defined in Section 5.A. (Survey)] of the Property. Notwithstanding the foregoing, the Purchase Price will not be reduced under this Section 3.B. to less than $ _____ .

4. EARNEST MONEY AND TITLE COMPANY ESCROW.

A. Title Company. The Title Company to serve as escrow agent for this Contract is (the **"Title Company"**):
Allegiance Title Company, 515 S. Cedar Ridge, Suite 3, Duncanville Tx 75116.

B. Effective Date. The **"Effective Date"** is the date the Title Company acknowledges receipt of this fully executed Contract as indicated by the signature block for the Title Company.

C. Earnest Money. Within two Business Days after the Effective Date, Purchaser shall deliver an earnest money deposit in the amount of $ **7,500.00** (the **"Earnest Money"**) payable to the Title Company, in its capacity as escrow agent, to be held in escrow pursuant to the terms of this Contract. Seller's acceptance of this Contract is expressly conditioned upon Purchaser's timely deposit of the Earnest Money with the Title Company. If Purchaser fails to timely deposit the Earnest Money with the Title Company, then Seller may, at

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

Seller's option, terminate this Contract by delivering a written termination notice to Purchaser at any time until Purchaser deposits the Earnest Money with the Title Company.

Purchaser instructs the Title Company to promptly deposit the Earnest Money upon receipt in one or more insured accounts in a state or federal banking or savings institution. After receipt of necessary tax forms from Purchaser, the Title Company will deposit the Earnest Money in an interest bearing account unless this box ☐ is checked, in which case the Title Company will not be required to deposit the Earnest Money in an interest bearing account. Any interest earned on the Earnest Money will become a part of the Earnest Money. At the Closing, the Earnest Money will be applied to the Purchase Price or, at Purchaser's option, will be returned to Purchaser upon full payment of the Purchase Price.

D. Independent Consideration. Notwithstanding anything in this Contract to the contrary, a portion of the Earnest Money in the amount of $100.00 will be non-refundable and will be distributed to Seller upon any termination of this Contract as independent consideration for Seller's performance under this Contract. If this Contract is properly terminated by Purchaser pursuant to a right of termination granted to Purchaser by any provision of this Contract, the Earnest Money will be promptly returned to Purchaser. Any provision of this Contract that states that the Earnest Money is to be returned to Purchaser means that the Earnest Money, less the non-refundable portion, is to be returned to Purchaser.

E. Escrow. The Earnest Money is deposited with the Title Company with the understanding that the Title Company is not: (1) responsible for the performance or non-performance of any party to this Contract; or (2) liable for interest on the funds except to the extent interest has been earned after the funds have been deposited in an interest bearing account.

F. Definition of Good Funds. "Good Funds" means currently available funds, in United States dollars, paid in the form of a certified check, cashier's check, official bank check or wire transfer acceptable to the Title Company, such that the payment may not be stopped by the paying party. Any reference in this Contract to "cash" means Good Funds.

5. SURVEY AND TITLE.

A. Survey. Within 20 days after the Effective Date ***[Check only one]*:**

☐ Seller shall deliver to Purchaser a new survey (the **"Survey"**) of the Property prepared at Seller's expense.

☒ Purchaser shall obtain a new survey (the **"Survey"**) of the Property prepared at Purchaser's expense.

☐ Purchaser shall obtain a new survey (the **"Survey"**) of the Property prepared at Purchaser's expense, and Seller will give a credit to Purchaser against the Purchase Price at the Closing for the cost of the Survey in an amount not to exceed $ _____.

☐ Seller shall deliver to Purchaser a copy of the most recent existing survey (the **"Survey"**) of the Property in Seller's possession. Seller shall also deliver an Affidavit to the Title Company, in form and substance reasonably satisfactory to the Title Company, stating that none of the improvements on the Property and other matters shown by the existing Survey have changed since the existing Survey was prepared. If Purchaser, Purchaser's lender or the Title Company requires a new

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

survey for any reason, then Purchaser shall obtain and pay for the cost of the new Survey, and ***[check only one]***: ☐ Seller will not be required to pay for any portion of the cost of the new Survey; or ☐ Seller will give a credit to Purchaser against the Purchase Price at the Closing for the cost of the new Survey in an amount not to exceed $ _____ .

Any new Survey must:

(1) be prepared by a Registered Professional Land Surveyor;
(2) be in a form reasonably acceptable to Purchaser and the Title Company;
(3) set forth a legal description of the Property by metes and bounds or by reference to a platted lot or lots;
(4) show that the Survey was made on the ground with corners marked with monuments either found or placed;
(5) show any discrepancies or conflicts in boundaries, and any visible encroachments;
(6) contain the surveyor's certificate that the Survey is true and correct; and
(7) show the location and size of all of the following on or immediately adjacent to the Property, if any, if recorded or visible and apparent:
  (a) buildings,
  (b) building set back lines (as shown on any recorded plat, but not as may be described in any restrictive covenants or zoning ordinances),
  (c) streets and roads,
  (d) 100-year flood plain (approximate location),
  (e) improvements,
  (f) encroachments,
  (g) easements,
  (h) recording information of recorded easements,
  (i) pavements,
  (j) protrusions,
  (k) fences,
  (l) rights-of-way, and
  (m) any markers or other visible evidence of utilities.

Any area of the Property within the 100-year flood plain will be shown on the Survey as the approximate location of the 100-year flood plain as shown on any map prepared by the Federal Emergency Management Agency or other applicable governmental authority. The surveyor is authorized to determine the area of the Property within any 100-year flood plain as shown on any map prepared by any governmental authority, and in the absence of such a map, as otherwise reasonably determined by the surveyor. If the area within any 100-year flood plain is to be deducted for the purpose of determining Net Land Area (defined below) then the Survey must show the area of the Property covered by the 100-year flood plain, and that area, as reasonably determined by the surveyor, will be conclusive for purposes of this Contract, even though the surveyor may qualify that determination as approximate.

After the delivery of the Survey, the legal description of the Property set forth in the Survey will be incorporated in this Contract as the legal description of the Property, and will be used in the deed and any other documents requiring a legal description of the Property.

The Survey must show the gross land area of the Property, and if the Purchase Price is based upon the Net Land Area then the Survey must also show the Net Land Area, expressed in both acres and square feet. The term **"Net Land Area"** means the gross land area of the Property less the area within any of the following (if recorded or visible and apparent, but excluding those within set back areas) ***[Check all that apply]***:

- ☐ utility easements;
- ☐ drainage easements;
- ☐ access easements;
- ☐ rights-of-way;
- ☐ 100-year flood plain; and
- ☐ any encroachments on the Property.

B. Title Commitment. Within 20 days after the Effective Date, Seller shall deliver or cause to be delivered to Purchaser:

(1) A title commitment (the **"Title Commitment"**) covering the Property binding the Title Company to issue a Texas Owner Policy of Title Insurance (the **"Title Policy"**) on the standard form prescribed by the Texas Department of Insurance at the Closing, in the full amount of the Purchase Price, insuring Purchaser's fee simple title to the Property to be good and indefeasible, subject only to the Permitted Exceptions (defined below); and

(2) the following (collectively, the **"Title Documents"**):

(a) true and legible copies of all recorded instruments affecting the Property and recited as exceptions in the Title Commitment;
(b) a current tax certificate;
(c) any written notices required by applicable statutes, including those referenced in Section 20; and
(d) if the Property includes any personal property, UCC search reports pertaining to the Seller.

6. REVIEW OF SURVEY AND TITLE.

A. Title Review Period. Purchaser will have 5 days (the **"Title Review Period"**) after receipt of the last of the Survey, Title Commitment and Title Documents to review them and to deliver a written notice to Seller stating any objections Purchaser may have to them or any item disclosed by them. Purchaser's failure to object within the time provided will be a waiver of the right to object. Any item to which Purchaser does not object will be deemed a **"Permitted Exception."** The items addressed to Seller on Schedule C of the Title Commitment, and any other items the Title Company identifies to be released upon the Closing, will be deemed objections by Purchaser. Zoning ordinances and the lien for current taxes are deemed to be Permitted Exceptions.

B. Cure Period. If Purchaser delivers any written objections to Seller within the Title Review Period, then Seller may, but will not be obligated to, attempt to cure the objections within 10 days (the **"Cure Period"**) after receipt of the objections. Seller is not required to incur any cost to do so. If Seller cannot cure the objections within the Cure Period, Seller may deliver a written notice to Purchaser, before expiration of the Cure Period, stating whether Seller is committed to cure the objections at or before the Closing. If Seller does not cure the objections within the Cure Period, or does not timely deliver the notice, or does not commit in the notice to fully cure all of the objections at or before the Closing, then Purchaser may terminate this Contract by delivering a written notice to Seller on or before the earlier to occur of: (1) the date that is seven days after the expiration of the Cure Period; or (2) the scheduled Closing Date.

C. New Items. If any new items are disclosed by any new or updated Survey, updated Title Commitment, or any new Title Documents, that were not disclosed to Purchaser when the Survey, Title Commitment, and Title Documents were first delivered to Purchaser, then Purchaser will have 15 days to review the new items and to deliver a written notice to Seller stating any objections Purchaser may have to the new items. If Purchaser timely delivers any written objections as to the new items to Seller, then Seller may, but will not be obligated to, attempt to cure the objections to the new items within 10 days (the "**Additional Cure Period**") after receipt of the objections as to the new items. Seller is not required to incur any cost to do so. If Seller does not cure the objections as to the new items within the Additional Cure Period, or does not deliver a written notice to Purchaser before the expiration of the Additional Cure Period stating whether Seller is committed to cure the objections as to the new items at or before the Closing, then Purchaser may terminate this Contract by delivering a written notice to Seller on or before the earlier to occur of: (1) that date that is seven days after the expiration of the Additional Cure Period; or (2) the scheduled Closing Date.

D. Return of Earnest Money or Waiver. If Purchaser properly and timely terminates this Contract, the Earnest Money will be returned to Purchaser. If Purchaser does not properly and timely terminate this Contract, then Purchaser will be deemed to have waived any uncured objections and must accept title at the Closing subject to the uncured objections and other Permitted Exceptions. Seller's failure to cure Purchaser's objections under this Section 6 does not constitute a default by Seller.

7. SELLER'S REPRESENTATIONS.

A. Statements. Seller represents to Purchaser, to the best of Seller's knowledge, as follows:

(1) Title. At the Closing, Seller will convey to Purchaser good and indefeasible fee simple title to the Property free and clear of any and all liens, assessments, easements, security interests and other encumbrances except the Permitted Exceptions. Delivery of the Title Policy pursuant to Section 15 (the Closing) will be deemed to satisfy the obligation of Seller as to the sufficiency of title required under this Contract. However, delivery of the Title Policy will not release Seller from the warranties of title set forth in the warranty deed.

(2) Leases. There are no parties in possession of any portion of the Property as lessees, tenants at sufferance or trespassers except tenants under written leases delivered to Purchaser pursuant to this Contract.

(3) Liens and Debts. There are no mechanic's liens, Uniform Commercial Code liens or unrecorded liens against the Property, and Seller shall not allow any such liens to attach to the Property before the Closing that will not be satisfied out of the Closing proceeds. All obligations of Seller arising from the ownership and operation of the Property and any business operated on the Property, including, but not limited to, taxes, leasing commissions, salaries, contracts, and similar agreements, have been paid or will be paid before the Closing. Except for obligations for which provisions are made in this Contract for prorating at the Closing and any indebtedness taken subject to or assumed, there will be no obligations of Seller with respect to the Property outstanding as of the Closing.

(4) Litigation. There is no pending or threatened litigation, condemnation, or assessment affecting the Property. Seller shall promptly advise Purchaser of any litigation, condemnation or assessment affecting the Property that is instituted after the Effective Date.

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

(5) Material Defects. Seller has disclosed to Purchaser any and all known conditions of a material nature with respect to the Property which may affect the health or safety of any occupant of the Property. Except as disclosed in writing by Seller to Purchaser, the Property has no known latent structural defects or construction defects of a material nature, and none of the improvements have been constructed with materials known to be a potential health hazard to occupants of the Property.

(6) Hazardous Materials. Except as otherwise disclosed in writing by Seller to Purchaser, the Property (including any improvements) does not contain any Hazardous Materials (defined below) other than lawful quantities properly stored in containers in compliance with applicable laws.

B. Remedies. If Purchaser discovers, before the Closing, that any of Seller's representations has been misrepresented in a material respect, Purchaser may notify Seller of the misrepresentation in writing, and Seller shall attempt to correct the misrepresentation. If the misrepresentation is not corrected by Seller before the Closing, Purchaser may: (1) proceed to Closing, without waiving any claim for misrepresentation; or (2) terminate this Contract by delivering a written termination notice to Seller, in which case the Earnest Money will be returned to Purchaser.

8. OPERATION OF THE PROPERTY. After the Effective Date until the Closing Date, Seller shall: (1) operate the Property in the same manner as the Property has been operated by Seller; and (2) maintain the Property in the same condition as existed on the Effective Date, except for ordinary wear and any casualty loss. After the Effective Date, Seller shall not, without Purchaser's prior written approval: (1) further encumber the Property or allow an encumbrance upon the title to the Property, or modify the terms of any existing encumbrance, if the encumbrance would still be in effect after Closing; or (2) enter into any lease or contract affecting the Property, if the lease or contract would still be in effect after Closing. However, Seller may enter into a lease or contract with an independent third party, in the ordinary course of business, without Purchaser's consent, if Purchaser will be entitled to terminate the lease or contract after Closing, without incurring any termination charge, by delivering a termination notice 30 days in advance of the termination date. If Seller enters into any lease or contract affecting the Property after the Effective Date, then Seller shall immediately deliver a copy of the signed document to Purchaser.

9. NONCONFORMANCE. Purchaser has or will independently investigate and verify to Purchaser's satisfaction the extent of any limitations of uses of the Property. Purchaser acknowledges that the current use of the Property or the improvements located on the Property (or both) may not conform to applicable Federal, State or municipal laws, ordinances, codes or regulations. Zoning, permitted uses, height limitations, setback requirements, minimum parking requirements, limitations on coverage of improvements to total area of land, Americans with Disabilities Act requirements, wetlands restrictions and other matters may have a significant economic impact upon the intended use of the Property by Purchaser. However, if Seller is aware of any pending zoning changes or current nonconformance with any Federal, State or local laws, ordinances, codes or regulations, Seller shall disclose them to Purchaser.

10. INSPECTION. ***[Check only A or B]***

☐ **A. Inspection Not Necessary.** Purchaser acknowledges that Purchaser has inspected the Property, including all buildings and improvements, and is thoroughly familiar with their condition. Purchaser accepts the Property in its present **"AS IS"** condition, with any changes caused by normal wear and tear before the Closing, but without waiving Purchaser's rights by virtue of Seller's representations and agreements expressed in this Contract.

[X] **B. Inspection Desired.** Purchaser desires to inspect the Property and Seller grants to Purchaser the right to inspect the Property as described below.

(1) Inspection Period. Purchaser will have a period of 30 days after the Effective Date (the **"Inspection Period"**) to inspect the Property and conduct studies regarding the Property. Purchaser's studies may include, without limitation: (a) permitted use and zoning of the Property; (b) core borings; (c) environmental and architectural tests and investigations; (d) physical inspections of improvements, fixtures, equipment, subsurface soils, structural members, and personal property; and (e) examination of agreements, manuals, plans, specifications and other documents relating to the construction and condition of the Property. Purchaser and Purchaser's agents, employees, consultants and contractors will have the right of reasonable entry onto the Property during normal business hours, and upon reasonable advance notice to Seller and any tenants on the Property, for purposes of inspections, studies, tests and examinations deemed necessary by Purchaser. The inspections, studies, tests and examinations will be at Purchaser's expense and risk. Purchaser may also use the Inspection Period to perform feasibility studies, obtain equity funding, seek financing, and satisfy other conditions unrelated to the condition of the Property. Purchaser shall defend and indemnify Seller against any claims that arise due to any actions by Purchaser or Purchaser's agents, employees, consultants and contractors. Purchaser's obligation to defend and indemnify Seller will survive the Closing or termination of this Contract.

(2) Extension of Inspection Period. Purchaser may extend the Inspection Period for up to _____ days by delivering an additional earnest money deposit in the amount of $ _____ to the Title Company. The additional deposit will become part of the Earnest Money.

(3) Termination. If Purchaser determines, in Purchaser's sole discretion, no matter how arbitrary, that Purchaser chooses not to purchase the Property for any reason, then Purchaser may terminate this Contract by delivering a written notice to Seller on or before the last day of the Inspection Period, in which case the Earnest Money will be returned to Purchaser. Purchaser's reason for choosing to terminate this Contract does not need to be related to the condition of the Property, and Purchaser is not required to justify Purchaser's decision to terminate this Contract.

(4) Acceptance. If Purchaser does not properly and timely terminate this Contract before the expiration of the Inspection Period (or if Purchaser accepts the Property in writing) then Purchaser will be deemed to have waived all objections to the Property, except for any title objections that may be outstanding pursuant to Section 6 (Review of Survey and Title) of this Contract. In that event, except as may be expressly stated otherwise in this Contract, Purchaser accepts the Property in its current **"AS IS"** condition, with any changes caused by normal wear and tear before the Closing, and this Contract will continue in full force and effect. This provision does not, however, limit or invalidate any express representations and agreements Seller has made in this Contract.

(5) Restoration. If the transaction described in this Contract does not close through no fault of Seller, and the condition of the Property was altered due to inspections, studies, tests or examinations performed by Purchaser or on Purchaser's behalf, then Purchaser must restore the Property to its original condition at Purchaser's expense. Purchaser's obligation to restore the Property will survive the termination of this Contract.

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

C. Reports. ***[Check all that apply]***

☐ **(a)** Within _____ days after the Effective Date, Seller shall deliver to Purchaser a written "Phase I" report of an environmental assessment of the Property. The report will be prepared, at Seller's expense, by an environmental consultant reasonably acceptable to Purchaser. The environmental assessment must include an investigation into the existence of Hazardous Materials (as defined in Section 19.A. of this Contract) in, on or around the Property. The environmental assessment must also include a land use history search, engineering inspections, research and studies that may be necessary to discover the existence of Hazardous Materials.

☐ **(b)** Within 10 days after the Effective Date, Seller shall deliver to Purchaser copies of all reports in Seller's possession of engineering investigations, tests and environmental studies that have been made with respect to the Property within the three year period before the Effective Date.

☐ **(c)** If Purchaser terminates this Contract, Purchaser shall return to Seller, at Purchaser's expense and contemporaneously with the termination, the original, hard copies of any documents Seller delivered to Purchaser. Also, Purchaser shall return, destroy, or delete any other copies of such documents, electronic or otherwise, in Purchaser's possession. This provision will survive the termination of this Contract.

☒ **(d)** If Purchaser terminates this Contract, Purchaser shall deliver to Seller, at Purchaser's expense and contemporaneously with the termination, copies of all written reports, inspections, plats, drawings and studies that relate to the condition of the Property made by Purchaser's agents, consultants and contractors. This provision will survive the termination of this Contract.

11. DELIVERY AND REVIEW OF DOCUMENTS.

A. Delivery. Seller agrees to deliver to Purchaser, within 10 days after the Effective Date, complete and legible copies of the following pertaining to the Property, to the extent in Seller's possession or readily available to Seller:

(1) All current leases (including mineral leases) and all modifications, amendments, supplements and extensions thereof (including written descriptions of any oral agreements);

(2) A current rent roll certified by Seller to be true, complete and accurate as of the date of delivery, including names of tenants, annual or monthly rents, expenses paid by tenants and by Seller, commencement dates, terms of leases, and renewal options;

(3) A current inventory of all tangible personal property and fixtures owned by Seller and located on, attached to, or used in connection with the Property, to be sold with the Property, certified by Seller to be true and correct as of the date of delivery;

(4) Any Notes, Deeds of Trust and other loan documents pertaining to loans assumed or taken subject to;

(5) All service, maintenance, management, or other contracts relating to the ownership and operation of the Property;

(6) All warranties and guaranties;

(7) All fire, hazard, liability, and other insurance policies;

(8) The real estate and personal property tax statements for the previous two calendar years;

(9) All leasing and commission agreements;

(10) The "as built" or other plans and specifications;

(11) A statement of utility charges, repair costs and other expenses incurred by Seller for the operation and maintenance of the Property for each month for the two years preceding the Effective Date;

(12) A true and correct statement of income and expenses from _____ to _____ ;

(13) Any certificate of mold remediation that has been issued for the Property under Section 1958.154 of the Occupations Code within the preceding five years; and

(14) Other _____ .

B. Review of Documents. Purchaser will have a period of time (the **"Document Review Period"**) to review the information identified above, ending the later to occur of:

(1) _____ days after the Effective Date; or
(2) the end of the Inspection Period (if any).

If Purchaser objects to any information disclosed to or discovered by Purchaser, in Purchaser's sole discretion, no matter how arbitrary, Purchaser may: (i) terminate this Contract by delivery of a written notice to Seller before the expiration of the Document Review Period, in which case the Earnest Money will be returned to Purchaser and Purchaser shall return all documents Seller delivered to Purchaser; or (ii) waive the objections and close the transaction. If Purchaser does not deliver a written termination notice to Seller before expiration of the Document Review Period, then any objections as to the information provided by Seller pursuant to this Section will be deemed to be waived by Purchaser.

Unless Purchaser notifies Seller in writing before the end of the Document Review Period that Purchaser elects to assume any of the Service Contracts, Seller shall terminate the Service Contracts effective upon the Closing, at Seller's expense.

12. ESTOPPEL CERTIFICATES. Seller agrees to deliver to Purchaser, at least _____ days before the Closing Date, estoppel certificates executed by each of the tenants under the leases of the Property stating:

(1) whether the tenant is an assignee or subtenant;
(2) the expiration date of the lease;

(3) the number of renewal options under the lease, if any, and the total period of time covered by the renewal options;
(4) that none of the terms or provisions of the lease have been changed since the original execution of the lease, except as shown on any attached amendments or modifications;
(5) that no default exists under the terms of the lease by either landlord or tenant;
(6) that the tenant has no claim against the landlord under the lease and has no defense or right of offset against collection of rent or other charges accruing under the lease;
(7) the amount and payment date of the last payment of rent, the period of time covered by that payment, and the amount of any rental payments made in advance;
(8) the amount of any security deposits and other deposits, if any; and
(9) the identity and address of any guarantor of the lease.

If any estoppel certificate is not timely delivered, or is unacceptable to Purchaser, then Purchaser may immediately notify Seller in writing of Purchaser's objections. Seller shall promptly attempt to cure the unacceptable matters without any obligation to incur any cost in connection with the attempt. If Seller is unable to cure the unacceptable matters before the Closing Date, Purchaser may: (i) terminate this Contract by delivering a written termination notice to Seller, in which case the Earnest Money will be returned to Purchaser; or (ii) close the transaction, in which case Purchaser will be deemed to have waived any objections to the unacceptable matters.

13. CASUALTY LOSS AND CONDEMNATION.

A. Damage or Destruction. All risk of loss to the Property will remain upon Seller before the Closing. If the Property is damaged or destroyed by fire or other casualty to a Material Extent (defined below), then Purchaser may terminate this Contract by delivering a written termination notice to Seller within 10 days after the date the casualty occurred (and in any event before the Closing), in which case the Earnest Money will be returned to Purchaser. If the Property is damaged by fire or other casualty to less than a Material Extent, the parties shall proceed to the Closing as provided in this Contract. If the transaction is to proceed to the Closing, despite any damage or destruction, there will be no reduction in the Purchase Price and Seller shall either: (1) fully repair the damage before the Closing, at Seller's expense; or (2) give a credit to Purchaser at the Closing for the entire cost of repairing the Property. The term **"Material Extent"** means damage or destruction where the cost of repair exceeds ten percent (10%) of the Purchase Price. If the repairs cannot be completed before the Closing Date, or the cost of repairing the Property cannot be determined before the Closing Date, then either party may postpone the Closing Date by delivering a written notice to the other party specifying an extended Closing Date that is not more than 30 days after the previously scheduled Closing Date.

B. Condemnation. If condemnation proceedings are commenced before the Closing against any portion of the Property, then Seller shall immediately notify Purchaser in writing of the condemnation proceedings, and Purchaser may terminate this Contract by delivering a written notice to Seller within 10 days after Purchaser receives the notice (and in any event before the Closing), in which case the Earnest Money will be returned to Purchaser. If this Contract is not terminated, then any condemnation award will (a) if known on the Closing Date, belong to Seller and the Purchase Price will be reduced by the same amount, or (b) if not known on the Closing Date, belong to Purchaser and the Purchase Price will not be reduced.

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

14. ASSIGNMENT. ***[Check only one]***

☐ **A. Assignment Permitted.** Purchaser may assign this Contract provided the assignee assumes in writing all obligations and liabilities of Purchaser under this Contract, in which event Purchaser will be relieved of any further liability under this Contract.

☐ **B. Limited Assignment Permitted.** Purchaser may assign this Contract only to a related party, defined as: (1) an entity in which Purchaser is an owner, partner or corporate officer; (2) an entity which is owned or controlled by the same person or persons that own or control Purchaser; or (3) a member or members of the immediate family of Purchaser, or a trust in which the beneficiary or beneficiaries is or are a member or members of the immediate family of Purchaser. Purchaser will remain liable under this Contract after any assignment.

☒ **C. Assignment Prohibited.** Purchaser may not assign this Contract without Seller's prior written consent.

15. CLOSING.

A. Closing Date. The closing of the transaction described in this Contract (the **"Closing"**) will be held at the offices of the Title Company at its address stated below, on the date (the **"Closing Date"**) that is ***[complete only one]*:**

_____ days after the expiration of the Inspection Period;
_____ days after the Effective Date; or
January 27, 2025 .

However, if any objections that were timely made by Purchaser in writing pursuant to Section 6 (Review of Survey and Title) have not been cured, then either party may postpone the Closing Date by delivering a written notice to the other party specifying an extended Closing Date that is not more than thirty 30 days after the previously scheduled Closing Date.

B. Seller's Closing Obligations. At the Closing, Seller shall deliver to Purchaser, at Seller's expense:

(1) A duly executed ***[check only one]*** ☐ General Warranty Deed ☒ Special Warranty Deed (with vendor's lien retained if financing is given by Seller or obtained from a third party) conveying the Property in fee simple according to the legal description prepared by the surveyor as shown on the Survey, subject only to the Permitted Exceptions;

(2) An updated Title Commitment committing the underwriter for the Title Company to issue promptly after the Closing, at Seller's expense, the Title Policy pursuant to the Title Commitment, subject only to the Permitted Exceptions, in the full amount of the Purchase Price, dated as of the date of the Closing, and (at an additional premium cost)***[check only one if applicable]*** ☐ with the survey exception modified at Seller's expense to read "any shortages in area," or ☐ with the survey exception modified at Purchaser's expense to read "any shortages in area;"

(3) A Bill of Sale conveying the personal property described in this Contract, free and clear of liens, security interests, and encumbrances, subject only to the Permitted Exceptions (to the extent applicable);

(4) Possession of the Property, subject to valid existing leases disclosed by Seller to Purchaser and other applicable Permitted Exceptions;

(5) An executed assignment of all leases, if there are any leases affecting the Property;

(6) A current rent roll certified by Seller to be complete and accurate, if there are any leases affecting the Property;

(7) An Assignment of any permits, warranties and plans pertaining to the Property, if any, to the extent they are assignable;

(8) An Assignment and Assumption of Service Contracts, if there are any Service Contracts that Purchaser has elected to assume;

(9) Evidence of Seller's authority and capacity to close this transaction; and

(10) All other documents reasonably required to close this transaction by the Title Company, by law, or in connection with Section 20 of this Contract.

C. Purchaser's Closing Obligations. At the Closing, Purchaser shall deliver to Seller, at Purchaser's expense:

(1) The cash portion of the Purchase Price (with the Earnest Money being applied to the Purchase Price);

(2) The Note and the Deed of Trust, if **Addendum B-2, SELLER FINANCING**, is attached;

(3) The Assignment and Assumption of Service Contracts, if applicable;

(4) An Assumption Agreement in recordable form agreeing to pay all commissions payable under any lease affecting the Property;

(5) Evidence of Purchaser's authority and capacity to close this transaction; and

(6) All other documents reasonably required to close this transaction by the Title Company, by law, or in connection with Section 20 of this Contract.

D. Closing Costs. Each party shall pay its share of the closing costs which are customarily paid by a seller or purchaser in a transaction of this character in the county where the Property is located, or as otherwise agreed.

E. Prorations. Rents (including any additional rental or reimbursement amounts to be reconciled), lease commissions, interest on any assumed loan, maintenance expenses, operating expenses, standby fees and ad valorem taxes for the year of the Closing, and any other expenses that are customarily prorated, will be prorated at the Closing effective as of the date of the Closing (with the Purchaser being considered the owner of the Property for the entire day of the Closing). Seller shall give a credit to Purchaser at the Closing in the aggregate amount of any security deposits deposited by tenants under leases affecting the Property. If the

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

Closing occurs before the tax rate is fixed for the year of the Closing, the apportionment of the taxes will be upon the basis of the tax rate for the preceding year applied to the latest assessed valuation, but any difference between actual and estimated taxes for the year of the Closing actually paid by Purchaser will be adjusted equitably between the parties upon receipt of a written statement of the actual amount of the taxes. This provision will survive the Closing.

F. Rollback Assessments. If Seller's use or change in use of the Property before the Closing, or Seller's failure to timely apply for an exemption before the Closing, results in the assessment of additional taxes, penalties, or interest ("**Rollback Assessments**") for periods before the Closing, the Rollback Assessments will be the obligation of Seller. If this sale or Purchaser's use of the Property after the Closing, or Purchaser's failure to timely apply for an exemption after the Closing, results in the assessment of Rollback Assessments for periods before or after the Closing, the Rollback Assessments will be the obligation of Purchaser. Obligations imposed by this paragraph will survive the Closing.

G. Loan Assumption. If Purchaser assumes, or takes the Property subject to, an existing loan secured by the Property, then, at the Closing, in addition to the proration of interest on the loan, Purchaser shall pay: (1) to the lender, any assumption or transfer fee charged by the lender; (2) to the lender, reasonable attorney's fees charged by the lenders' attorney; and (3) to Seller, a sum equal to the amount of any reserve accounts held by the lender for the payment of taxes, insurance and any other expenses applicable to the Property for which reserve accounts are held by the lender, and Seller shall transfer the reserve accounts to Purchaser. Purchaser shall execute, at the option and expense of Seller, a Deed of Trust to Secure Assumption with a trustee named by Seller. If consent to the assumption is required by the lender, Seller shall obtain the lender's consent in writing and deliver the consent to Purchaser at the Closing. If Seller does not obtain the lender's written consent (if required) and deliver it to Purchaser at or before the Closing, Purchaser may terminate this Contract by delivering a written termination notice to Seller, and the Earnest Money will be returned to Purchaser.

H. Foreign Person Notification. If Seller is a Foreign Person, as defined by the Internal Revenue Code, or if Seller fails to deliver to Purchaser a non-foreign affidavit pursuant to §1445 of the Internal Revenue Code, then Purchaser may withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the withheld proceeds to the Internal Revenue Service, together with appropriate tax forms. A non-foreign affidavit from Seller must include: (1) a statement that Seller is not a foreign person; (2) the U. S. taxpayer identification number of Seller; and (3) any other information required by §1445 of the Internal Revenue Code.

16. DEFAULT.

A. Purchaser's Remedies. If Seller defaults or fails to close this Contract for any reason except Purchaser's default or the termination of this Contract pursuant to a right to terminate set forth in this Contract, Purchaser may elect to either: (1) enforce specific performance of this Contract (require Seller to sell the Property to Purchaser pursuant to this Contract); or (2) terminate this Contract by delivering a written notice to Seller. If Purchaser elects to terminate this Contract due to Seller's default, then Purchaser will be deemed to have waived the remedy of specific performance and any other remedies available to Purchaser (except for reimbursement for Purchaser's actual expenses as provided in the next paragraph) and the Earnest Money will be returned to Purchaser.

The following sentence applies only if this box ☐ is checked: If Seller defaults and Purchaser does not elect to enforce specific performance of this Contract, or the remedy of specific performance is not available, then Seller shall reimburse Purchaser for Purchaser's

actual expenses paid by Purchaser to independent third parties in connection with this Contract including, but not limited to, reasonable fees and expenses for engineering assessments, environmental assessments, architectural plans, surveys and legal work (but excluding any indirect, punitive or consequential damages, such as a claim for lost profits) in an amount not to exceed $ _____ .

The foregoing will be Purchaser's sole and exclusive remedies for Seller's default unless this box ☐ is checked, in which case Purchaser may sue Seller for additional damages (in addition to the reimbursement of expenses as provided in the previous paragraph, to the extent such additional damages can be proven). If Purchaser chooses to sue Seller for reimbursement of expenses or other damages, then Purchaser must elect to pursue either specific performance or a claim for damages at the beginning of any legal action initiated by Purchaser.

B. Seller's Remedies. If Purchaser fails to close this Contract for any reason except Seller's default or the termination of this Contract pursuant to a right to terminate set forth in this Contract, Purchaser will be in default and Seller may terminate this Contract and receive the Earnest Money as liquidated damages for Purchaser's breach of this Contract, thereby releasing Purchaser from this Contract. If Seller terminates this Contract due to Purchaser's default, then the Earnest Money will be paid to Seller.

The right to receive the Earnest Money will be Seller's sole and exclusive remedy for Purchaser's default unless one of the following remedies is selected, in which case Seller may sue Purchaser: ☐ to enforce specific performance (force Purchaser to purchase the Property pursuant to this Contract); or ☐ for actual damages in lieu of receiving the Earnest Money as liquidated damages. If one or both of the boxes is checked to allow Seller to sue Purchaser to enforce specific performance or for actual damages, then Seller must elect to either receive the Earnest Money or sue Purchaser for one of the other selected remedies at the beginning of any legal action initiated by Seller.

17. AGENCY DISCLOSURE.

A. Agency Relationships. The term **"Brokers"** refers to the Principal Broker and the Cooperating Broker, if applicable, as set forth on the signature page. Each Broker has duties only to the party the Broker represents as identified below. If either Broker is acting as an intermediary, then that Broker will have only the duties of an intermediary, and the intermediary disclosure and consent provisions apply as set forth below. ***[Each broker check only one]***

(1) The Principal Broker is: ☒ agent for Seller only; or ☐ agent for Purchaser only; or ☐ an intermediary.

(2) The Cooperating Broker is: ☐ agent for Seller only; or ☐ agent for Purchaser only; or ☐ an intermediary.

B. Other Brokers. Seller and Purchaser each represent to the other that they have had no dealings with any person, firm, agent or finder in connection with the negotiation of this Contract or the consummation of the purchase and sale contemplated by this Contract, other than the Brokers named in this Contract, and no real estate broker, agent, attorney, person, firm or entity, other than the Brokers, is entitled to any commission or finder's fee in connection with this transaction as the result of any dealings or acts of the representing party. Each party agrees to indemnify, defend, and hold the other party harmless from and against any costs, expenses or liability for any compensation, commission, fee, or charges that may be claimed by

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

any agent, finder or other similar party, other than the Brokers, by reason of any dealings or acts of the indemnifying party.

C. Fee Sharing. Seller and Purchaser agree that the Brokers may share the Fee (defined below) among themselves, their sales associates, and any other licensed brokers involved in the sale of the Property. The parties authorize the Title Company to pay the Fee directly to the Principal Broker and, if applicable, the Cooperating Broker, in accordance with Section 18 (Professional Service Fee) or any other agreement pertaining to the Fee. Payment of the Fee will not alter the fiduciary relationships between the parties and the Brokers.

D. Intermediary Relationship. If either of the Brokers has indicated in Section 17.A. (Agency Relationships) or otherwise that the Broker is acting as an intermediary in this transaction, then Purchaser and Seller hereby consent to the intermediary relationship, authorize such Broker or Brokers to act as an intermediary in this transaction, and acknowledge that the source of any expected compensation to the Brokers will be Seller, and the Brokers may also be paid a fee by Purchaser. **A broker, and any broker or salesperson appointed to communicate with and carry out instructions of one party, who acts as an intermediary is required to act fairly and impartially, and may not:**

(1) disclose to the buyer that the seller will accept a price less than the asking price, unless instructed in a separate writing by the seller;

(2) disclose to the seller that the buyer will pay a price greater than the price submitted in a written offer to the seller, unless otherwise instructed in a separate writing by the buyer;

(3) disclose any confidential information or any information that a party specifically instructs the broker or salesperson in writing not to disclose, unless:

- **(a) the broker or salesperson is otherwise instructed in a separate writing by the respective party;**
- **(b) the broker or salesperson is required to disclose the information by the Texas Real Estate License Act or a court order; or**
- **(c) the information materially relates to the condition of the Property;**

(4) treat a party to a transaction dishonestly; or

(5) violate the Texas Real Estate License Act.

Broker is authorized to appoint, by providing written notice to the parties, a license holder associated with Broker to communicate with and carry out instructions of one party, and another license holder associated with Broker to communicate with and carry out instructions of the other party. An appointed license holder may provide opinions and advice during negotiations to the party to whom the license holder is appointed.

18. PROFESSIONAL SERVICE FEE.

A. Payment of Fee. Seller agrees to pay the Brokers a professional service fee (the **"Fee"**) for procuring the Purchaser and for assisting in the negotiation of this Contract as follows:
Per seperate agreement

The Fee will be earned upon the execution of this Contract and will be paid at the Closing of a sale of the Property by Seller pursuant to this Contract (as may be amended or assigned). The Fee will be paid by Seller to the Brokers in the county in which the Property is located. Seller shall pay any applicable sales taxes on the Fee. The Title Company or other escrow agent is authorized and directed to pay the Fee to the Brokers out of the Closing proceeds. A legal description of the Property, as set forth in this Contract and any Survey delivered pursuant to this Contract, is incorporated by reference in the agreement pertaining to the Fee set forth or referenced in this Section.

The Fee is earned notwithstanding: (1) any subsequent termination of this Contract (except a termination by Seller or Purchaser pursuant to a right of termination in this Contract); or (2) any default by Seller. If the Closing does not occur due to Purchaser's default, and Seller does not elect to enforce specific performance, the Fee will not exceed one-half of the Earnest Money. If either party defaults under this Contract, then the Fee will be paid within 10 days after the scheduled Closing Date, and the Title Company is authorized to pay the fee out of the Earnest Money or any other escrow deposit made pursuant to this Contract. If Seller defaults, then Seller's obligation to pay the Fee will not be affected if Purchaser chooses the remedy of terminating this Contract, and the amount of the Fee will not be limited to the amount of the Earnest Money or any other escrow deposit made pursuant to this Contract.

B. Consent Required. Purchaser, Seller and Title Company agree that the Brokers are third party beneficiaries of this Contract with respect to the Fee, and that no change may be made by Purchaser, Seller or Title Company as to the time of payment, amount of payment or the conditions for payment of the Fee without the written consent of the Brokers.

C. Right to Claim a Lien. Pursuant to Chapter 62 of the Texas Property Code, the Brokers hereby disclose their right to claim a lien based on the commission agreement set forth in this Contract and any other commission agreements applicable to the sale contemplated by this Contract. This disclosure is incorporated in any such commission agreements.

19. MISCELLANEOUS PROVISIONS.

A. Definition of Hazardous Materials. "Hazardous Materials" means any pollutants, toxic substances, oils, hazardous wastes, hazardous materials or hazardous substances as defined in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Clean Water Act, as amended, or any other Federal, State or local environmental law, ordinance, rule, or regulation, whether existing as of the Effective Date or subsequently enacted.

B. Notices. All notices and other communications required or permitted under this Contract must be in writing and will be deemed delivered on the earlier of: (1) actual receipt, if delivered in person or by courier, with evidence of delivery; (2) receipt of an electronic facsimile (**"Fax"**) transmission with confirmation of delivery to the Fax numbers specified in this Contract, if any; (3) delivery by a recognized overnight delivery service, with evidence of delivery; or (4) upon deposit with the United States Postal Service, certified mail, return receipt requested, postage prepaid, and properly addressed to the intended recipient at the address set forth in this Contract. Notices sent by any other means will be deemed delivered when actually received, with proof of delivery. Any party may change its address for notice purposes by delivering written notice of its new address to all other parties in the manner set forth above.

☒ **1.** Seller also consents to receive any notices by email.

☒ **2.** Purchaser also consents to receive any notices by email.

Copies of all notices must also be delivered to the following persons [if the blanks have been completed]:

Copies of notices to Seller are to be delivered to:

Dan and Janice Jespersen
Address: **8021 Saint Nicholas Court**
Cleburne, Tx 76033
Email: **benfranklinapothecary@gmail.com**

Copies of notices to Purchaser are to be delivered to:

DCEDC/City of Duncanville
Address: **203 E. Wheatland Road**
Duncanville, Tx 75116
Email: **victor.berrera@duncanvilletx.gov**

Copies of written notices should also be delivered to the Brokers and to the Title Company, but failure to notify the Brokers or the Title Company will not cause an otherwise properly delivered notice to be ineffective.

C. Termination. If this Contract is terminated for any reason, the parties will have no further rights or obligations under this Contract, except that: (1) Purchaser shall pay the costs to repair any damage to the Property caused by Purchaser or Purchaser's agents; and (2) each party shall perform any other obligations that, by the explicit provisions of this Contract, expressly survive the termination of this Contract. The obligations of this Section 19.C. will survive the termination of this Contract. The terms of any mutual termination agreement will supersede and control over the provisions of this Section 19.C. to the extent of any conflict.

D. Forms. In case of a dispute as to the form of any document required under this Contract, the most recent form prepared by the State Bar of Texas will be used, modified as necessary to conform to the terms of this Contract.

E. Attorneys' Fees. The prevailing party in any proceeding brought to enforce this Contract, or brought relating to the transaction contemplated by this Contract, will be entitled to recover, from the non- prevailing party, court costs, reasonable attorneys' fees and all other reasonable related expenses.

F. Integration. This Contract contains the complete agreement between the parties with respect to the Property and cannot be varied except by written agreement. The parties agree that there are no oral agreements, understandings, representations or warranties made by the parties that are not expressly set forth in this Contract. Any prior written agreements, understandings, representations or warranties between the parties will be deemed merged into and superceded by this Contract, unless it is clear from the written document that the intent of the parties is for the previous written agreement, understanding, representation or warranty to survive the execution of this Contract.

G. Survival. Any representation or covenant contained in this Contract not otherwise discharged at the Closing will survive the Closing.

H. Binding Effect. This Contract will inure to the benefit of, and will be binding upon, the parties to this Contract and their respective heirs, legal representatives, successors and assigns.

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

I. Time for Performance. Time is of the essence under each provision of this Contract. Strict compliance with the times for performance is required.

J. Business Day. If any date of performance under this Contract falls on a Saturday, Sunday or federal reserve bank holiday, such date of performance will be deferred to the next day that is not a Saturday, Sunday or federal reserve bank holiday.

K. Right of Entry. After reasonable advance notice and during normal business hours, Purchaser, Purchaser's representatives and the Brokers have the right to enter upon the Property before the Closing for purposes of viewing, inspecting and conducting studies of the Property, so long as they do not unreasonably interfere with the use of the Property by Seller or any tenants, or cause damage to the Property.

L. Governing Law. This Contract will be construed under and governed by the laws of the State of Texas, and unless otherwise provided in this Contract, all obligations of the parties created under this Contract are to be performed in the county where the Property is located.

M. Severability. If any provision of this Contract is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalid, illegal, or unenforceable provision will not affect any other provisions, and this Contract will be construed as if the invalid, illegal, or unenforceable provision is severed and deleted from this Contract.

N. Broker Disclaimer. The Brokers will disclose to Purchaser any material factual knowledge the Brokers may possess about the condition of the Property. Purchaser understands that a real estate broker is not an expert in matters of law, tax, financing, surveying, hazardous materials, engineering, construction, safety, zoning, land planning, architecture, or the Americans with Disabilities Act. Purchaser should seek expert assistance on such matters. The Brokers do not investigate a property's compliance with building codes, governmental ordinances, statutes and laws that relate to the use or condition of the Property or its construction, or that relate to its acquisition. Purchaser is not relying upon any representations of the Brokers concerning permitted uses of the Property or with respect to any nonconformance of the Property. If the Brokers provide names of consultants or sources for advice or assistance, the Brokers do not warrant the services of the advisors or their products. The Brokers cannot warrant the suitability of property to be acquired. Purchaser acknowledges that current and future federal, state and local laws and regulations may require any Hazardous Materials to be removed at the expense of those persons who may have had or continue to have any interest in the Property. The expense of such removal may be substantial. Purchaser agrees to look solely to experts and professionals selected or approved by Purchaser to advise Purchaser with respect to the condition of the Property and will not hold the Brokers responsible for any condition relating to the Property. The Brokers do not warrant that Seller will disclose any or all property defects or other matters pertaining to the Property or its condition. Seller and Purchaser agree to hold the Brokers harmless from any damages, claims, costs and expenses including, but not limited to, reasonable attorneys' fees and court costs, resulting from or related to any person furnishing any false, incorrect or inaccurate information with respect to the Property, Seller's concealing any material information with respect to the condition of the Property, or matters that should be analyzed by experts. To the extent permitted by applicable law, the Brokers' liability for errors or omissions, negligence, or otherwise, is limited to the return of the Fee, if any, paid to the responsible Broker pursuant to this Contract. The parties agree that they are not relying upon any oral statements that the Brokers may have made. Purchaser is relying solely upon Purchaser's own investigations and the representations of Seller, if any, and Purchaser acknowledges that the Brokers have not made any warranty or representation with respect to the condition of the Property or otherwise.

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

O. Counterparts. This Contract may be executed in a number of identical counterparts, and all counterparts will be construed together as one agreement. Any signed counterpart transmitted by Fax or email has the same effect as an original.

P. Patriot Act Representation. Seller and Purchaser each represent to the other that: (1) its property interests are not blocked by Executive Order No. 13224, 66 Fed. Reg. 49079; (2) it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (3) it is not acting for or on behalf of any person on that list.

Q. Exchange. Seller and Purchaser shall cooperate with each other in connection with any tax deferred exchange that either party may be initiating or completing in connection with Section 1031 of the Internal Revenue Code, so long as neither party will be required to pay any expenses related to the other party's exchange and the Closing is not delayed. Notwithstanding any other provision that may prohibit the assignment of this Contract, either party may assign this Contract to a qualified intermediary or exchange accommodation title holder, if the assignment is required in connection with the exchange. The parties agree to cooperate with each other, and sign any reasonable documentation that may be required, to effectuate any such exchange.

20. STATUTORY NOTICES.

A. Abstract or Title Policy. At the time of the execution of this Contract, Purchaser acknowledges that the Brokers have advised and hereby advise Purchaser, by this writing, that Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection or that Purchaser should be furnished with or obtain a policy of title insurance.

B. Notice Regarding Unimproved Property Located in a Certificated Service Area. If the Property is unimproved and is located in a certificated service area of a utility service, then Seller shall give to Purchaser a written notice in compliance with §13.257 of the Texas Water Code, and Purchaser agrees to acknowledge receipt of the notice in writing. The notice must set forth the correct name of utility service provider authorized by law to provide water or sewer service to the Property, and must comply with all other applicable requirements of the Texas Water Code.

C. Special Assessment Districts. If the Property is situated within a utility district or flood control district subject to the provisions of §49.452 of the Texas Water Code, then Seller shall give to Purchaser the required written notice and Purchaser agrees to acknowledge receipt of the notice in writing. The notice must set forth the current tax rate, the current bonded indebtedness and the authorized indebtedness of the district, and must comply with all other applicable requirements of the Texas Water Code.

D. Property Owners' Association. If the Property is subject to mandatory membership in a property owners' association, Seller shall notify Purchaser of the current annual budget of the property owners' association, and the current authorized fees, dues and/or assessments relating to the Property. In addition, Seller shall give to Purchaser the written notice required under §5.012 of the Texas Property Code, if applicable, and Purchaser agrees to acknowledge receipt of the notice in writing. Also, Seller shall give to Purchaser the resale certificate required under Chapter 207 of the Texas Property Code, if applicable, and Purchaser agrees to acknowledge receipt of the resale certificate in writing.

E. Notice Regarding Possible Annexation. If the Property that is the subject of this Contract is located outside the limits of a municipality, the Property may now or later be included

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

in the extraterritorial jurisdiction ("**ETJ**") of the municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and its ETJ. To determine if the Property is located within a municipality's ETJ, contact all municipalities in the general proximity of the Property for further information.

F. Notice Regarding Coastal Area Property. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, then Seller shall give to Purchaser a written notice regarding coastal area property, in compliance with §33.135 of the Texas Natural Resources Code, and Purchaser agrees to acknowledge receipt of the notice in writing.

G. Gulf Intracoastal Waterway Notice. If the Property is located seaward of the Gulf Intracoastal Waterway, then Seller shall give to Purchaser a written notice regarding the seaward location of the Property, in compliance with §61.025 of the Texas Natural Resources Code, and Purchaser agrees to acknowledge receipt of the notice in writing.

H. Notice for Property Located in an Agricultural Development District. If the Property is located in an agricultural development district, then in accordance with §60.063 of the Texas Agricultural Code: (1) Seller shall give to Purchaser a written notice that the Property is located in such a district; (2) Purchaser agrees to acknowledge receipt of the notice in writing; and (3) at the Closing, a separate copy of the notice with current information about the district will be executed by Seller and Purchaser and recorded in the deed records of the county in which the Property is located.

I. Certificate of Mold Remediation. If a certificate of mold remediation has been issued for the Property under Section 1958.154 of the Occupations Code within the preceding five years, Seller is required to provide a copy of the certificate to Purchaser.

J. Notice of Water Level Fluctuations. If the Property adjoins a lake, reservoir, or other impoundment of water that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, then the following notice applies:

> NOTICE OF WATER LEVEL FLUCTUATIONS: The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions.

K. License Holder Disclosure. Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, or a business entity in which the license holder is more than a 10% owner, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to disclose in writing that he or she is a licensed real estate broker or sales agent before entering into a contract of sale. ***[Complete and disclose if applicable]***:

_____ is a Texas real estate license holder and is acting in a dual capacity as broker or sales agent for Seller and as a principal in this transaction (as Seller or acting on behalf of Seller as provided above).

_____ is a Texas real estate license holder and is acting in a dual capacity as broker or sales agent for Purchaser and as a principal in this transaction (as Purchaser or acting on behalf of Purchaser as provided above).

L. Storage Tanks. If a tank (or tank system) that is designed or intended to be installed as an underground storage tank or an aboveground storage tank is located on the Property, Seller

has provided Purchaser with the written notification described in Section 334.9 of Title 30 of the Texas Administrative Code by completing attached Addendum E.

M. Public Improvement Districts. If the Property is located in a public improvement district subject to the provisions of §5.014 of the Texas Property Code, then Seller shall give to Purchaser the required written notice and Purchaser agrees to acknowledge receipt of the notice in writing.

21. DISPUTE RESOLUTION.

A. Mediation. If any dispute (the **"Dispute"**) arises between any of the parties to this Contract including, but not limited to, payment of the Fee, then any party (including any Broker) may give written notice to the other parties requiring all involved parties to attempt to resolve the Dispute by mediation. Except in those circumstances where a party reasonably believes that an applicable statute of limitations period is about to expire, or a party requires injunctive or equitable relief, the parties are obligated to use this mediation procedure before initiating arbitration or any other action. Within seven days after receipt of the mediation notice, each party must deliver a written designation to all other parties stating the names of one or more individuals with authority to resolve the Dispute on such party's behalf. Within 14 days after receipt of the mediation notice, the parties shall make a good faith effort to select a qualified mediator to mediate the Dispute. If the parties are unable to timely agree upon a mutually acceptable mediator, any party may request any state or federal judge to appoint a mediator. In consultation with the mediator, the parties shall promptly designate a mutually convenient time and place for the mediation that is no later than 30 days after the date the mediator is selected. In the mediation, each party must be represented by persons with authority and discretion to negotiate a resolution of the Dispute, and may be represented by counsel. The mediation will be governed by applicable provisions of Chapter 154 of the Texas Civil Practice and Remedies Code, and such other rules as the mediator may prescribe. The fees and expenses of the mediator will be shared equally by all parties included in the Dispute.

B. Arbitration. If the parties are unable to resolve any Dispute by mediation, then the parties (including the Brokers) shall submit the Dispute to binding arbitration before a single arbitrator. The Dispute will be decided by arbitration in accordance with the applicable arbitration statute and any rules selected by the arbitrator. After an unsuccessful mediation, any party may initiate the arbitration procedure by delivering a written notice of demand for arbitration to the other parties. Within 14 days after the receipt of the written notice of demand for arbitration, the parties shall make a good faith effort to select a qualified arbitrator acceptable to all parties. If the parties are unable to agree upon the selection of an arbitrator, then any party may request any state or federal judge to appoint an arbitrator. This agreement to arbitrate will be specifically enforceable under the prevailing arbitration law.

22. CONSULT AN ATTORNEY. This Contract is a legally binding agreement. The Brokers cannot give legal advice. The parties to this Contract acknowledge that they have been advised to have this Contract reviewed by legal counsel before signing this Contract.

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 www.lwolf.com **302 N. Main**

Purchaser's attorney:

Name: _____
Address: _____
_____
_____
Phone: _____
Fax: _____
Email: _____

Seller's attorney:

Name: _____
Address: _____
_____
_____
Phone: _____
Fax: _____
Email: _____

23. EXHIBITS AND ADDENDA. All Exhibits and Addenda attached to this Contract are incorporated herein by reference and made a part of this Contract for all purposes ***[check all that apply]*:**

☐	Exhibit "A"	Legal Description
☐	Exhibit "B"	Site Plan
☒	Exhibit "C"	Information About Brokerage Services
☐	Exhibit "D"	_____

☐	Addendum A	Schedule of Personal Property
☐	Addendum B-1	Third Party Financing
☐	Addendum B-2	Seller Financing
☐	Addendum B-3	Existing Loan
☐	Addendum C	Disclosure Notice
☐	Addendum D	Lead Based Paint
☐	Addendum E	Notice as to Tanks
☐	Addendum F	Additional Provisions

24. CONTRACT AS OFFER. The execution of this Contract by the first party to do so constitutes an offer to purchase or sell the Property. If the other party does not accept that offer by signing this Contract and delivering a fully executed copy to the first party by the earlier of this date **January 24, 2025** or the date that is 10 days after the date this Contract is executed by the first party, then that offer will be deemed to have been automatically withdrawn, in which case the Earnest Money, if any, will be returned to Purchaser. Any acceptance of an offer that has been withdrawn will be effective only if the party that withdrew the offer subsequently agrees to the acceptance either in writing or by course of conduct.

25. ADDITIONAL PROVISIONS. ***[Additional provisions may be set forth below or on any attached Addendum].*** Seller and Purchaser agree that the following additional provisions (if any) and the provisions set forth on the attached Addenda (if any) will control in the event of any conflict with other provisions of this Contract.
302 N. Main Street is being sold "as-is".

$1,000,000.00 will be paid at closing, with the remaining balance of $500,000.00 paid by Friday, October 31, 2025.

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 www.lwolf.com

This Contract is executed to be effective as of the date the Title Company acknowledges receipt of this fully executed Contract as indicated by the signature block for the Title Company (the Effective Date).

SELLER:

Dan and Janice Jespersen

By: (Signature) _____

Name: _____

Title: _____

Date of Execution: _____

By: (Signature) _____

Name: _____

Title: _____

Date of Execution: _____

PURCHASER:

DCEDC/City of Duncanville

By: (Signature) _____

Name: _____

Title: _____

Date of Execution: _____

By: (Signature) _____

Name: _____

Title: _____

Date of Execution: _____

PRINCIPAL BROKER:

Triple L Real Estate, PLLC

By: (Signature) _____

Name: **Gianni R. LaBarba**

Title: **Broker**

Address: **627 Mercury Ave**

Duncanville, Tx 75137

Phone: **(214)926-4366**

Fax: _____

Email: **gianni@3Lrealestate.com**

TREC License No.: **0490803**

COOPERATING BROKER:

By: (Signature) _____

Name: _____

Title: _____

Address: _____

_____

Phone: _____

Fax: _____

Email: _____

TREC License No.: _____

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

TITLE COMPANY RECEIPT: The Title Company acknowledges receipt of this Contract on _____ (the **Effective Date**). Upon receipt of the Earnest Money, the Title Company accepts the Earnest Money subject to the terms and conditions set forth in this Contract.

TITLE COMPANY:

Allegiance Title

By: (Signature) _____

Name: _____

Title: _____

Address: **515 N. Cedar Ridge, Suite 3**

Duncanville, Tx 75116

Phone: **(972)283-6655**

Fax: **(972)283-0302**

Email: _____

PERMISSION TO USE: This form is provided for use by members of the North Texas Commercial Association of Realtors®, Inc. ("NTCAR"), members of the North Texas Commercial Association of Real Estate Professionals, Inc., and other licensed users of an NTCAR electronic forms system. Permission is given to make limited copies of the current version of this form for use in a particular Texas real estate transaction. Please contact the NTCAR office to confirm you are using the current version of this form. Mass production, or reproduction for resale, is not allowed without express permission. Any changes to this form must be made in a manner that is obvious. If any words are deleted, they must be left in the form with a line drawn through them. If changes are made that are not obvious, the person who made the change could be subject to a claim of fraud or misrepresentation for passing off an altered form as if it were the genuine NTCAR form.

©Copyright 2022 NTCAR - Form No. 1 (11/2022)

Triple L/The Venator Group

NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®

EXHIBIT "C"

11-2-2015

INFORMATION ABOUT BROKERAGE SERVICES

Texas law requires all real estate licensee holders to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

TYPES OF REAL ESTATE LICENSE HOLDERS:

- A **BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- A **SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: To act as an intermediary between the parties the broker must first obtain the written agreement of *each party* to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
  - that the owner will accept a price less than the written asking price;
  - that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
  - any confidential information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

Triple L Real Estate	**9012907**	**gianni@3Lrealestate.com**	**(214)926-4366**
Licensed Broker /Broker Firm Name or Primary Assumed Business Name	License No.	Email	Phone
Gianni R. LaBarba	**490803**	**gianni@3Lrealestate.com**	**(214)926-4366**
Designated Broker of Firm	License No.	Email	Phone
Licensed Supervisor of Sales Agent/ Associate	License No.	Email	Phone
Jennifer Lott Hagler	**787659**	**jennifer@3Lrealestate.com**	**(214)794-0034**
Sales Agent/Associate's Name	License No.	Email	Phone

_____ _____ _____

Buyer/Tenant/Seller/Landlord Initials Date

Regulated by the Texas Real Estate Commission **Information available at** www.trec.texas.gov

IABS 1-0

©Copyright 2022 NTCAR - (11/2022) -- EXHIBIT "C"

RESOLUTION NO. 2025-412

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, APPROVING THE PURCHASE OF REAL PROPERTY LOCATED AT 302 N. MAIN STREET, IN THE CITY OF DUNCANVILLE, DALLAS COUNTY, TEXAS 75116 ATTACHED HERETO AND INCORPORATED HEREIN AS "EXHBIT A", IN THE AMOUNT OF $1,500,000.00 FROM DAN AND JANICE JESPERSEN; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE PURCHASE AND SALE AGREEMENT AND CLOSING DOCUMENTS AND OTHER NECESSARY DOCUMENTS AFTER APPROVED AS TO FORM BY THE CITY ATTORNEY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City of Duncanville ("the City") has agreed to offer the purchase of real property from Dan and Janice Jespersen, located at 302 N. Main Street, Duncanville, Texas 75116; and,

WHEREAS, The City and Sellers have agreed to a purchase price of $1,500,000.00 with a $7,500.00 Earnest Money Deposit; and

WHEREAS, the City Council finds it to be in the public interest to agree to the purchase of the Property from Dan and Janice Jespersen and to authorize the City attorney to provide for a commercial real estate agreement in the amount set forth herein and the City manager may execute such agreement as approved in the specific terms and conditions of the purchase of the Property from the Sellers, herein.

WHEREAS, the City Manager is authorized to execute the necessary documents to close and take possession of the Property as provided herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of the City of Duncanville, Texas hereby approves to purchase the real property and improvements of 302 N. Main Street, Duncanville, Dallas County, Texas from Dan and Janice Jespersen in the amount of One Million, Five Hundred Thousand Dollars ($1,500,000.00), and, the City Manager is authorized to make the earnest money deposit of Seven Thousand, Five Hundred Dollars ($7,500.00); and

SECTION 2. The City Council of the City of Duncanville, Texas hereby authorize the City Manager to execute the Purchase Sale Agreement after approved as to form by the City Attorney, and, authorize necessary documents to close and take possession of the property.

SECTION 3. This Resolution shall become effective immediately upon adoption.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the ____th day of _____, 2025.

APPROVED:

_____
Douglas Finch, City Manager

ATTEST:

_____
Chiquita Taylor, City Secretary

APPROVED AS TO FORM:

_____
Robert E. Hager, City Attorney

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Present a report to City Council for the Special Event - 2024 Holiday Lights in the Park and Parade

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Advance: Marketing Strategy of the City and Community Engagement Plan**
  - **Strengthen communication and engagement within the community while championing the City of Duncanville regionally, nationally, and internationally.**
- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**
- **Re-Imagine: High Quality of Life**
  - **Develop, maintain, and encourage safe, attractive, viable family-oriented neighborhoods that embrace diversity and pride, promoting economic vitality.**

STAFF RESPONSIBLE:
Douglas Finch, City Manager
Sofine Lewis, Executive Liaison to the City Manager
Devon Handley, Special Events Planner

BACKGROUND/HISTORY:
The Holiday Lights in the Park and Parade is an annual event that fosters community engagement. This long-standing tradition dates back decades. The event begins with a parade followed by a tree-lighting celebration and a drone show.

POLICY EXPLANATION:
The Holiday Lights in the Park and Parade After Action Report aims to share with Council the event details and reflect on the planning, execution, and outcomes. This After Action Report allows staff to assess what went well and to prepare to enhance future holiday celebrations. The debrief provides insight into areas such as safety, participant feedback, budget management, and overall event success. After Action Reports also enable city staff to learn from their experiences, make necessary adjustments, and ensure that future events are enjoyable, efficient, and successful for the community.

FUNDING SOURCE:

ORG and Object Number
N/A

Available Budget	**Purchase Amount**	**After Encumber**
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
1. Other actions as directed by Council.

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Report on the American Rescue Plan Act (ARPA) Funds and Projects

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**

STAFF RESPONSIBLE:
Jennifer Otey, Budget Administrator

BACKGROUND/HISTORY:
In March of 2021, the Federal Government passed the American Rescue Plan Act (ARPA), and through this act the State and Local Fiscal Recovery Funds program. Over $350 billion dollars was distributed among state, territorial, local, and tribal governments to support response to and recovery from the COVID-19 public health emergency. Allocations for cities were determined by using the same formula as applied to the Community Development Block Grants, as written in the Housing and Community Development Act of 1974.

The City of Duncanville ultimately received $9,620,929.80 in funds, split over 2 years, with the first half received in August of 2021 and the second in September of 2022. The eligible uses of the funds, simply stated, must fall in the following four categories:
1. Replace lost public sector revenue
2. Respond to the far-reaching public health and negative economic impacts of the pandemic
3. Provide premium pay for essential workers
4. Invest in water, sewer, and broadband infrastructure

Additionally, the program stated all funds must be obligated by December 31, 2024, and spent by December 31, 2026. The projects and expense categories can be summarized as follows.

Employee Premium Pay - $1,231,136
Provided pay to all city employees who worked during the Covid-19 pandemic.

Public Safety - $1,693,344
Funds were used toward replacing costly gear, equipment, tools, and to increase efficiency. Items such as an ambulance, air purification system for fire apparatuses, adverse weather equipment, SCBA gear and mask cleaners, bunker gear, updated body-worn cameras and in-car systems, traffic devices, flock cameras, fire truck blocking apparatus, and AED units around City facilities.

Business Grants - $421,287
Provided 35 recovery grants to local businesses.

Outdoor Fitness Equipment - $333,856
Installed outdoor fitness equipment at four parks: Armstrong, Lions, Red Bird, and Quail Run.

Building Infrastructure Improvements - $489,167
Replaced the roof and HVAC system at 103 E. Wheatland Annex building, provided a backup generator to the new Fire Station, carrel replacements at the library, and updated City Hall lobby with a Customer Service desk and soundproofing panels.

IT Infrastructure, Network, and Software - $889,264
Funds used to address network and IT infrastructure issues, reimplementation of Energov software, and new Municipal Court software.

Fire Station 1 Construction - $4,133,805
One of the biggest impacts post-Covid was inflation. 2021 experienced 4.7% inflation and 8% in 2022. The cost of construction materials significantly increased and caused supply chain delays. Funds were used to offset the increase in cost of constructing Fire Station 1. It was not desired to issue more debt to cover the shortages and burden the public further with higher taxes.

The Harrington Park project to complete the concessions, restrooms, and construct a bridge to connect the park with Waterview Park will use $550,000 of the remaining funds. Additionally, $75,000 was used for the master plan of the Dog Park at Rotary Park.

As a note to the full listing report attached. The total spent plus the remaining obligations total $9,816,859 and therefore exceeds the amount of funding received. The City did receive a portion back through a state-funded matching grant for the police body-worn cameras and in-car systems, as well as received interest earnings on the funds.

FUNDING SOURCE:

ORG and Object Number
NA

Available Budget	**Purchase Amount**	**After Encumber**
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
No action to be taken.

ATTACHMENTS:
ARPA Projects 01.10.25

ARPA PROJECTS (FUND 758) AT JANUARY 10, 2025

	NAME	PROJECT CATEGORY / FUNCTION	DESCRIPTION	REQUESTED OR UPDATED AMOUNT	PROJECT TO DATE ACTUAL	TOTAL REMAINING BALANCE	PROJECT FINANCIAL STATUS
1	Employee Premium Pay	Employee Premium Pay	Provide premium pay for city employees worked during the pandemic		1,231,136		COMPLETE
2	New Ambulance	Revenue Loss - Public Safety	Ambulance due for replacement.		370,476		COMPLETE
3	Air Purification - Fire Apparatus	Revenue Loss - Public Safety	Install air purfication equipment in Fire response vehicles to assist in mitigating spread of Covid-19		20,690		COMPLETE
4	Adverse Weather Equipment	Revenue Loss - Public Safety	Equipment such as batteries, small generator, etc for backup option to generator in an event of adverse weather, power outages.		4,685		COMPLETE
5	ESRI License	Revenue Loss - Public Safety	Update licensing for Fire Dept. Allows department mapping of Covid-19 hot spots in order for responders to be aware and better prepared when responding.		2,500		COMPLETE
6	SCBA Face Cleaners	Revenue Loss - Public Safety	Provide a cleaning system at each station. Ensures effective cleaning to remove carcinogens, dirt, and other residue on the face masks.		11,380		COMPLETE
7	Bunker Gear	Revenue Loss - Public Safety	To provide each firefighter a second set of gear in accordinance with NFPA 1971. Providing a second set of gear allows a firefighter to change into a clean set after a fire while the initial set is being cleaned of carcinogens.		141,362		COMPLETE
9	SCBA Gear	Revenue Loss - Public Safety	New gear for responders.		276,022		COMPLETE
10	Library Carrels	Revenue Loss	Replace remaining Carrels. Library started replacing carrels with Cares Act funds in order to support distance learning for the community.		18,620		COMPLETE
11	Axon Body Worn Cameras/Vest	Revenue Loss - Public Safety	Provide body worn cameras/vest to neighborhood, health inspections, marshal, and fire marshal. These positions either did not have one or used extras PD might have had. This enables staff to have protection and record of interactions with the community.		70,869		COMPLETE
12	JAMAR Traffic Devices	Revenue Loss - Public Safety	Equipment to gather and analyze speeding and traffic data		8,808		COMPLETE
13	Lexipol Subscriptions	Revenue Loss - Public Safety	State and Federal mandates are consistantly being updated. This service will keep policies up to date and ability to track the changes. Police and Fire		57,129		COMPLETE
14	Radar Trailers	Revenue Loss - Public Safety	Speed trailer to prompt speeding drivers to slow down.		16,078		COMPLETE

ARPA PROJECTS (FUND 758) AT JANUARY 10, 2025

	NAME	PROJECT CATEGORY / FUNCTION	DESCRIPTION	REQUESTED OR UPDATED AMOUNT	PROJECT TO DATE ACTUAL	TOTAL REMAINING BALANCE	PROJECT FINANCIAL STATUS
15	Body Worn Cameras & System	Revenue Loss - Public Safety	Allows for a direct link to county DA to transfer evidence and case information electronically versus the burning DVDs and having to hand deliver to DA office. This will add great efficiency to the CID function as well as the Property and Evidence Tech time. The Michael Morton Act (MMA) of 2014 and now the Richard Miles Act forces the hand of police departments to quickly gather all sources of digital media and evidence in a case. What can be submited through this portal must be done. The current vendor Watchguard has not been able to get this done so again the CID function has had to burn all of their data to DVDs for storage and disclosure.		580,975		COMPLETE
16	Cellular Pump Stations	Water/Sewer Infrastructure	Replace 12 routers at pump stations for reliable communication back to SCADA system at Service Center		13,945		COMPLETE
17	AED Replacements	Revenue Loss - Public Safety	Replace AED (Automated External Defibrillator) units around city facilities.		26,620		COMPLETE
18	Fire Truck Blocking Apparatus	Revenue Loss - Public Safety	Duncanville share with Cedar Hill for blocking apparatus equipment. To be used for events and incidents requiring an apparatus to block traffic so other fire apparatuses can continued to be used.		88,651	-	COMPLETE
19	EDC - Business Grants	Economic Response	Grants for eligible Duncanville businesses for expenses incurred and revenue loss during the COVID-19 pandemic. Businesse must apply and maximum grant per applicant is $15,000.		421,287	-	COMPLETE
20	Emergency Generators/HVAC Replacements	Economic Response and Public Safety	Emergency Generator for Fire Station 271, HVAC and roof replacement at 103. E Wheatland Rd. building		385,593	-	COMPLETE
21	Outdoor Fitness Equipment	Revenue Loss	Outdoor fitness equipment at Armstrong Park and Quail Run		333,856		COMPLETE
22	Flock Cameras	Revenue Loss - Public Safety	Leveraging technology for Police staff. Helps police investigate crimes with capturing license plates and vehicle characteristics.		17,100		COMPLETE
23	City Hall Lobby - Customer Service area	Revenue Loss	Convert City Hall lobby to a Customer Service front desk. Includes displays, desk, IT infrastructure to operate computer at the desk, and sun blocking panels.		71,009		COMPLETE
24	IT equipment, cameras, network, backbone, VDI, Traffic Service Upgrades	Revenue Loss - Public Safety	Upgrade and relocate traffic operations servers to Service Center. Replace network fiber. Project cost to replace servers and network backbone, replace outdated network infrastructure, and virtual desktops started with Cares Act funds.		186,847		COMPLETE

ARPA PROJECTS (FUND 758) AT JANUARY 10, 2025

	NAME	PROJECT CATEGORY / FUNCTION	DESCRIPTION	REQUESTED OR UPDATED AMOUNT	PROJECT TO DATE ACTUAL	TOTAL REMAINING BALANCE	PROJECT FINANCIAL STATUS
25	Fire Station 1 - Construction and IT	Revenue Loss - Public Safety	Complete construction of new Fire Station, with timing of Covid-19, supply shortages, escalated cost of construction and materials, cost to complete nearly doubled.		4,133,805		COMPLETE
26	IT ERP Re-implementations/Upgrades	Revenue Loss	Projected cost to implement remaining MUNIS applications, Energov (Inspections & Code) and EAM (Asset Management) for inventory and asset management. Cost includes training with MUNIS staff. Additionally once implemented it will reduce general fund expenditures paying for two systems. Projected cost for upgrade and training for MUNIS Financials and Human Capital (Personnel) modules	259,717	151,283	108,434	Reimplementation of Energov and Purchase of Court System approved
27	Dog Park	Revenue Loss	Install a dog park at Rotary Park. Also includes parking.	75,000	71,500	3,500	In Progress
28	IT Network Infrastructure Repairs/Replacement	Revenue Loss	Repair and resolve City network infrastructure issues. The City has experienced continued failure of the network in 2024. This project will ensure network is stable and functional for all stakeholders.	442,700	390,783	51,917	In Progress
29	Harrington Park	Revenue Loss	To offset increase in cost for the 2018 bond project to replace Concessions, restrooms, and bridge connection to Waterview Park.	550,000		550,000	In Progress
	TOTAL			**$1,327,417**	**$9,103,008**	**$713,850**	
						9,816,859	**Balance + Actual to Date**

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Receive a presentation summarizing the Police Department and Neighborhood Services collaboration of a neighborhood sweep in the Candlelight Subdivision.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**

STAFF RESPONSIBLE:
Robert Byrd; Lieutenant
Matthew Stogner; Chief of Police

BACKGROUND/HISTORY:
In October 2024, a Candlelight subdivision resident brought concerns about neighborhood quality-of-life issues and criminal activity to the attention of city leaders.

The Police Department and Neighborhood Services met to devise a plan, setting a grace period for residents to address ordinance and parking violations. During this period, they issued warnings and educated residents about observed issues.

Beginning November 2, 2024, a zero-tolerance enforcement sweep was implemented. This included the use of technology, directed patrols, and referrals to other city departments.

The initiative aimed to change behavior, educate residents, and enhance community safety.

POLICY EXPLANATION:
N/A

FUNDING SOURCE:

ORG and Object Number

N/A

Available Budget	Purchase Amount	After Encumber
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
N/A

STAFF REPORT

MEETING: City Council - 21 Jan 2025

TITLE:
Present the Police Department's Quarterly Report.

Vision Statement:

"Duncanville, a City of Champions, is a safe, vibrant, diverse community committed to excellence in education, business, and good governance."

Pillar:

- **Emphasize: Government Accountability, Customer Service, Efficiency and Process Improvement**
  - **Develop a high performing organization that encourages innovation, transparency, and collaboration while delivering exceptional customer service.**

STAFF RESPONSIBLE:
Matthew Stogner, Chief of Police
Adrian Tijerina, Assistant Chief of Police

BACKGROUND/HISTORY:
Police quarterly report.

POLICY EXPLANATION:
Police quarterly report.

FUNDING SOURCE:

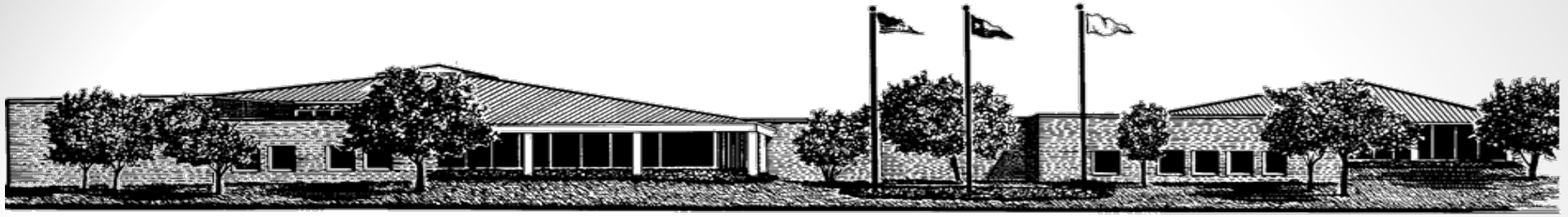
ORG and Object Number
N/A

Available Budget	Purchase Amount	After Encumber
$0.00	$0.00	$0.00

ACTION ALTERNATIVES:
1. Receive quarterly report.
2. Do not receive quarterly report.
3. Other actions as directed by Council.

ATTACHMENTS:

Duncanville Police 1st FY Quarterly Report 2025 (OCT-DEC)



City of Duncanville

QUARTERLY REPORT
OCTOBER – DECEMBER 2024

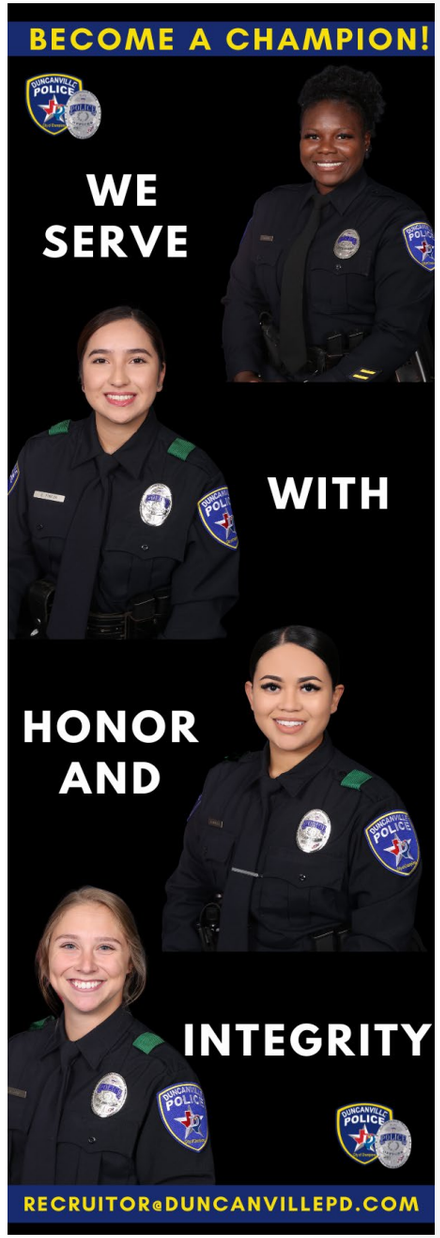
JANUARY 21, 2025

MATTHEW STOGNER, CHIEF OF POLICE

We are building a vibrant, inclusive community, driven by a commitment to democratic principles and service above self

Staffing/Personnel

- Recruits Emmanuel Ortiz, Joey Vang, and Alex Lopez graduated the Police Academy on December 16th and immediately began In-Service training. They will be sworn in on January 10.
- Officer Barbosa completed field training and was assigned to Bravo Days patrol shift.
- Recruits Krystal Hayes and Juan Marin began the Police Academy and are expected to graduate in April
- Recruits Tesean Bond and David Perea began the Police Academy on December 30 and are expected to graduate in June.
- We currently have 8 vacancies.



City of Duncanville

Staff Development

- The Department held several days of range instruction and the Annual Firearms Qualification, with 100% pass rate.
- Collectively, members of the Department attended 1,122 hours of TCOLE accredited training.
- Five Officers attended background investigations training and immediately began assisting in the hiring process of new applicants.



Regional CARE Team Quarterly Activity

- The CARE Team has recognized an increase in the unhoused population in the Tri-cities. They are continuously searching for resources and programs.

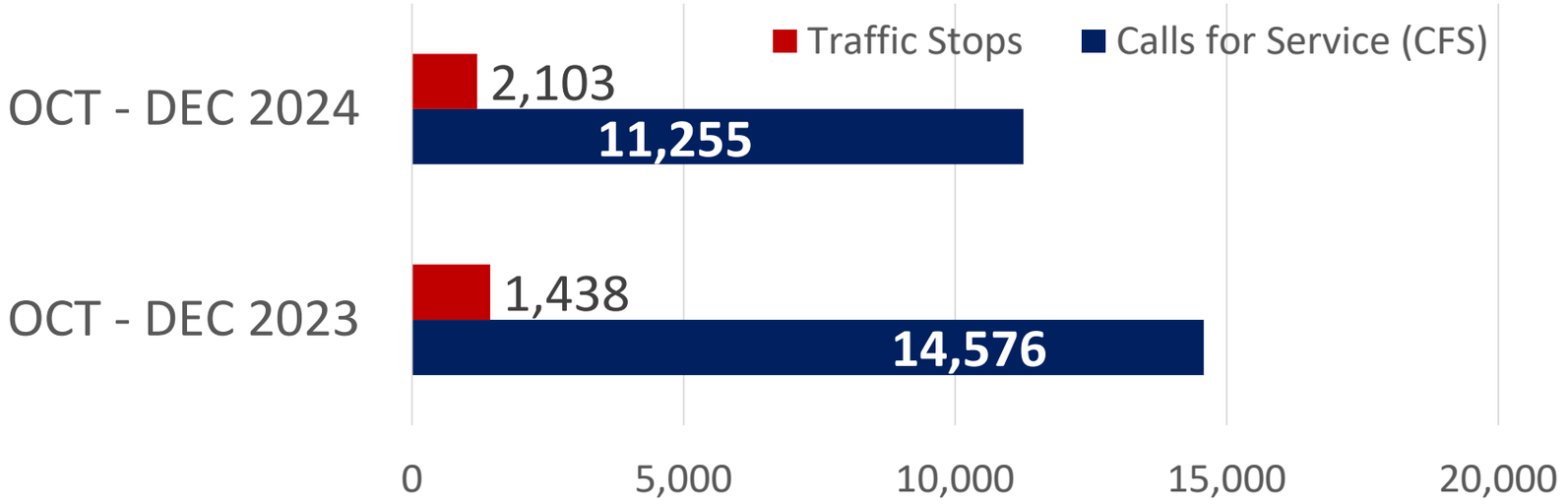
- The CARE Team has assisted approximately 45 new clients for this quarter.

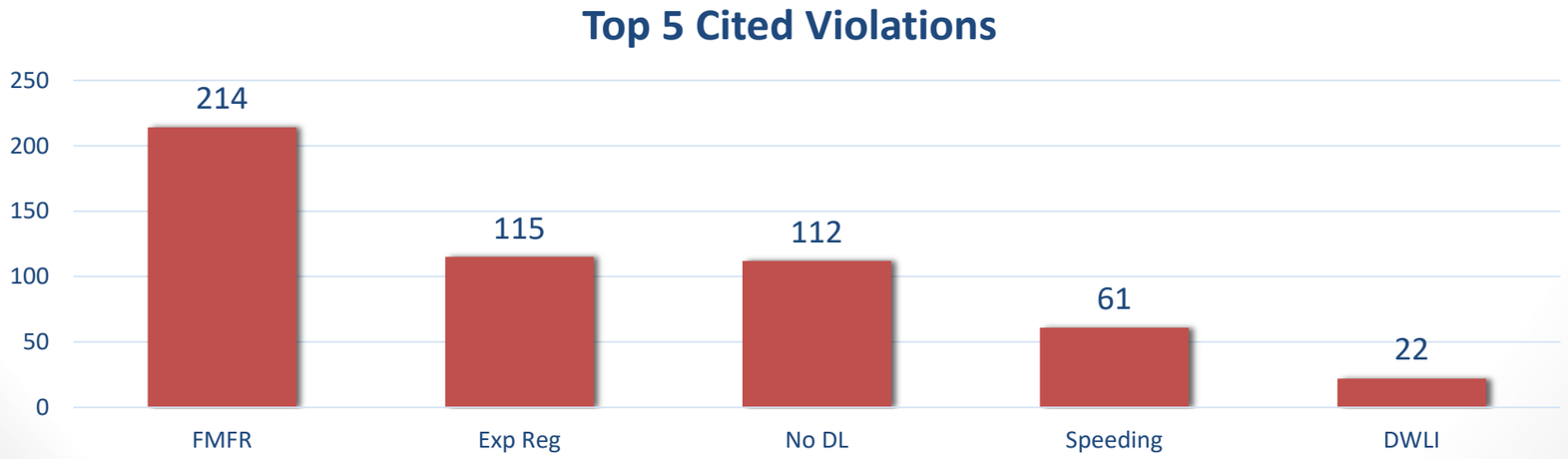


REGIONAL CARE TEAM

City of Duncanville

Patrol activity comparison at a glance



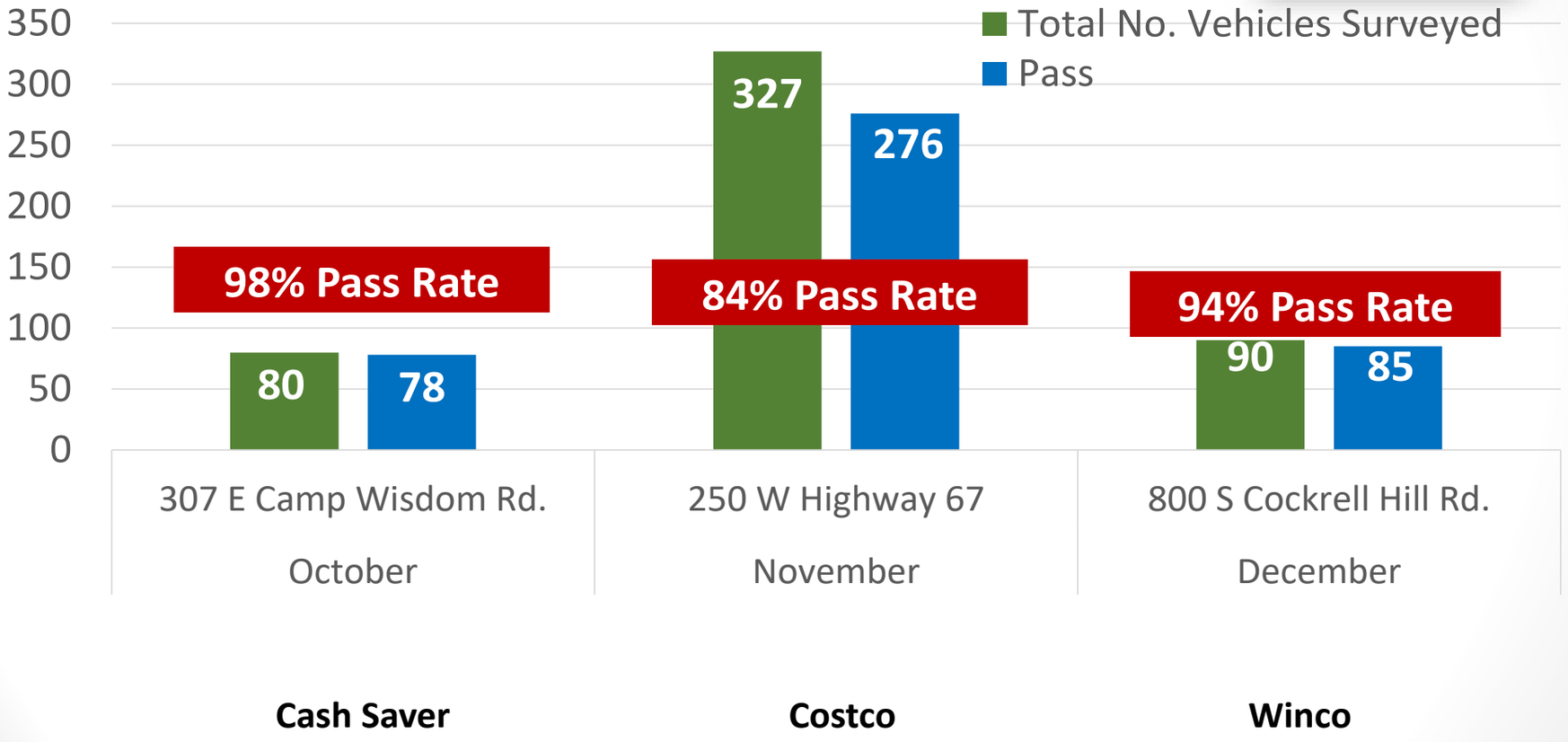


City of Duncanville

5

Citizens on Patrol (COPs) BMV Report Card Surveys





City of Duncanville

6

Department Activity

Number of Use of Force Incidents: 2

- 1 – Found to be lawful and within departmental policy.
- 1– Administrative review pending.

Number of Vehicle Pursuits: 1

- Administrative review pending.

Number of Complaints: 0

City of Duncanville

Community Engagement

October 2024 – 15 Meetings with 2,624 Partnerships
November 2024 – 8 Meetings with 1,034 Partnerships
December 2024 – 9 Meetings with 1,445 Partnerships













City of Duncanville

Santa Cop Program

- The Santa Cop program has been a staple program for the PD since 1999.
- Officer Arias collaborates with DISD Counselors for each elementary, intermediate, and middle school. These counselors nominate 2-3 families each.
- Officer Arias contacts each family to determine needs and wants.
- Officers and volunteers spend countless hours organizing and wrapping all gifts for delivery.
- Volunteers and officers then deliver the gifts to each family.
- This year we assisted over 45 families gifting more than 500 toys.



City of Duncanville

9

Santa Cop Volunteers/Officers



City of Duncanville

NIBRS Group A Offenses: Oct – Dec 2024

	Occurred	Unfounded	Actual	Cleared
09 - Homicide Offenses	0		0	
100 - Kidnapping/Abduction	0		0	
11 - Sex Offenses	1		1	
36 - Sex Offenses, Non-Forcible			0	
120 - Robbery	3		3	
13A - Aggravated Assault	14		14	12
13B - Simple Assault	101	1	100	89
13C - Intimidation	4		4	3
200 - Arson			0	
210 - Extortion/Blackmail			0	
220 - Burglary/Breaking and Entering	21		21	4
23A - Pocket-picking			0	
23B - Purse-snatching	1		1	
23C - Shoplifting	28		28	11
23D - Theft From Building	14		14	1
23E - Theft From Coin-Operated Machine or Device	0		0	
23F - Theft From Motor Vehicle	46		46	5
23G - Theft from Motor Vehicle Parts/Acccessories	11		11	
23H - All Other Larceny	10		10	3
240 - Motor Vehicle Theft	50	2	48	
250 - Counterfeiting/Forgery	3		3	1
26 - Fraud Offenses	14		14	5
270 - Embezzlement			0	
280 - Stolen Property Offenses			0	
290 - Destruction/Damage/Vandalism of Property	59		59	3
35 - Drug/Narcotic Offenses	28		28	25
370 - Pornography/Obscene Material			0	
39 - Gambling Offenses			0	
40 - Prostitution Offenses			0	
510 - Bribery			0	
520 - Weapon Laws Violations	16		16	12
64 - Human Trafficking			0	
720 - Animal Cruelty	1		1	
GRAND TOTAL	425	3	422	174

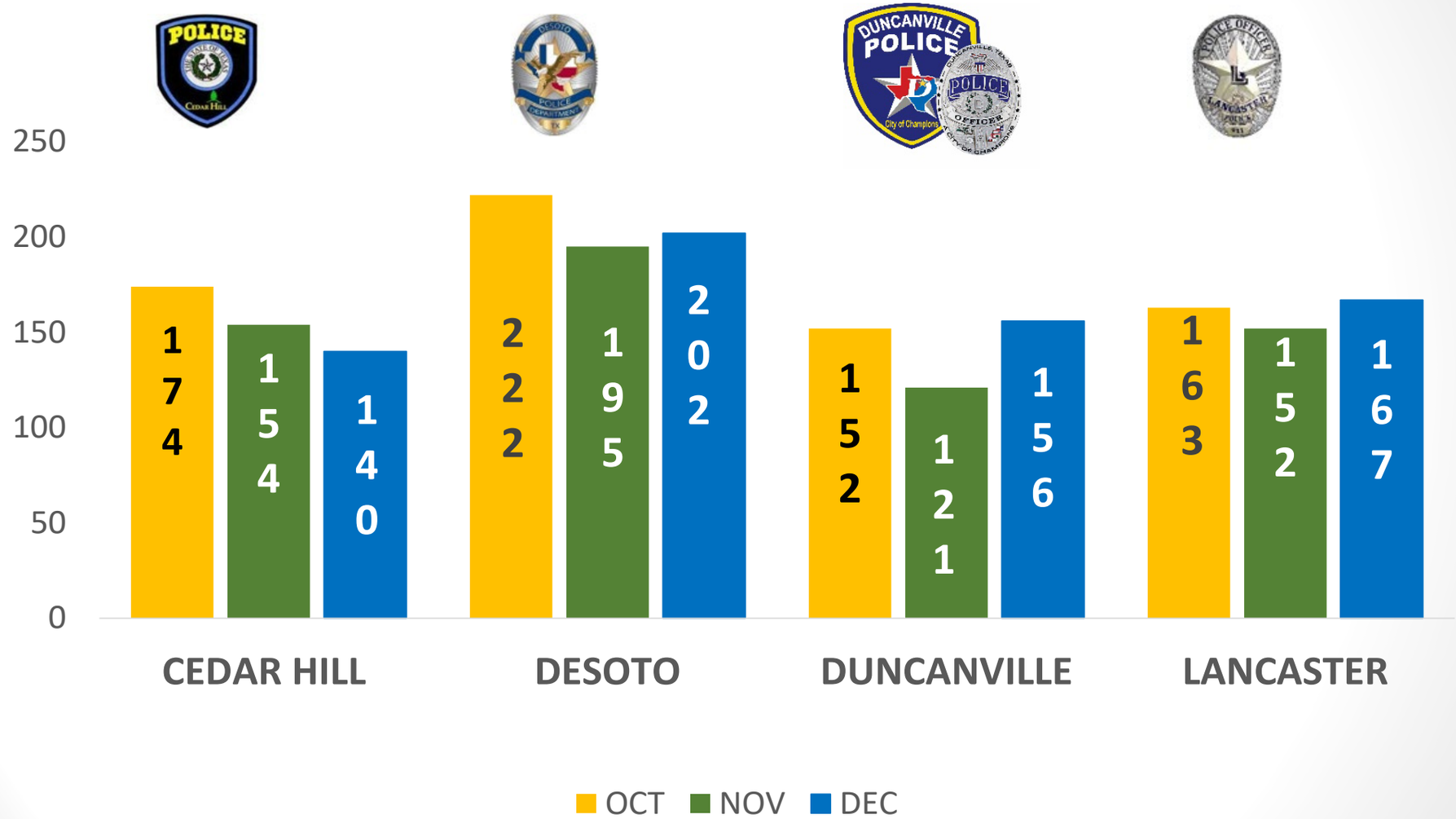
Crime statistics as of 01/06/2025

City of Duncanville



11

NIBRS Group A Offense Count Comparison

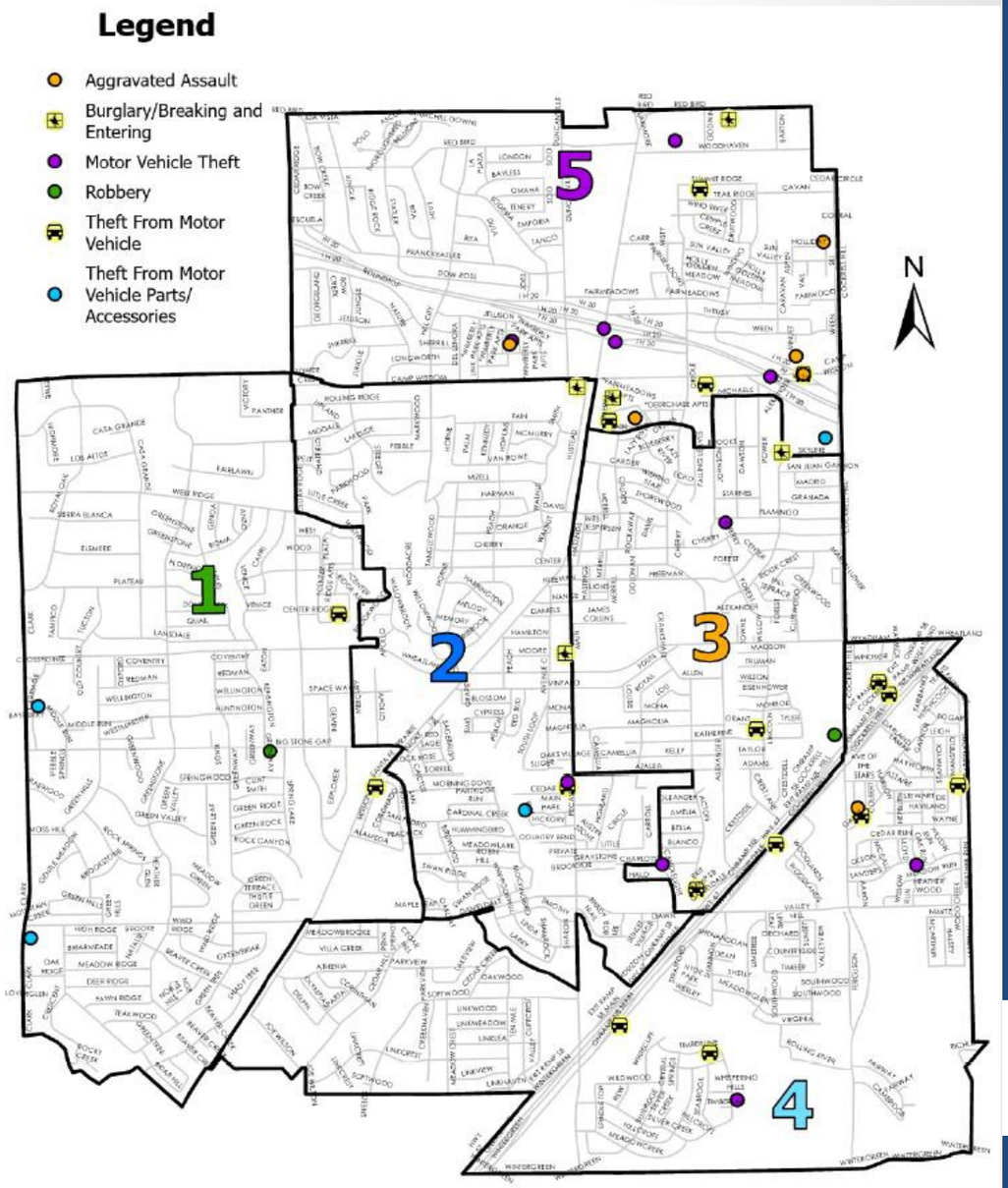


Data obtained from Texas DPS at https://txucr.nibrs.com/Report/CrimesIndex (January 15, 2025)

City of Duncanville

October 2024 Major Crimes

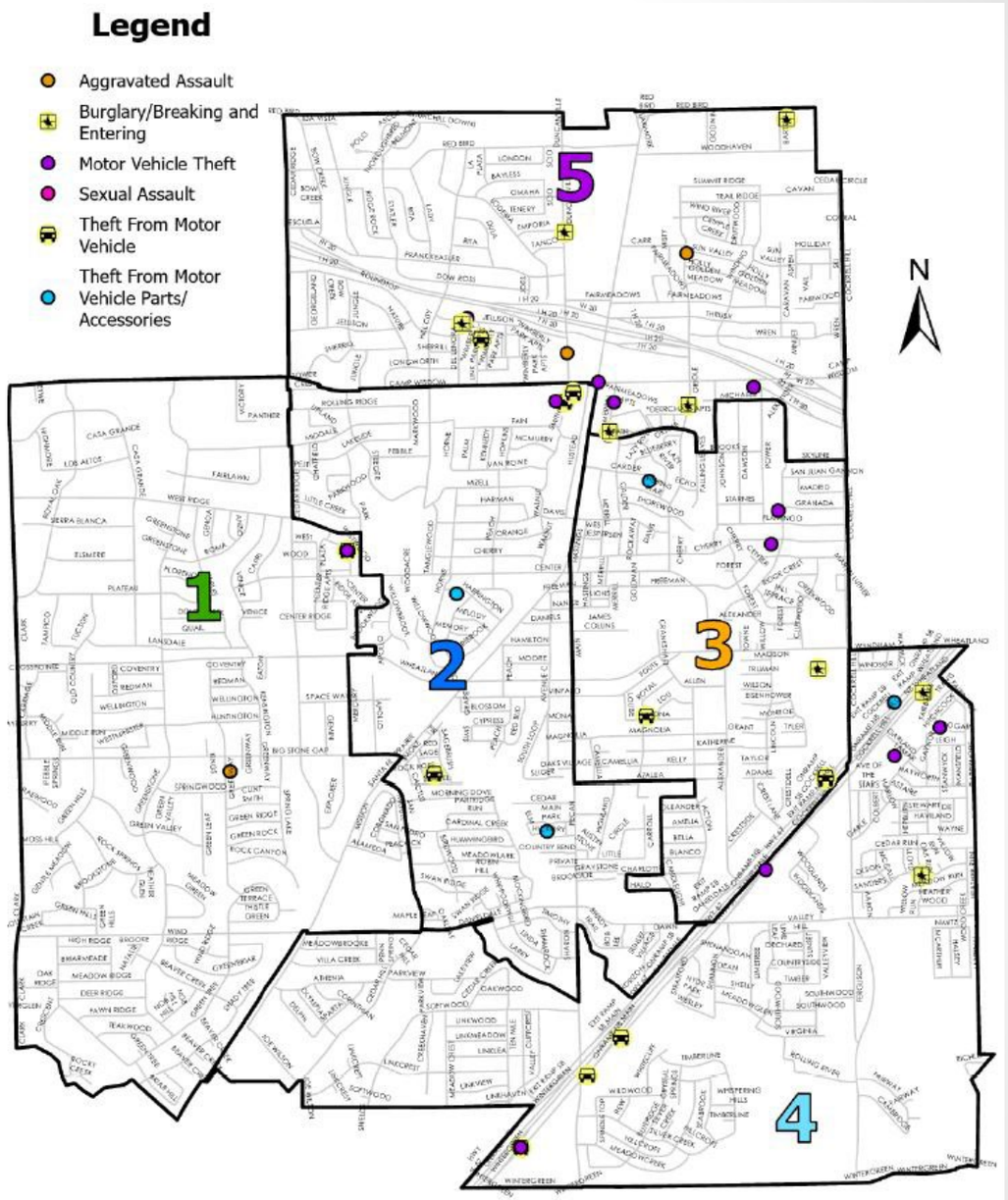
	District 1	District 2	District 3	District 4	District 5
Agg. Assault	0	0	0	1	5
Burglary	0	3	1	0	2
Motor Vehicle Theft	0	1	2	2	5
Robbery	1	0	1	0	0
Theft from Motor Vehicle	2	1	2	9	4
Theft from Motor Vehicle Parts and Accessories	2	1	0	0	1
Total	5	6	6	12	17



City of Duncanville

November 2024 Major Crimes

	District 1	District 2	District 3	District 4	District 5
Agg. Assault	1	0	0	0	2
Burglary	0	0	1	2	5
Motor Vehicle Theft	1	1	2	6	7
Sexual Assault	0	0	0	0	1
Theft from Motor Vehicle	1	3	2	4	1
Theft from Motor Vehicle Parts and Accessories	0	2	1	2	0
Total	**3**	**6**	**6**	**14**	**16**

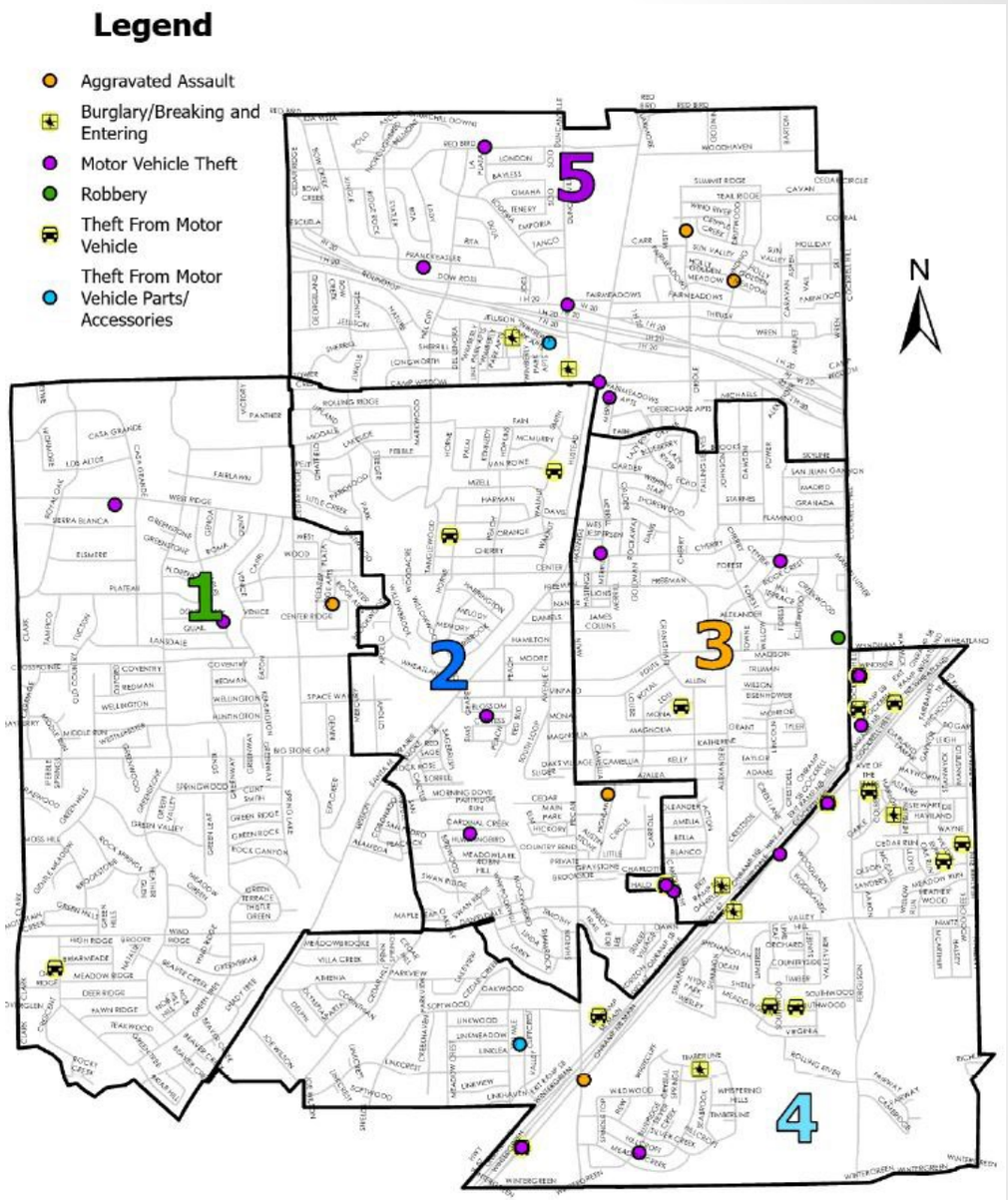


City of Duncanville

14

December 2024 Major Crimes

	District 1	District 2	District 3	District 4	District 5
Agg. Assault	1	1	0	1	2
Burglary	0	0	1	4	2
Motor Vehicle Theft	2	2	4	7	6
Robbery	0	0	1	0	0
Theft from Motor Vehicle	1	2	2	12	0
Theft from Motor Vehicle Parts and Accessories	0	0	0	1	1
Total	**4**	**5**	**8**	**25**	**11**



City of Duncanville

15

Thank you

Any questions?



City of Duncanville