

CITY OF TEXAS CITY
REGULAR CALLED CITY COMMISSION MEETING

AGENDA

WEDNESDAY, MAY 3, 2023 - 5:00 P.M.
KENNETH T. NUNN COUNCIL ROOM - CITY HALL
1801 9th Ave. N.
Texas City, TX 77590

PLEASE NOTE: Public comments and matters from the floor are generally limited to 3 minutes in length. If you would like to request to speak, please do so in advance of the meeting by filling out a Request To Address Commission form. All in attendance are required to remove hats and/or sunglasses (dark glasses) during meetings and to also silence all cell phones and electronic devices.

- (1) ROLL CALL
- (2) INVOCATION
- (3) PLEDGE OF ALLEGIANCE
- (4) PROCLAMATIONS AND PRESENTATIONS
 - (a) Proclaim May 20, 2023, Great American Cleanup - Texas City Day.
 - (b) Police Promotional Ceremony

Michael Kelemen	Promotion from Officer to Sergeant
Allen Edinburgh	Promotion from Officer to Sergeant
 - (c) Certificates of Recognition for the 2023 TAAF Girls State Basketball winners.
- (5) REPORTS
 - (a) Athletic Division (Recreation and Tourism)
- (6) PUBLIC COMMENTS
- (7) CONSENT AGENDA
 - (a) Approve City Commission Minutes for April 19, 2023 meeting. (City Secretary)

- (b) Consider and take action on Resolution No. 2023-050, authorizing a Utility Services Agreement with GCMUD 59. (Transportation and Planning)
- (c) Consider and take action on Resolution No. 2023-051, denying Texas-New Mexico Power Company's application for approval to amend its distribution costs recovery factor to increase distribution rates within the City of Texas City and the hiring of Legal Counsel, Llyod Gosselink - Attorneys at Law, for consulting services. (Management Services)
- (d) Consider and take action on Resolution No. 2023-052, approving and awarding Bid No. 2023-426 2023 Pavement Striping at Various Locations to Semper Striping. (Public Works)
- (e) Consider and take action on Resolution No. 2023-053, authorizing write-off's for the overdue fines at the Moore Memorial Library. (Library)
- (f) Consider and take action on Resolution No. 2023-054, approving the purchase and delivery of a PACU/ADC-1 PoolPak: Enhanced Pool Dehumidification, 80 ton, Roof Top Unit for the Natatorium. (Public Works)
- (g) Consider and take action on Resolution No. 2023-055, designating Titilayo Smith as the Certifying Officer on Environmental Reviews required by HUD for all CDBG funded projects for the City of Texas City. (Mayor's Office)
- (8) REGULAR ITEMS
 - (a) Consider and take action on Ordinance No. 2023-16, amending the fiscal year 2022-2023 budget to appropriate funds for the purchase of a dehumidification unit for the natatorium. (Finance)
 - (b) Consider and take action on Ordinance No. 2023-17, amending the fiscal year 2022-2023 budget to appropriate additional funds for the 2023 Blaze & BBQ Bash. (Finance)
- (9) COMMISSIONERS' COMMENTS
- (10) MAYOR'S COMMENTS
- (11) ADJOURNMENT

NOTICE OF ANY SUBJECT APPEARING ON THIS AGENDA REGARDLESS OF HOW THE MATTER IS STATED MAY BE ACTED UPON BY THE CITY COMMISSION.

NOTICE: The City of Texas City will furnish free transportation to handicapped individuals via a 4-door sedan for anyone wishing to attend the City Commission meetings. Call 948-3111, City Secretary's Office before noon on Monday preceding the meeting to make arrangements.

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE BULLETIN BOARDS AT CITY HALL, 1801 9TH AVENUE NORTH, TEXAS CITY, TEXAS, AT A PLACE CONVENIENT AND READILY ACCESSIBLE TO THE GENERAL PUBLIC AND ON THE CITY'S WEBSITE ON APRIL 28, 2023, PRIOR TO 5:00 P.M. AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

RHOMARI LEIGH
CITY SECRETARY

CITY COMMISSION REGULAR MTG

(4) (a)

Meeting Date: 05/03/2023

Proclaiming May 20, 2023, Great American Cleanup - Texas City Day

Submitted For: Titilayo Smith, Community Development/ Grant Admin

Submitted By: Titilayo Smith, Community Development/ Grant Admin

Department: Community Development/ Grant Admin

Information

ACTION REQUEST

Proclaim May 20, 2023, Great American Cleanup - Texas City Day.

BACKGROUND (Brief Summary)

The Great American Cleanup is a program to support the efforts of Keep Texas Beautiful and Keep America Beautiful Affiliates, nonprofits, volunteers, corporations, scout groups, and communities to join forces and beautify their communities. Projects include beautification events, recycling events, litter cleanups, and more.

Keep Texas Beautiful’s Great American Cleanup includes Don’t mess with Texas®Trash-Off and Keep Texas Waterways Clean.

This will be the second year for Keep Texas City Beautiful to participate in the Great American Cleanup, the 1st year as an official Keep Texas Beautiful affiliate. This year the cleanup will focus on the Texas City side of F.M. 1765 between Hwy 3 and i45.

RECOMMENDATION

It is the recommendation of the Community Development & Grants Administrator that the Commission approve this proclamation.

Fiscal Impact

CITY COMMISSION REGULAR MTG

(4) (b)

Meeting Date: 05/03/2023

Police Sergeant Promotions

Submitted For: Clay Pope, Police Department

Submitted By: Clay Pope, Police Department

Department: Police Department

Information

ACTION REQUEST

Police Promotional Ceremony

Michael Kelemen Promotion from Officer to Sergeant

Allen Edinburgh Promotion from Officer to Sergeant

BACKGROUND (Brief Summary)

A promotional test was given August 3, 2022, for the rank of Sergeant. Officer Michael Kelemen and Allen Edinburgh are the highest scoring officers remaining on the eligibility list as a result of the exam. With Commission's approval of the two new Sergeants positions, both Officer Kelemen and Edinburgh are to be promoted to the rank of Sergeant.

RECOMMENDATION

Police Promotional Ceremony

Michael Kelemen Promotion from Officer to Sergeant

Allen Edinburgh Promotion from Officer to Sergeant

Fiscal Impact

CITY COMMISSION REGULAR MTG

(4) (c)

Meeting Date: 05/03/2023

Certificates of Recognition for the 2023 TAAF Girls State Basketball winners.

Submitted For: Chria McCall, Recreation and Tourism

Submitted By: Rhomari Leigh, City Secretary

Department: Recreation and Tourism

Information

ACTION REQUEST

Certificates of Recognition for the 2023 TAAF Girls State Basketball winners.

BACKGROUND (Brief Summary)

7u Huskies Girls State Runner-Up (2nd place)

Coaches:

Allen Thompson and Ashley Harrell

Players:

Chloe Blakeman

Kennedi Smith

Hazel Johnican

Paisley Johnican

Laila McNair

Nyla Jones

Aleyah Thompson

Amira Thompson

Jacqueline Benavides

Kamilla Florence

Team competed in our City league and advanced to the State Basketball Tournament in Waco March 17th – 19th, 2023

RECOMMENDATION

Fiscal Impact

CITY COMMISSION REGULAR MTG

(5) (a)

Meeting Date: 05/03/2023

Submitted By: Rhomari Leigh, City Secretary

Department: City Secretary

Information

ACTION REQUEST

Athletic Division (Recreation and Tourism)

BACKGROUND (Brief Summary)

RECOMMENDATION

Fiscal Impact

Attachments

Staff Report

Parks, Rec. & Tourism

DEPARTMENT



CITY OF TEXAS CITY

Recreation & Tourism Athletic Division Programs

City Commission

May 3, 2023

Sports We Offer



TENNIS VOLLEYBALL BASKETBALL TRACK AND FIELD





TENNIS



After School: 2021-22 School Year, 32 Participants

Long time Tennis Coach Charles Brooks continues to lead our after-school program Monday thru Thursday throughout the school year. Our program begins in August and runs through May and is open to all skill levels. The after-school program is held on The Lowry Tennis Courts from 5:00 PM to 7:00 PM at a cost of \$20 per month.

Summer: 2022, 32 Participants

Coach Charles Brooks also leads our summer tennis program promoting physical fitness and confidence building to those wanting to learn and advance this wonderful lifetime activity in a fun, relaxed environment. The Program is offered to kids ages 6-18 for Beginners, Intermediate and Advanced skill levels on the Lowry Tennis Courts.

BEGINNERS - \$25 (includes t-shirt), this section is non-competitive and is specifically designed for skill development.

INTERMEDIATE & ADVANCED - \$35 (includes t-shirt), these sections are designed to improve upon previously developed skills to continually enhance the overall tennis game. The fee includes TAAF & USTA competitions and memberships card.

The program runs Mondays-Fridays from 8:00 AM to Noon





VOLLEYBALL

Fall 2022: 83 Participants



We offer a Fall Volleyball Season for girls ages 6-14 that runs August thru November and is for players of all skill levels. Once selected to a team participants practice two days a week and play games two days a week. (\$60 registration fee)



BASKETBALL

2022-23, 424 Participants

The Texas City Parks and Rec Department Athletics offers a Winter Basketball Season. The basketball program is for girls and boys ages 6-15 and is the largest city sponsored program. League registrations began in October, with the draft in November and practices starting in December. No practices are held during TCISD Holiday Break, and games start in January and run thru February. The League concludes with the City Tournament Championships with teams advancing to the TAAF Region I Tournament. Teams have the ability to advance and conclude their season at the Texas Amateur Athletic Federation (TAAF) affiliated State Tournament. (\$70 registration fee)





TRACK AND FIELD



2022, 76 Participants

Summer track and field program promotes continued physical fitness with opportunities to compete in Texas Amateur Athletic Federation (TAAF) affiliated track meets. Our summer track and field program is for kids ages 6-18 for all skill levels wanting the opportunity to compete throughout the summer. Participants learn how to pace themselves, and the use of proper running and stretching techniques. Beginners welcome! Practices start in May with competitions throughout June and July. (\$30 registration fee)

- Practices are Monday-Thursday from 5:00 PM to 7:30 PM at the Texas City High School Track
- This season participants can compete in 11 Regional Circuit Track Meets held in La Porte, Texas City, Galena Park, Deer Park, Beaumont, and Baytown.
- Regionals was hosted by Texas Heat at Dickinson ISD Track and the TAAF Summer Games was in Corpus Christi



Youth Sport Partners

Texas City Athletics is proud to partner with the following organizations, allowing the youth of our community to continue to participate in additional activities provided by local organizations:

- Texas City Little League Baseball
- Texas City Girls Youth Softball
- West Texas City Little League Baseball
- Galveston County Youth Soccer Association
- Texas City Stingray Youth Football



These leagues help to maintain our fields throughout their season and assist Athletics by sharing ideas toward our master plan to better improve our facilities.





- All activity registrations can be done online via CIVICREC
- Anyone can create an account
- For assistance with account contact athletics desk (409)643-5994

<https://www.texascitytx.gov/>
<https://secure.rec1.com/catalog>



Sport Comparison by Year



	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
After School Tennis	28	21	20	25	49	32
Fall Volleyball	115	96	84	*	50	83
Basketball	529	400	310	*	414	424
Summer Track	82	118	64	*	45	76
Summer Tennis	38	35	*	*	17	32

*Did not offer due to pandemic

Athletic Facilities



Texas City Athletics provides facility rentals for the following:

- 17 Baseball and Softball Fields
- 1 Football Field
- 3 Multi-Purpose Fields
- 9 Soccer Fields
- 5 Gymnasiums
 - 3 inside gyms
 - 8 Outdoor
- 1 Pavilion



Athletic Facilities



Carver Park



Tarpey Park



Godard Park



Pickleball

- We now have pickleball equipment and portable nets at all centers
- Free play and other programming will be rolled out this summer
- Three courts located in Westview Park near 16 St. N



Capital Improvements



Capital Improvements



Lowry Tennis Court Lighting



CITY COMMISSION REGULAR MTG

(7) (a)

Meeting Date: 05/03/2023

Submitted By: Rhomari Leigh, City Secretary

Department: City Secretary

Information

ACTION REQUEST

Approve City Commission Minutes for April 19, 2023 meeting. (City Secretary)

BACKGROUND (Brief Summary)

RECOMMENDATION

Fiscal Impact

Attachments

Minutes

REGULAR CALLED CITY COMMISSION MEETING

MINUTES

WEDNESDAY, APRIL 19, 2023 – 5:00 P.M.
KENNETH T. NUNN COUNCIL ROOM – CITY HALL

A Regular Called Meeting of the City Commission was held on Wednesday, APRIL 19, 2023, at 5:00 P.M. in the Kenneth T. Nunn Council Room in City Hall, Texas City, Texas. A quorum having been met, the meeting was called to order at 5:00 p.m. by Mayor Dedrick D. Johnson.

1. ROLL CALL

Present: Dedrick D. Johnson, Mayor
Thelma Bowie, Commissioner At-Large, Mayor Pro Tem
Abel Garza, Jr. , Commissioner At-Large
DeAndre' Knoxson, Commissioner District 1
Felix Herrera, Commissioner District 2
Dorthea Jones Pointer, Commissioner District 3
Jami Clark, Commissioner District 4

2. INVOCATION

Led by Pastor Keith Birdsong of Trinity Baptist Church.

3. PLEDGE OF ALLEGIANCE

Led by Commissioner District 4 Jami Clark.

4. PROCLAMATIONS AND PRESENTATIONS

a.

Service Awards

Wesley Kurtz	Water Distribution	04/29/2013	10 years
Esteban Gonzalez	Police	04/03/2008	15 years

5. REPORTS

a. Neighborhood Improvement Services Report (NIS-FD)

David Zacherl, Fire Chief, gave a PowerPoint presentation.

b. Financial Quarterly Report (Finance)

Laura Boyd, Finance Director, gave a quarterly financial report.

6. PUBLIC COMMENTS

The following individuals spoke before the City Commission:

Good Citizen
Concerned Citizen

7. CONSENT AGENDA

- a. Approve City Commission Minutes for April 5, 2023 meeting. (City Secretary)

Vote: 7 - 0 CARRIED

- b.

Consider and take action on Resolution No. 2023-047, awarding Bid No. 2023-424 and approving the purchase and installation of palm trees at Doyle Convention Center. (Purchasing)

Vote: 7 - 0 CARRIED

- c.

Consider and take action on Resolution No. 2023-048, amending Resolution No. 2023-021 to add language designated by the Office of the Governor to submit an application for the Rifle Resistant Body Armor Grant Program. (Mayor's Office - Grants Administration)

Vote: 7 - 0 CARRIED

8. REGULAR ITEMS

- a.

Consider and take action on Ordinance No. 2023-11, a replat and variance request for 10625 Hillman Drive, Texas City. (Transportation and Planning)

Motion by Commissioner District 3 Dortehea Jones Pointer, Seconded by Commissioner District 2 Felix Herrera to deny the variance request

Vote: 7 - 0 CARRIED

- b.

Consider and take action on Ordinance No. 2023-12, amending the Code of Ordinances, Title XV – Land Usage by adding Chapter 161, Fence Regulations. (Fire Department)

Motion by Commissioner District 3 Dortehea Jones Pointer, Seconded by Commissioner At-Large Abel Garza, Jr.

Vote: 7 - 0 CARRIED

c.

Consider and take action on Ordinance No. 2023-13, amending the Code of Ordinances, Title XV: Land Use, Chapter 159 Subdivisions. (Transportation and Planning)

Motion by Commissioner District 4 Jami Clark, Seconded by Commissioner At-Large, Mayor Pro Tem Thelma Bowie

Vote: 7 - 0 CARRIED

d.

Consider and take action on Ordinance No. 2023-14, amend the fiscal year 2022-2023 budget to appropriate funds for the purchase of equipment for the Police Department from Drug Confiscation Fund. (Finance)

Motion by Commissioner At-Large Abel Garza, Jr., Seconded by Commissioner District 2 Felix Herrera

Vote: 7 - 0 CARRIED

e.

Consider and take action on Ordinance No. 2023-15, amending the Code of Ordinances, City of Texas City, Texas, Title III "Administration", Chapter 32 "Law Enforcement and Fire Department," by increasing the number of positions within the classification of Sergeant by two (2); prescribing the number of positions within each classification of the classified service of the Police Department. (Police Department)

Motion by Commissioner District 2 Felix Herrera, Seconded by Commissioner District 1 DeAndre' Knoxson

Vote: 7 - 0 CARRIED

9. ADJOURNMENT

Having no further business, Commissioner At-Large Abel Garza, Jr. made a MOTION to ADJOURN at 5:57 p.m.; the motion was SECONDED by Commissioner District 4 Jami Clark. All present voted AYE. MOTION CARRIED.

DEDRICK D. JOHNSON, MAYOR

ATTEST:

Rhomari Leigh, City Secretary

Date Approved:

CITY COMMISSION REGULAR MTG

(7) (b)

Meeting Date: 05/03/2023

Consider and take action on a Utility Services Agreement with GCMUD 59

Submitted For: Kim Golden, Transportation and Planning

Submitted By: Veronica Carreon, Transportation and Planning

Department: Transportation and Planning

Information

ACTION REQUEST

Consider and take action on a Utility Service Agreement with Galveston County Municipal District No. 59.

BACKGROUND (Brief Summary)

Galveston County Municipal District No. 59 (District) and Land Tejas Lago Mar, LLC (Developer) wish to contract with the City of Texas City, TX (City) per the attached agreement to obtain from the City water production and wastewater treatment services for the 791.2813 acres comprising the District, all of which property is situated wholly within the city limits of Texas City, TX.

RECOMMENDATION

Staff has reviewed the proposed Utility Services Agreement and finds it to be in order. Recommend approval.

Fiscal Impact

Attachments

GCMUD 59 Utility Services Agreement

GCMUD 59 Map

UTILITY SERVICES AGREEMENT

This UTILITY SERVICES AGREEMENT (the “Agreement”) is entered into as of _____, 2023, between THE CITY OF TEXAS CITY, TEXAS, a home rule municipality located in Galveston County, Texas (the “City”), LAND TEJAS LAGO MAR, L.L.C., a Texas limited liability company (the “Developer”), and GALVESTON COUNTY MUNICIPAL UTILITY DISTRICT NO. 59, a conservation and reclamation district and a political subdivision of the State of Texas (the “District”).

Recitals

The City is a municipal corporation that provides a full-range of governmental services to its citizens. The City owns and operates water production and distribution and wastewater collection and treatment facilities, and provides other municipal services.

The District is a municipal utility district created by an Order of the TCEQ on February 21, 2007, located within the City and comprising 791.2813 acres, as more particularly described in Exhibit “A” attached hereto and incorporated herein for all purposes (the “Property”).

The Developer and the District wish to contract with the City to obtain from the City water production and wastewater treatment services for the Property.

The District intends to construct and finance a regional water supply and distribution system, wastewater collection and treatment system improvements to serve the Property and other areas adjacent or near the Property (the “Service Area”). Such improvements shall be financed in accordance with the terms and conditions of cost-sharing agreements entered into between the District, the City, the Developer, and any additional affected conservation and reclamation districts (each, a “Regional District”), as set forth in this Agreement.

The Developer wishes to contract with the District for the District to provide for the construction and financing of (i) water distribution, wastewater collection, and storm sewer drainage facilities to serve the Property, which may be transferred to the City for ownership, operation, and maintenance after completion and acceptance by the City, and (ii) lakes, ponds, and other detention facilities and open ditches, open drainage channels, and other open stormwater drainage improvements to serve the Property, to be owned, operated and maintained by someone other than the City, all subject to the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, obligations, and benefits contained herein, the City, the Developer, and the District agree as follows:

**ARTICLE 1.
DEFINITIONS**

Unless the context indicates otherwise, capitalized terms used in this Agreement shall have the following meanings:

City means the City of Texas City, Texas.

City Water System means all the water production pumps, lines, meters, components, facilities, and equipment owned and used by the City to pump, treat, monitor, convey, supply, and distribute water to the public.

City Wastewater System means all the wastewater treatment facilities, lines, components and equipment owned and used by the City to collect, convey, treat, monitor, regulate, and dispose of wastewater.

CIP Improvements means the improvements to the City Water System and City Wastewater System that are necessary to serve the needs of the Service Area, and that have been included in the City's Capital Improvement Plan.

District means Galveston County Municipal Utility District No. 59, and all land to be included in the District at creation and thereafter.

District System means the District Water System, the District Wastewater System, and any drainage facilities necessary to serve the Property.

District Water System means the on-site water supply and distribution system that will be constructed by the Developer or the District for the distribution of potable water to serve the Property, ending at the Point of Water Connection.

District Wastewater System means the wastewater system that will be constructed by the Developer or the District to serve the Property for the collection of wastewater received from customers on the Property, ending at the Point of Wastewater Connection, and will include any sewer force main, booster pumps and lift stations that will be required to transport wastewater to the Point of Wastewater Connection.

Point of Water Connection means that point where the District Water System connects to the City Water System at a location determined by the City Engineer or his designee.

Point of Wastewater Connection means that point where the District Wastewater System connects to the City Wastewater System at a location determined by the City Engineer or his designee.

Regional CIP Facilities means the regional water and wastewater facilities to serve the Service Area that are included in the City of Texas City CIP Plan.

Submerged Storm Sewer means the portion of a storm sewer system where the flow line of the storm sewer pipe lies below the designed permanent water surface elevation.

TCEQ means the Texas Commission on Environmental Quality and any successor agencies exercising any of its duties and functions related to municipal utility districts.

Wastewater means the water-carried wastes, exclusive of ground, surface, and storm waters, normally discharged from the sanitary conveniences of dwellings, including apartments, houses, hotels, office buildings and institutions, of a domestic, not industrial, nature, meeting the requirements of the City set forth in the City's Code of Ordinances, as may be amended or superseded by the City from time to time.

Wastewater Services means the services provided by the City in receiving, treating, testing, and disposing of Wastewater from the District Wastewater System to the City Wastewater System in accordance with this Agreement.

Water means potable water that meets federal and state standards for consumption by humans.

Water Services means the services provided by the City in producing and distributing Water from the City Water System to the District Water System in accordance with this Agreement.

ARTICLE 2. DISTRICT SYSTEM AND DETENTION

2.1 Construction of District System, Open Drainage, and Detention.

2.1.1 The Developer or the District will finance, design, and construct the District System as required to serve the Property pursuant to plans and specifications approved by the City in accordance with the Consent Conditions and applicable laws and ordinances. The District Water System shall include all facilities necessary to convey water from the Point of Water Connection to the customers located on the Property. The District Wastewater System will include all facilities necessary to transport Wastewater from the customers located on the Property to the Point of Wastewater Connection. If the District System is constructed by the District rather than the Developer, the Developer will advance to the District all funds necessary to finance the District System. In financing the District System, the District shall comply with all TCEQ rules, regulations,

and requirements, particularly the “economic feasibility” rules. As the Project is developed, the Developer shall finance, and the City or the District, as applicable, shall construct the CIP Improvements to the extent that the City does not have adequate funds on hand to construct such improvements in accordance with the terms and conditions of the Development Agreement entered into between the City and the Developer.

Neither the Developer nor the District will construct any irrigation wells without the consent of the City. Any irrigation wells constructed, controlled or regulated by the Developer or the District will be constructed to prevent any cross-contamination with the District Water System or the City Water System, and all plans therefor shall be submitted to the City for review and approval, and as-built drawings shall be provided to the City upon completion.

The plans and specifications for the District System, as well as any extensions, additions, or modifications thereto, shall be submitted to the City for review and approval prior to the installation or construction of same by the Developer or the District. Subject to the provisions of Article IV, the District System, or modifications thereto, shall be designed and constructed in accordance with City standards and specifications, the requirements of Galveston County, the TCEQ, and any other governmental agency having or acquiring jurisdiction over such systems. All easements in which any part of the District System are to be constructed or installed shall be dedicated to the public for installation of public utilities.

The Developer and the District agree that all construction contracts for the District System that will be ultimately conveyed to the City shall require standard payment and performance bonds for public projects and a one-year warranty/ maintenance bond to the Developer or the District, assignable to the City, in compliance with the bonding requirements of the City then applicable to the construction of public facilities. The Developer shall assign its rights under such bonds and warranties to the City upon conveyance of the District System, or any components thereof, to the City.

- 2.1.2 Upon completion of facilities comprising a component of the District System in accordance with all permits and approvals and upon acceptance thereof by the City, the Developer or the District, as applicable, or both, will convey such facilities to the City, free and clear of all liens and encumbrances (but subject to the Developer’s rights of reimbursement from the District for funds advanced by the Developer to the District, if

any, with respect thereto) for ownership, operation and maintenance by the City. The Property shall have reserved to it all capacity funded by the Developer or the District in any conveyed facilities; provided that any excess capacity not required to serve the Property following full build-out within the Property shall be available to the City to serve other areas. The conveyance instrument shall be in the form attached hereto as Exhibit "B". The City shall incorporate conveyed facilities into the City System and shall serve the Property with water production and wastewater treatment capacity as reasonably required in conjunction with the development of the Property. The City shall bill and collect for services from its customers, including customers located on the Property. All revenues from conveyed facilities shall be the property of the City.

- 2.1.3 The Developer or the District will finance and construct all lakes, ponds, and other detention facilities and open ditches, open drainage channels, and other open stormwater drainage improvements and the City will have no responsibilities with respect thereto. The detention facilities, if any, will be constructed in accordance with the requirements of the City, Galveston County, and any applicable drainage district, and will be maintained by the District or by the property owners' association or associations serving the Property, as appropriate.

2.2 Standard of Service. After conveyance of any component of the District System, services that are provided by the City to the Property under this Agreement shall be substantially equivalent in quality to the water and wastewater services the City provides to other City customers not located on the Property. Charges, fees and rates of City customers on the Property shall be the same as similarly situated customers within the City as a whole. Property residents will be required to request service, taps and other service requirements from the City.

2.3 Inspection by the City. Consistent with the Consent Conditions, the City shall have access at all reasonable times to inspect the construction of the District System as the City deems necessary or desirable to verify compliance with this Agreement. The District and/ or Developer shall pay the City for the City's costs associated with such inspections.

2.4 No Tax Rebate. The City does not have any ad valorem tax that overlaps the services to be financed by the Developer with its own funds or the District with its ad valorem taxes; therefore, the City will not rebate any of its ad valorem taxes to the Developer or the District.

2.5 Projection of New Improvements. To enable the City to effectively manage its water and wastewater system capacities, the Developer or the District shall provide to the City by September 30 of each year during the term of this Agreement, a

written projection of the new improvements within the District expected to be connected to the City Water System and the City Wastewater System within the coming year and such other related information as the City may reasonably require.

2.6 Letter of Capacity Assurance. The City agrees that the City Engineer shall, upon reasonable request from the owner of platted property within the District, confirm water and wastewater utility availability for such platted property. If, at any time during the term of this agreement, the City is unable to provide water or wastewater treatment capacity to serve the needs of the District after a written request therefor from the District, the Developer or the District may finance the next phase of improvements to the City's water or wastewater treatment facilities which shall serve, at a minimum, the remaining needs of the District. The parties acknowledge that the City's inability to provide water or wastewater treatment facility capacity may negatively impact and hinder construction in the District, therefore, the City will give written notice to the District at such time as 90 percent of the capacity in its water or wastewater treatment facilities is actually being used. Any construction at the City's water supply or wastewater treatment facilities sites will be designed and managed by the City Engineer, who may impose reasonable requirements and conditions for the construction.

Subject to the provisions of Article III, the Developer, the District, or their designee shall be entitled to a credit against City water or wastewater impact fees, as appropriate, to the extent of any funds advanced by the Developer or the District for improvements to the City's water and wastewater treatment capacity. To the extent allowed by law and the City's impact fee ordinance, City water or wastewater impact fees, as appropriate, generated from development in the City outside of the Property served by the improvements to the City's water or wastewater treatment capacity financed by the Developer or the District shall be used to reimburse the Developer or the District for funds advanced for improvements to the City's water and wastewater treatment capacity, to the extent that the Developer or the District advanced funds in excess of the total amount of City water or wastewater impact fees owed for the Property. The Property shall have reserved to it all capacity funded by the Developer or the District in any facilities constructed under this section; provided that any excess capacity not required to serve the Property following full build-out within the Property shall be available to the City to serve other areas.

ARTICLE 3. REGIONAL FACILITIES

3.1 Regional CIP Facilities. All construction of Regional CIP Facilities will be completed pursuant to plans and specifications consistent with the City's CIP Plan and approved by the City. Each affected Regional District in the Service Area will contract with the District, the City, and the Developer to assist in the financing of the Regional Facilities required to serve development within the Service Area (each such agreement

being referred to herein as a “Cost Sharing Agreement”). Each Cost Sharing Agreement shall specifically provide for (i) which entity or entities shall be responsible for the management of the design and construction of the Regional CIP Facilities, (ii) capacity and cost allocation for such Regional CIP Facilities, (iii) timing of payments for reimbursable costs related to the construction of such Regional CIP Facilities, (iv) use of impact fees and/ or TIRZ funds, if applicable, and (v) provisions for cost-sharing among entities that subsequently receive capacity from such Regional CIP Facilities.

3.2 Conveyance of Regional CIP Facilities to the City. If the District designs and constructs a Regional CIP Facility, upon the completion of such Regional CIP Facility in accordance with all permits and approvals and upon acceptance thereof by the City, the District will convey such facilities to the City, free and clear of all liens and encumbrances (but subject to the Developer’s rights of reimbursement from the District for funds advanced by the Developer to the District, if any, with respect thereto) for ownership, operation and maintenance by the City. The District shall have reserved to it all capacity funded by the District or the Developer in any conveyed Regional CIP Facility; provided that any excess capacity not required for the Service Area following full buildout within the Service Area shall be available to the City to serve other areas. The conveyance instrument shall be in the form attached hereto as Exhibit “B”. The City shall incorporate conveyed Regional CIP Facilities into the City System and shall serve the Service Area with water production and wastewater treatment capacity as reasonably required in conjunction with the development of the Service Area.

ARTICLE 4. SPECIAL PROVISIONS

4.1 Special Provisions Relating to Water. The following special provisions relate to the construction and operations of the Regional District System with respect to water facilities, and the District Water Systems:

4.1.1 The design will be based on the specifications and details provided by the City of Texas City Ordinances, Chapter 159 for Subdivisions and details located on the City of Texas City website as of the date the preliminary plat is submitted for review with the exception of major design considerations as noted below. The TCEQ and the City of Houston criteria dated September 2018, or as may be subsequently amended, and Harris County criteria published January 1st, 2019, or as may be subsequently amended, will be applied for items not addressed by the Texas City criteria or noted below. In the event of a conflict between TCEQ, Harris County, and City of Houston design criteria, the stricter shall apply.

4.1.2 Each fire hydrant shall have a minimum capacity of 750 gallons per minute with a residual of 40 PSI based on a supply pressure from the City of 55 PSI at the point of connection to the District.

4.1.3 A flow of 428 gallons per day per equivalent single-family connection shall be used for design.

4.1.4 Water lines shall be constructed with C-900 pipe for pipe with 12-inch and smaller diameter and C-905 pipe for pipe with 16-inch and greater diameter.

4.1.5 All water piping in wet sand conditions shall be constructed using City and AWWA Standards.

4.1.6 Any interconnect or temporary water facilities connecting the Service Area to any other water supply system must be approved by the City. Any application to the TCEQ for a waiver of elevated storage requirements must be approved by the City prior to submittal.

4.1.7 The use of raw surface water from GCWA if approved by GCWA and effluent from a wastewater treatment plant that complies with TCEQ regulations may be used for make-up water for amenity lakes and landscaping irrigation.

4.1.8 Easement widths shall be based on City of Houston requirements where the City of Texas City criteria is not applicable.

4.1.9 The use of dead end water lines should be allowed in cul-de-sacs as follows: If less than 15 connections, with a minimum 6-inch diameter water line that dead ends at a fire hydrant. If 16 to 30 connections, with a minimum 8-inch diameter water line that dead ends at a fire hydrant. If over 30 connections looping will be required.

4.1.10 The maximum valve spacing should be 1,000 feet for 6-inch to 12-inch pipe and 2,000 feet for 16-inch to 20-inch pipe.

4.1.11 The use of two valves at "T" intersections and three valves at cross intersections is generally required.

4.2 Special Provisions Relating to Wastewater. The following special provisions relate to the construction and operations of the Regional District System with respect to wastewater facilities, and the District Wastewater Systems:

4.2.1 The design will be based on the specifications and details provided by the City of Texas City Ordinances, Chapter 159 for Subdivisions and details

located on the City of Texas City website as of the date the preliminary plat is submitted for review with the exception of major design considerations as noted below. The City of Houston criteria dated September 2018, or as may be subsequently amended, and Harris County criteria published January 1st, 2019, or as may be subsequently amended, will be applied for items not addressed by the Texas City criteria or noted below. In the event of a conflict between Harris County, and City of Houston design criteria, the stricter shall apply.

4.2.2 Lines depth shall not exceed 18 feet. However, requests to allow depths over 18 feet will be considered on an individual basis based on soil conditions and other factors that may affect overall line depth.

4.2.3 Manholes should be spaced at a maximum of 500-feet for 8-inch to 12-inch pipe and a maximum of 800-feet for 18-inch to 48-inch pipe based on City of Houston criteria.

4.2.4 A flow of 315 gallons per day per equivalent single-family connection shall be used for design.

4.2.5 The use of SDR 26 pipe for 15-inch and smaller sanitary sewer and HOBAS for 18-inch and larger sanitary sewer should be allowed.

4.2.6 All wastewater piping in wet sand conditions shall be constructed using special bedding, when applicable.

4.2.7 The minimum easement widths shall be based on City of Houston requirements where the City of Texas City criteria is not applicable.

4.3 Special Provisions Relating to Drainage. The following special provisions relate to the construction and operations of the Regional District System with respect to drainage facilities, and the District Systems for drainage:

4.3.1 The design will be based on the specifications and details provided by the City of Texas City Ordinances, Chapter 159 for Subdivisions and details located on the City of Texas City website as of the date the preliminary plat is submitted for review with the exception of major design considerations as noted below. The City of Houston criteria dated September 2018, or as may be subsequently amended, and Harris County criteria published January 1st, 2019, or as may be subsequently amended, will be applied for items not addressed by the Texas City criteria or noted below. In the event of a conflict between Harris County and City of Houston design criteria, the stricter shall apply.

4.3.2 Drainage hydraulic calculations should be designed to the criteria addressed by Galveston County Drainage District No. One or Galveston County Drainage District No. Two (as applicable).

4.3.3 Twenty-five percent of the Service Area may contain Submerged Storm Sewers. Storm sewer siphons are not allowed. All Submerged Storm Sewers must be constructed with HOBAS pipes or the equivalent and provided with plugging systems to allow isolation of Submerged Storm Sewers for repair or inspection.

4.3.4 All drainage lines in wet sand conditions shall be constructed using special bedding, when applicable.

4.3.5 Easement widths shall be based upon requirements of the City of Texas City.

4.3.6 Side slopes of drainage channels shall be as specified by a qualified geotechnical engineer.

ARTICLE 5. DISTRICT INDEBTEDNESS

5.1 Generally. Bonds will be issued by the District only for the purpose of purchasing and constructing, or purchasing or constructing under contract with the City, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems, drainage facilities, fire-fighting facilities, parks and recreational facilities, and street, road and bridge facilities or parts of such systems or facilities, and to make any and all necessary purchases, construction, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, right-of-way easements, sites, equipment, buildings, plants, structures, and facilities therefor, and to operate and maintain same, and to sell water, sanitary sewer, and other services within or without the boundaries of the District.

5.2 Bond and Other Financial Information Provided to City. The District shall provide the City with copies of all submittals to the TCEQ related to the approval of bonds issued by the District at the same time such information is submitted to the TCEQ. The District shall also provide the City with copies of the Preliminary Official Statement and Official Statement related to any bonds issued by the District at such time as such statements are approved by the District. The District will provide the City with a copy of the District's annual audit report at such time as the audit is approved by the District.

5.3 Refunding Bond Requirements. Any refunding bonds of the District must provide for a minimum of three percent (3%) present value savings and no maturity of the refunding bonds may extend beyond the latest maturity of the refunded bonds, unless approved by the City in writing prior to the sale thereof.

ARTICLE 6.
MISCELLANEOUS

6.1 Compliance with Laws and Regulations. The Developer and the District will promptly, at their sole cost, take whatever action is necessary relating to the construction of the District System in compliance with any federal or state law or regulation and the City discharge permits.

6.2 Records and Reports. The Developer and the District will promptly provide to the City upon request, and without charge, copies of any records or documents relating to the District System.

6.3 Term. This Agreement shall be effective as of the date of its approval by the City Commission (the “Effective Date”) and shall remain in effect for an initial term of 50 years from the Effective Date and shall automatically renew for consecutive one-year terms thereafter unless otherwise terminated as provided for herein.

6.4 Termination for Default. Any party to this Agreement who believes that the other party to this Agreement has defaulted in the performance of any condition, term, or obligation owed to that party under the Agreement shall give written notice of the default to the defaulting party, specifying in detail the provision or provisions of the Agreement that have been breached and specifying what action must be taken to cure or correct the default. Should the party receiving the notice fail to correct the default within 60 days following receipt of the written notice, if such corrective action is within the power of the defaulting party, the party giving the notice of default may terminate this Agreement by giving a written termination notice to the defaulting party specifying the termination date.

6.5 Remedies Cumulative. The parties expressly agree that the remedy of specific performance of this Agreement is an appropriate and necessary remedy and agree that either party may employ the remedy of specific performance in the event of a breach of this Agreement. It is not intended hereby to specify (and this Agreement shall not be considered as specifying) an exclusive remedy for any default, but all remedies, including specific performance and mandamus, may be availed of by any party and shall be cumulative of any other remedy herein specified.

6.6 Successors. Subject to Section 4.13 hereof, this Agreement shall be binding upon the successors or assigns of the parties hereto.

6.7 Force Majeure. If any party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, except the obligation to pay amounts owed or required to be paid pursuant to the terms of this Agreement, then the obligations of such party, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest

practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such force majeure to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure," as used herein, shall include without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, orders of any kind of the government of the United States or the State of Texas or any civil or military authority other than a party to this Agreement, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply resulting in an inability to provide water necessary for operation of the water and sewer systems hereunder or in an inability of the City to provide Water or receive Wastewater, and any other incapacities of any party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party when such settlement is unfavorable to it in the judgment of the party experiencing such difficulty.

6.8 Applicable Law. This Agreement shall be governed by the law of the State of Texas and no lawsuit shall be prosecuted on this Agreement except in a court of competent jurisdiction located in Galveston County.

6.9 No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or the performance by any party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

6.10 Addresses and Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to the other (except bills), must be in writing and may be given or be serviced by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to such party, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three days after it is so deposited. Notice given in any such other manner

shall be effective when received by the party to be notified. For the purpose of notice, addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:

City of Texas City, Texas
P.O. Box 2608
Texas City, Texas 77592
Attn: Mayor

If to the District, to:

Galveston County Municipal Utility
District No. 59
c/ o Allen Boone Humphries Robinson
LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: Greer Pagan

If to the Developer, to:

Land Tejas Lago Mar, LLC
2450 Fondren, Suite 210
Houston, Texas 77063
Attn: Collin Campbell

The parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify any other address by written notice to the other parties at least 15 days prior to the effective date thereof.

6.11 Merger and Modification; Prevailing Terms. This Agreement, including the exhibits, along with the Consent Conditions embody the entire agreement between the parties relative to the subject matter hereof. This Agreement shall be subject to change or modification only with the written mutual consent of the parties. To the extent of any conflict between the Consent Conditions and the terms of this Agreement, the terms of this Agreement shall prevail.

6.12 Severability. The provisions of this Agreement are severable, and if any part of this Agreement or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of part of this Agreement to other persons or circumstances shall not be affected thereby.

6.13 Assignability. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors. The City may give its written consent to a full or partial assignment of the Developer's duties and obligations hereunder to another entity that purchases all or any portion of the Property.

6.14 Benefits of Agreement. This Agreement is for the benefit of the City, the District and the Developer and their successors and assigns and shall not be construed

to confer any benefit on any other person or entity except as expressly provided for herein.

6.15 Consents and Approvals. Whenever this Agreement provides for the approval or consent of one of the parties, such consent or approval shall not be unreasonably withheld or delayed.

6.16 City Codes and Permitting Requirements. The Developer shall cause builders constructing improvements on the Property to comply with City codes and permitting requirements.

6.17 District Exercise of Eminent Domain Powers. The District shall not exercise its eminent domain powers without first obtaining the City's written consent to such exercise.

[EXECUTION PAGES FOLLOW]

AGREED AND ACCEPTED as of the date first above written.

LAND TEJAS LAGO MAR, L.L.C.,
a Texas limited liability company

By: Brende Lago Mar, L.L.C.,
a Texas limited liability company,
as Manager

By: _____
Al P. Brende, Manager

STATE OF TEXAS §
 §
COUNTY OF _____ §

The foregoing instrument was ACKNOWLEDGED before me this ___ day of _____, 2020, by Al P. Brende, Manager of Brende Lago Mar, L.L.C., a Texas limited liability company, as Manager of LAND TEJAS LAGO MAR, L.L.C., a Texas limited liability company on behalf of said company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this __ day of _____, 2019.

Notary Public in and for the State of Texas

GALVESTON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 59

By: _____
President, Board of Directors

ATTEST:

By: _____
Secretary, Board of Directors

(SEAL)

CITY OF TEXAS CITY, TEXAS

Mayor

ATTEST:

City Secretary

(SEAL)

APPROVED AS TO FORM:

City Attorney

Exhibit "A"

Metes and Bounds Description of the District

bonds issued subsequent to the date of this conveyance) have been fully paid and discharged. At that time, the District will execute a release of the security interest in a form acceptable to the City Legal Department.

IN WITNESS WHEREOF, this conveyance is executed on _____.

[Developer]

By: _____

Name: _____

Title: _____

[GALVESTON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 59]

By: _____

Name: _____

Title: _____

In accordance with the Agreement, the City hereby accepts this Utility Conveyance and Security Agreement on _____.

CITY OF TEXAS CITY, TEXAS

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

§

COUNTY OF GALVESTON §

This instrument was acknowledged before me on _____, by _____ as _____ of [Developer Name] [Galveston County Municipal Utility District No. 59, a political subdivision of the State of Texas], on behalf of said [limited partnership] [political subdivision].

Notary, State of Texas

(NOTARY SEAL)

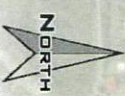
Exhibit “C”

City of Texas City CIP Plan



LAGO MAR

A Land Tejas Community



SCALE: 1"=600'
2.4" x 3.6"



MASTER BASE 07.23.2020

CITY COMMISSION REGULAR MTG

(7) (c)

Meeting Date: 05/03/2023

Approval of Resolution denying Texas-New Mexico Power Company's application to amend its Distribution Cost Recovery Factor ("DCRF")

Submitted For: Jon Branson, Management Services

Submitted By: Jon Branson, Management Services

Department: Management Services

Information

ACTION REQUEST

Consider approval of Resolution No. 23 - XXXX denying Texas-New Mexico Power Company's application for approval to amend its distribution costs recovery factor to increase distribution rates within the City of Texas City and the hiring of Legal Counsel, Llyod Gosselink - Attorneys at Law, for consulting services.

BACKGROUND (Brief Summary)

On April 5, 2023, Texas-New Mexico Power Company ("TNMP" or "Company") filed an Application for Approval to Amend its Distribution Cost Recovery Factor ("DCRF") to increase distribution rates within each of the cities in their service area. In the filing, the Company asserts that it is seeking an increase in distribution revenues of \$14,800,834.

The resolution authorizes the City to join with the Cities Served by TNMP to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

Purpose of the Resolution:

The purpose of the Resolution is to **deny the DCRF application proposed by TNMP.**

Explanation of "Be It Resolved" Paragraphs:

1. This section authorizes the City to participate with TNMP Cities as a party in the Company's DCRF filing, PUC Docket No. 54807.
2. This section authorizes the hiring of Lloyd Gosselink and consultants to review the filing, negotiate with the Company, and make recommendations to the City regarding reasonable rates. Additionally, it authorizes TNMP Cities to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.
3. This paragraph finds that the Company's application is unreasonable and should be denied.
4. This section states that the Company's current rates shall not be changed.
5. The Company will reimburse Cities for their reasonable rate case expenses. Legal

counsel and consultants approved by TNMP Cities will submit monthly invoices that will be forwarded to TNMP for reimbursement.

6. This section recites that the Resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.

7. This section provides that TNMP and counsel for TNMP Cities will be notified of the City's action by sending a copy of the approved and signed Resolution to counsel.

RECOMMENDATION

Staff recommends approval of the attached Resolution.

Fiscal Impact

Attachments

Denial Resolution - 2023 TNMP DCRF

RESOLUTION NO. 2023 - XXX

A RESOLUTION OF THE CITY OF TEXAS CITY, TEXAS FINDING THAT TEXAS-NEW MEXICO POWER COMPANY'S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH TNMP CITIES; AUTHORIZING THE HIRING OF LEGAL COUNSEL AND CONSULTING SERVICES; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

WHEREAS, the City of Texas City, Texas ("City") is an electric utility customer of Texas-New Mexico Power Company ("TNMP" or "Company") with an interest in the rates and charges of TNMP; and

WHEREAS, the Cities Served by Texas-New Mexico Power Company ("TNMP Cities") is a coalition of similarly situated cities served by TNMP that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in TNMP's service area in matters before the Public Utility Commission ("Commission") and the courts; and

WHEREAS, on or about April 5, 2023, TNMP filed with the Commission an Application for Approval to Amend its Distribution Cost Recovery Factor ("DCRF"), Commission Docket No. 54807, seeking to increase distribution rates by \$14,800,834 million annually; and

WHEREAS, the City of Texas City will cooperate with TNMP Cities in coordinating their review of TNMP's DCRF filing with designated attorneys and consultants, prepare a common response, negotiate with the Company, and direct any necessary litigation, to resolve issues in the Company's filing; and

WHEREAS, all electric utility customers residing in the City will be impacted by this ratemaking proceeding if TNMP's Application is granted; and

WHEREAS, working with the TNMP Cities to review the rates charged by TNMP allows members to accomplish more collectively than each city could do acting alone; and

WHEREAS, TNMP Cities' members and attorneys recommend that members who have retained original jurisdiction over electric utility rates deny TNMP's DCRF.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1. That the City is authorized to participate with TNMP Cities in Commission Docket No. 54807.

SECTION 2. That, subject to the right to terminate employment at any time, the City of Texas City hereby authorizes the hiring of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C. and consultants to negotiate with the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal TNMP's DCRF application.

SECTION 3. That the rates proposed by TNMP to be recovered through its DCRF charged to customers located within the City limits should be denied.

SECTION 4. That the Company should continue to charge its existing rates to customers within the City.

SECTION 5. That the City's reasonable rate case expenses shall be reimbursed in full by TNMP within 30 days of the adoption of this Resolution, and within 30 days of presenting monthly bills to TNMP thereafter.

SECTION 6. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION 7. That a copy of this Resolution shall be sent to Scott Seamster, Associate General Counsel, Texas-New Mexico Power Company, 577 N. Garden Ridge Blvd., Lewisville, Texas 75067, and to Thomas Brocato, General Counsel to TNMP Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, TX 78767-1725, or tbrocato@lglawfirm.com.

PASSED, APPROVED AND ADOPTED on this 3rd day of May 2023.

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

CITY COMMISSION REGULAR MTG

(7) (d)

Meeting Date: 05/03/2023

Bid # 2023-426 2023 Pavement Striping at Various Locations

Submitted For: Mike McKinley, Public Works

Submitted By: Mike McKinley, Public Works

Department: Public Works

Information

ACTION REQUEST

Approve and award a contract for bid # 2023-425 2023 Pavement Striping at Various Locations.

BACKGROUND (Brief Summary)

A notice to bidders was advertised on 03/22 and 03/29/2023 in the Galveston County Daily News and bid packets were sent to local area bidders. Bids were opened on April 06, 2023, at 2:00 a.m. The lowest responsible bidder meeting all specifications was received from Semper Striping of Channelview, Texas for the total bid amount of \$85,943.00. Funds for this project are made available via the City of Texas City 2022-2023 Annual Budget. The expense will be shared between the Public Works Annual Striping account and the City of Texas City Economic Development Corporation. A bid tabulation is attached for your review.

RECOMMENDATION

It is the recommendation of the Public Works Department to award the contract to Semper Striping for the amount bid, and, that the Mayor be authorized to execute a contract on behalf of the City Commission. It is further recommendation that the Mayor be authorized to approve any change orders, not to exceed 25% of the original price bid, without bringing the matter before Commission. Thank you.

Fiscal Impact

Attachments

Exhibit A



2023-425

2023 Pavement Striping At Various Locations

Bid Tabulation

BIDDER	TOTAL AMOUNT BID
Semper Striping	\$85,943.00
One Way Striping & Signs, LLC.	\$89,810.00

CITY COMMISSION REGULAR MTG

(7) (e)

Meeting Date: 05/03/2023

Write-off of Library overdue fines

Submitted For: Cheryl Loewen, Library

Submitted By: Cheryl Loewen, Library

Department: Library

Information

ACTION REQUEST

Consider authorizing the Director of Library Services to remove fines for overdue items that are attached to patron accounts.

BACKGROUND (Brief Summary)

Moore Memorial Public Library went fine-free in October 2021 with the approval of the City Commission. We no longer charge overdue fines for materials, but we still charge for lost and damaged items. Since we no longer charge overdue fines we remove old fines from patron accounts when they come into the library. This request is for permission to remove all overdue fines owed by current patrons since we will never collect them, but they are still in the system. This does not impact any fines that are for lost or damaged items as patrons are still responsible for those.

RECOMMENDATION

I recommend that the Director of Library Services is authorized to remove all overdue fines from patron accounts.

Fiscal Impact

Funds Available Y/N:

Amount Requested:

Source of Funds:

Account #:

Fiscal Impact:

The total amount of overdue fines owed on all patron accounts as of April 26, 2023, is \$54,362.30.

CITY COMMISSION REGULAR MTG

(7) (f)

Meeting Date: 05/03/2023

Purchase of PoolPak: Enhanced Pool Dehumidification Roof Top Unit for Natatorium

Submitted For: Mike McKinley, Public Works

Submitted By: Mike McKinley, Public Works

Department: Public Works

Information

ACTION REQUEST

Approve the purchase and delivery of the PACU/ADC-1 PoolPak: Enhanced Pool Dehumidification, 80 ton, Roof Top Unit for the Natatorium.

BACKGROUND (Brief Summary)

This purchase would be through Heat Transfer Solutions, Inc. Dba. HTS Texas, via BuyBoard Contract # 631-20. The unit will be delivered to the job site curb for the total amount of \$570,000.00. The BuyBoard Quote is attached for your review. Installation for this unit will be bid at a later date as there is a 22-week lead time on the unit itself. Funds are made available for this purchase via a budget amendment to the 2022 / 2023 City of Texas City Budget.

RECOMMENDATION

It is the recommendation of the Public Works Department and Recreation and Tourism Department to award the purchase, and delivery of the 80 ton PoolPak: Enhanced Dehumidification Roof Top Unit to Heat Transfer Systems, Inc. Dba. HTS Texas, via BuyBoard Contract # 631-20, for the total amount of \$570,000.00. Thank you.

Fiscal Impact

Attachments

Exhibit A



Job 22302200
Texas City Natatorium Renovs

Closing Date 2023-03-23 02:00:00 PM

Title Mechanical Bill Of Material
Version 1.0
Designer DBR ENGINEERING
CONSULTANTS

Plans Dated
Date of Specifications
Last Addendum
Printed 2023-04-24 13:26
Commander Matt McPherson

Bidder CITY OF TEXAS CITY
D Hutchinson
1801 9th Ave N
Texas City TX 77590
United States

Direct Phone
Mobile
Email dhutchinson@texascitytx.gov
Our Rep

Base Equipment Summary

Tags	Description	Quantity	Total Capacity	Spec Level	Section Pricing
Mechanical Sales: Buy BOARD CONTRACT#631-20					
PACU/ADC-1	POOLPAK: Enhanced Pool Dehumidification Roof Top Unit Spec Section , PoolPak Natatorium Unit	1	80 tons	Basis of Design	\$ 570,000.00

Total Bulk Price

\$ 570,000.00

Pricing Terms

PRICING VALID FOR 30 DAYS

- Taxes Extra
- Freight Allowed to Job Site Curb
- FOB our Factory
- Consolidate Shipments are not included, Price add Available upon request
- No Holdbacks acceptable
- Liquidated Damages are not included

Base Equipment Details - Mechanical Bill Of Material Scope of Work

Mechanical Sales:

Buy BOARD CONTRACT#631-20

Spec Section: -- PoolPak Natatorium Unit

Tags	Description	Quantity	Capacity	Spec Level
PACU/ADC-1	POOLPAK: Enhanced Pool Dehumidification Roof Top Unit	1	80 tons	Basis of Design

Included:

- Painted Steel Cabinet w/ 2" Fiberglass Insulation
- Mixing Box w/ Low Leak Dampers
- 2" MERV 8 Pre-Filters Filters
- DX Cooling Coil w/ Painted Aluminum Drain Pans
- Modulating Hot Gas Reheat Coil
- Polyester/Enamel Baked-and-Dipped Coating on All Coils
- Modulating Gas Heat
- Twin Direct Drive Supply Fan w/ TEFC Motor & Internal Spring Isolation
- Multiple Refrigerant Circuits w/ Scroll Compressors
- Exhaust and Purge Fans
- Auxiliary Pool Water Heater
- Command Center DDC Controller w/ BACnet Interface
- Live Unit Monitoring & Troubleshooting Via WebSentry (Requires Ethernet Connection)
- Air Cooled Condenser Dry Cooler
- Non-Fused Disconnect Switches for Indoor Unit & Fluid Cooler
- 16" Flat Roof Curb
- Startup
- Five Year Entire Unit Parts Warranty
- One Year Entire Unit Labor Warranty (Valid Only With Connection to WebSentry)

Not Included:

- Wiring or Piping to Fluid Cooler
- External Vibration Isolation
- Connection to Ethernet
- Spring Isolation Rails

-- End of Base Equipment Detail --

Terms and Conditions

TERMS AND CONDITIONS OF SALE

BY ACCEPTING THIS PROPOSAL, PURCHASER AGREES TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS:

1. **COMPANY:** The Company as used herein shall mean Heat Transfer Solutions, Inc. D/b/a HTS Texas.
2. **PRICE POLICY:** Prices of the good may be increased depending on the date of release and/or shipment of the order, announced increases in the Company's list prices, or increases in labor and material cost.
3. **TERMS OF PAYMENT:** Terms of payment are subject at all times to prior approval of the Company's credit department. Terms of payment are net 30 days of date of invoice unless previously otherwise agreed in writing. If at any time the financial condition of the Purchaser or other circumstance affecting the credit decision, in the Company's opinion, does not justify continuance of production of products or shipment of products on the terms of payment specified, the Company may require full or partial payment in advance, or may at its sole discretion stop or delay production or shipment of products. In the event of default in payment, Purchaser agrees to pay all costs of collection incurred by the Company including but not limited to collection agency fees, attorney's fees, legal expenses and court costs. All past due amounts shall bear interest at highest rate allowed by law.
4. **SHIPPING TERMS:** All shipments will be made F.O.B. Factory with freight as quoted. All shipments will be made via a low cost common carrier and charges for special carrier services requested by the Purchaser shall be paid by the Purchaser. The Company may ship the goods in one or more lots.
5. **CLAIMS:** The responsibility of the Company for all shipments ceases upon delivery of goods in good order to the carrier. Since all goods are shipped at Purchaser's risk, damage or shortage in transit must be filed by Purchaser against the carrier. Claims for factory shortages will not be considered unless made in writing to the Company within five (5) days after receipt of the goods and accompanied by reference to the Company's bill of lading and factory order numbers.
6. **TAXES:** The amount of any present or future taxes applicable to the product shall be added to the price contained herein and paid by the Purchaser in the same manner and with the same effects as if originally added thereto.
7. **CANCELLATIONS:** Orders accepted by Company are not subject to cancellation without the Company being reimbursed for any and all expenses, and being indemnified by Purchaser against any and all loss.
8. **SHIPMENT DATES:** Shipment dates are only estimates. No contract has been made to ship in a specified time unless in writing, and signed by two officers of the Company. Company shall not be liable for any damage as a result of any delay or failure to deliver due to disapproval of Company's credit department or due to any cause beyond Company's reasonable control, including without limitation, any act of God, act of Purchaser, governmental act, accident, disease, epidemic, pandemic, labor unrest, delay in transportation, or inability to obtain necessary labor, materials or manufacturing facilities.
9. **PRODUCT CHANGES:** In the interest of continuous product improvements, the Company reserves the right to change specifications and/or design without incurring obligation.
10. **RETURNED GOODS:** Goods may not be returned except by permission of an authorized Company official, and when so returned will be subject to handling and transportation charges. Authorized return goods must be shipped prepaid to the location designated by the authorization.
11. **LIMITED WARRANTY:** Free replacement parts will be provided by the manufacturer the Company represents in the event any product supplied by the Company and used in the United States proves defective in material or workmanship for a period of twelve (12) months from the initial start-up or eighteen (18) months from date of shipment, whichever expires sooner. Goods sold under this agreement are warranted only to the extent that the manufacturer warranted them to the Company or directly to the Purchaser. The Company's warranty does not apply to any goods which have been opened, disassembled, repaired, or altered by anyone other than the Company or its authorized service representative or which have been subjected to misuse, negligence, accidents, abnormal use or service, misapplication, or abuse. The Company is not obligated to pay any labor or service costs for removing or replacing parts, or any shipping charges. Refrigerants, fluids, oils, and expendable items such as filters are not covered by this warranty. This parts warranty and any optional extended warranties are granted only to the original user. Company's duty to perform under any warranty may be delayed, at Company's sole option, until Company has been paid in full for all goods purchased by Purchaser. No such delay shall extend the warranty period. For additional consideration the Company will provide an extended warranty(ies) on certain goods or components thereof. To obtain assistance under this limited warranty please contact Heat Transfer Solutions 3350 Yale Street, Houston, TX 77018; (832) 328-1010. The Company must receive a start-up information report for goods containing motor-compressors and/or furnaces. The registration/start-up form must be completed and returned to the Company within ten (10) days of original equipment start-up or start-up date and ship date will be deemed the same for warranty period determination, and the warranty shall expire twelve (12) months from that date. No person has the authority to expand the Company's obligation beyond the terms of this express warranty. **THIS WARRANTY DESCRIBED HEREIN CONSTITUTES THE PURCHASER'S SOLE REMEDY. IT IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. THERE IS NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
12. **LIMITATION OF LIABILITY AND INDEMNITY:** Company's liability with respect to the products sold hereunder shall be limited to the warranty provided in section 11 hereof, and shall not exceed the lesser of (a) the cost of repairing or replacing defective products, or (b) the payment actually received by Company from Purchaser under this Agreement. **IN NO EVENT AND UNDER NO CIRCUMSTANCES SHALL THE COMPANY BE LIABLE TO PURCHASER, SUBSEQUENT PURCHASER, OR ANY OTHER PARTY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF USE OR LOSS OF PROFITS OR REVENUE) ARISING FROM ANY CAUSE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, ANY DELAY, ACT, ERROR OR OMISSION OF THE COMPANY), WHETHER THE THEORY BE BREACH OF THIS OR ANY OTHER WARRANTY, NEGLIGENCE OR STRICT TORT.** Purchaser agrees to indemnify Company from any liability and expenses (including, but not limited to, attorney's fees and legal expenses), of any kind, arising from any claims of any subsequent purchaser or third party related to the products sold hereunder.
13. **TERMS OF AGREEMENT:** Sale of goods covered hereby to Purchaser is made solely on the terms and conditions set forth herein, notwithstanding any additional or conflicting terms and conditions that may be contained in any purchase order or other form or purchase, all of which additional or conflicting terms and conditions are hereby rejected by the Company unless agreed upon in writing and signed by an officer of the Company. Specifically, the Company does not accept any holdbacks from its billings (see TERMS OF PAYMENT above). No waiver, alteration or modification of the foregoing terms and conditions shall be valid unless made in writing and signed by an authorized official of the Company. In particular and without limiting the foregoing, notwithstanding anything to the contrary in Purchaser's purchase order or any other documents, the Company does not accept any order subject to project design and specifications. Purchaser agrees to accept full and sole responsibility to determine whether the product ordered by Purchaser meets the design and specification requirements of any project.
14. **PAYMENT DEFAULT:** In the event of default in payment, Purchaser shall pay all costs of collection incurred by Company to collect such payment, including but not limited to collection agency fees, attorney's fees, legal expenses and court costs.
15. **GOVERNING LAW:** This Agreement is governed by and construed in accordance with the laws of the State of Texas.
16. **DISPUTE/CONTEST:** In the event a dispute arises related in any way to the products sold hereunder, HTS may elect, at its sole discretion, to submit the dispute to a commercial arbitrator in lieu of resolving the dispute in a court of law or equity. In any event, all lawsuits, causes of action, arbitrations or other disputes related in any way to the products sold hereunder shall occur in Harris County, Texas.

CITY COMMISSION REGULAR MTG

(7) (g)

Meeting Date: 05/03/2023

Designate Titilayo Smith as Certifying Officer for the U.S. HUD ERR Process

Submitted For: Titilayo Smith, Community Development/ Grant Admin

Submitted By: Titilayo Smith, Community Development/ Grant Admin

Department: Mayor's Office

Information

ACTION REQUEST

Designate Community Development & Grants Administrator, Titilayo Smith, as the Certifying Officer for the City of Texas City in regard to certifying that all environmental requirements have been followed for HUD funded projects.

BACKGROUND (Brief Summary)

The purpose of the environmental review process is to analyze the effect a proposed project will have on the people and the natural environment within a designated project area and the effect the material and social environment may have on a project. Grantees who receive CDBG funds are considered responsible entities and must complete an environmental review of ALL project activities prior to obligating CDBG funds. This requirement also applies to projects funded with CDBG generated program income. The HUD rules and regulations that govern the environmental review process can be found at 24 CFR Part 58. The provisions of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500 through 1508 also apply. In addition, a myriad of other Federal and state laws and regulations (some of which are enforced by State agencies) also apply depending upon the type of project and the level of review required.

Certifying Officer: The responsible entity must designate a Certifying Officer -- the "responsible Federal official" -- to ensure compliance with the National Environmental Policy Act (NEPA) and the Federal laws and authorities cited at section 58.5 has been achieved.

This person is the chief elected official, chief executive official, or other official designated by formal resolution of the governing body. The certifying officer must have the authority to assume legal responsibility for certifying that all environmental requirements have been followed. This function may not be assumed by administering agencies or consultants.

RECOMMENDATION

It is the recommendation of the Mayor that Titilayo Smith be designated as Certifying Official on Environmental Reviews required by HUD for all CDBG funded projects.

Fiscal Impact

Funds Available Y/N:

Amount Requested:

Source of Funds:

Account #:

Fiscal Impact:

There is no fiscal impact.

Attachments

CDBG CHAPTER 15: ENVIRONMENTAL REVIEW

CHAPTER 15: ENVIRONMENTAL REVIEW

CHAPTER PURPOSE & CONTENTS

This chapter provides grantees with general information on environmental review. The chapter will provide an overview of the applicable regulations, responsibilities, guidance on classifying the activity and the appropriate level of review. Grantees must consult the regulations (cited within this chapter) and their HUD Environmental Representative for more detailed guidance than this chapter can provide.

SECTION	TOPIC
15.1	Overview of Environmental Requirements

15.1 Overview of the Environmental Requirements

15.1.1 Background and Applicable Regulations

The purpose of the environmental review process is to analyze the effect a proposed project will have on the people and the natural environment within a designated project area and the effect the material and social environment may have on a project.

Grantees who receive CDBG funds are considered responsible entities and must complete an environmental review of all project activities prior to obligating CDBG funds. This requirement also applies to projects funded with CDBG generated program income.

The HUD rules and regulations that govern the environmental review process can be found at 24 CFR Part 58.

The provisions of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500 through 1508 also apply. In addition, a myriad of other Federal and state laws and regulations (some of which are enforced by State agencies) also apply depending upon the type of project and the level of review required.

The following is a summary of applicable statutory and regulatory cites and other reference materials available from HUD:

Key Topics in This Section: Applicable environmental rules, Legal responsibilities, Triggering actions, Classifying the activity

Regulatory/Statutory Citations: 24 CFR Part 58, §570.604, 40 CFR Part 1500-1508

Other Reference Materials on This Topic HUD's Office of Environment and Energy: <http://www.hud.gov/offices/cpd/environment/> , HUD's Environmental Review Requirements: <http://www.hud.gov/offices/cpd/environment/review/> HUD's Frequently Asked Environmental Questions and Answers: <http://www.hud.gov/offices/cpd/environment/library/>, CPD Notice 02-07

15.1.2 The Responsible Entity & Official Designations

Under 24 CFR Part 58, the term “responsible entity” (RE) means the grantee receiving CDBG assistance. The responsible entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities has been achieved, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete.

In order to fulfill its obligations under 24 CFR Part 58, the RE should designate two responsible parties:

Certifying Officer: The responsible entity must designate a Certifying Officer -- the “responsible Federal official” -- to ensure compliance with the National Environmental Policy Act (NEPA) and the Federal laws and authorities cited at section 58.5 has been achieved. This person is the chief elected official, chief executive official, or other official designated by formal resolution of the governing body. The certifying officer must have the authority to assume legal responsibility for certifying that all environmental requirements have been followed. This function may not be assumed by administering agencies or consultants.

Environmental Officer: The funding recipient should also designate an Environmental Officer. The Environmental Officer is responsible for conducting the environmental review including such tasks as: writing the project narrative, obtaining maps of the project area, soliciting comments from appropriate local, state and federal agencies, and facilitating responses to comments received on the environmental findings.

15.1.3 Environmental Review Record

Each responsible entity must prepare and maintain a written record of the environmental review undertaken for each project. This written record or file is called the Environmental Review Record (ERR), and it must be available for public review upon request.

The ERR shall contain all the environmental review documents, public notices (and proof of their publication), and written determinations or environmental findings required by 24 CFR Part 58 as evidence of review, decision making and actions pertaining to a particular project. The document shall:

Describe the project and each of the activities comprising the project, regardless of individual activity funding source; and

Evaluate the effects of the project or the activities on the human environment;

Document compliance with applicable statutes and authorities; and

Record the written determinations and other review findings required by 24 CFR Part 58.

The ERR will vary in length and content depending upon the level of review required for the categories of activities.

Public comments, concerns and appropriate resolution by the recipient are extremely important and must be fully documented in the ERR.

15.1.4 Actions Triggering Environmental Review and Limitations Pending Clearance

According to the NEPA (40 CFR 1500-1508) and Part 58, the responsible entity is required to ensure that environmental information is available before decisions are made and before actions are taken. In order to achieve this objective, Part 58 prohibits the commitment or expenditure of CDBG funds until the environmental review process has been completed and, if required, the grantee receives a release of funds.

Grantees may not spend either public or private funds (CDBG, other Federal or non-Federal funds), or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved.

Grantees must avoid any and all actions that would preclude the selection of alternative choices before a final decision is made – that decision being based upon an understanding of the environmental consequences and actions that can protect, restore and enhance the human environment (i.e., the natural, physical, social and economic environment).

Activities that have physical impacts or which limit the choice of alternatives cannot be undertaken, even with the grantee or other project participant's own funds, prior to obtaining environmental clearance.

For the purposes of the environmental review process, "commitment of funds" includes:

Execution of a legally binding agreement (such as a property purchase or construction contract);

Expenditure of CDBG funds;

Use of non-CDBG funds on actions that would have an adverse impact--- e.g., demolition, dredging, filling, excavating; and

Use of non-CDBG funds on actions that would be "choice limiting"--- e.g., acquisition of real property; leasing property; rehabilitation, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures.

It is acceptable for grantees to execute non-legally binding agreements prior to completion of the environmental review process. A non-legally binding agreement contains stipulations that ensure the project participant does not have a legal claim to any amount of CDBG funds to be used for the specific project or site until the environmental review process is satisfactorily completed.

15.1.5 Classifying the Activity and Conducting the Appropriate Level of Review

To begin the environmental review process, funding recipients must first determine the environmental classification of the project. The term "project" can be defined as an activity or group of activities geographically, functionally, or integrally related, regardless of funding source, to be undertaken by the CDBG recipient, subrecipient, or a public or private entity in whole or in part to accomplish a specific objective.

Chapter 15: Environmental Review

If various project activities have different classifications, the recipient must follow the review steps required for the most stringent classification.

The four environmental classifications are:

- Exempt Activities,
- Categorically Excluded Activities,
- Activities Requiring an Environment Assessment, or
- Activities Requiring an Environmental Impact Statement.

Regardless of the number of activities associated with a project, a single environmental review is required. Aggregating related activities ensures the recipient adequately addresses and analyzes the separate and combined impacts of a proposed project.

15.1.6 Exempt Activities

Certain activities are by their nature highly unlikely to have any direct impact on the environment. Accordingly, these activities are not subject to most of the procedural requirements of environmental review.

Listed below are examples which may be exempt from environmental review. For complete details refer to the environmental regulations.

- Environmental and other studies;
- Information and financial services;
- Administrative and management activities;
- Engineering and design costs;
- Interim assistance (emergency) activities if the assisted activities do not alter environmental conditions and are for temporary or permanent improvements limited to protection, repair or restoration actions necessary only to control or arrest the effects of disasters or imminent threats to public safety or those resulting from physical deterioration;
- Public service activities that will not have a physical impact or result in any physical changes;
- Inspections and testing of properties for hazards or defects;
- Purchase of tools or insurance;
- Technical assistance or training;
- Payment of principal and interest on loans made or guaranteed by HUD; and
- Any of the categorically excluded activities subject to Part 58.5 (as listed in 58.35(a)) provided there are no circumstances which require compliance with any other Federal laws and authorities listed at Part 58.5 of the regulations. Refer to the section below on categorically excluded activities subject to Part 58.5.

If a project is determined to be exempt the responsible entity is required to document in writing that the project is exempt and meets the conditions for exemption as spelled out in § 58.34.

Chapter 15: Environmental Review

In addition to making a written determination of exemption, the RE must also determine whether any of the requirements of 24 CFR Part § 58.6 are applicable and address as appropriate.

The requirements at 24 CFR § 58.6 include the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones.

15.1.7 Categorically Excluded Activities

Categorically Excluded Activities not Subject to 58.5

The following activities, listed at 24 CFR Part 58.35(b), have been determined to be categorically excluded from NEPA requirements and are not subject to Section 58.5 compliance determinations.

Tenant based rental assistance;

Supportive services including but not limited to health care, housing services, permanent housing placement, short term payments for rent/mortgage/utility costs, and assistance in gaining access to local State and Federal government services and services;

Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training, recruitment, and other incidental costs;

Economic development activities including but not limited to equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;

Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction such as closing costs, down payment assistance, interest buy downs and similar activities that result in the transfer of title to a property; and

Affordable housing predevelopment costs with NO physical impact such as legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

To complete environmental requirements for Categorically Excluded projects not Subject to 24 CFR Part § 58.5, the responsible entity must take the following steps:

Make a finding of Categorical Exclusion not Subject to § 58.5 and put in the ERR.

The ERR must contain a written determination of the RE's finding that a given activity or program is categorically excluded not subject to § 58.5. When these kinds of activities are undertaken, the RE does not have to issue a public notice or submit a request for release of funds (RROF) to HUD.

In order to document the finding of categorical exclusion not subject to §58.5. The RE must cite the applicable subsection of § 58.35(b), identify and describe the specific activity or activities, and provide information about the estimated amount of CDBG or other funds to be used.

Carry out any applicable requirements of 24 CFR Part § 58.6 and document the ERR as appropriate.

Chapter 15: Environmental Review

The RE must determine whether the activity triggers any of the other requirements at 24 CFR 58.6, which are: the Flood Disaster Protection Act; the Coastal Barriers Resources Act; and HUD's requirement for disclosure of properties located in airport runway clear zones.

Categorically Excluded Activities Subject to 58.5

The list of categorically excluded activities is found at 24 CFR Part 58.35. While the activities listed in 58.35(a) are categorically excluded from NEPA requirements, the grantee must nevertheless demonstrate compliance with the laws, authorities and Executive Orders listed in 58.5.

The following are categorically excluded activities subject to 58.5:

Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size, or capacity of more than 20 percent.

Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and disabled persons.

Rehabilitation of buildings and improvements when the following conditions are met:

For residential properties with one to four units:

The density is not increased beyond four units;

The land use is not changed; and

If the building is located in a floodplain or in a wetland, the footprint of the building is not increased.

For multi-family residential buildings (with more than four units):

Unit density is not changed more than 20 percent;

The project does not involve changes in land use from residential to non-residential; and

The estimated cost of rehabilitation is less than 75 percent of the total estimated replacement cost after rehabilitation.

For non-residential structures including commercial, industrial and public buildings:

The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and

The activity does not involve a change in land use, e.g. from commercial to industrial, from non-residential to residential, or from one industrial use to another.

An individual action on up to four-family dwelling where there is a maximum of four units on any one site. "*Individual action*" refers to new construction, development, demolition, acquisition, disposition or refinancing (does not include rehabilitation which is covered previously). The units can be four one-unit buildings or one four-unit building or any combination in between;

Chapter 15: Environmental Review

An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site;

Acquisition (including leasing) or disposition of or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

Combinations of the above activities.

The ERR must contain a written determination of the RE's finding that a given activity or program is categorically excluded subject to § 58.5. This determination should:

Include a description of the project (including all the related activities, even though HOME funds may not be used for all of them);

Cite the applicable subsection of § 58.35(a);

Provide the total estimated project cost; and

Provide written documentation as to whether or not there were any circumstances which required compliance with any of the Federal laws and authorities cited in §58.5.

The RE must use the HUD recommended Statutory Checklist, or an equivalent format, to document its environmental findings. (Contact the HUD Environmental Representative for a copy of the most current version of the checklist and instructions for its completion.)

The RE's documentation must support its determinations related to compliance with the Federal laws and authorities cited in §58.5, including correspondence with the applicable agencies having jurisdiction over the various areas on the checklist.

Upon completion of the checklist, the RE will make one of three environmental findings:

The project converts to exempt [§ 58.34(a)(12)];

The project invokes compliance with one or more of the laws and/or authorities and, therefore, requires public notification and approval from HUD; or

The unusual circumstances of the project may result in a significant environmental impact and, therefore, compliance with NEPA is required.

If upon completing the Statutory Checklist, the RE determines compliance is required for one or more of the Federal laws and authorities listed in § 58.5, then the RE must publish or post a public notification known as the Notice of Intent to Request Release of Funds (NOI/RROF).

After the seven-day comment period has elapsed, the responsible entity must prepare the Request for Release of Funds (RROF) and Environmental Certification. The Environmental Certification certifies that the RE is in compliance with all the environmental review requirements. The RROF and Certification must be signed by the Certifying Officer and submitted to HUD. The RE must receive the release of funds from HUD before proceeding forward with the project.

15.1.8 Activities Requiring an Environmental Assessment

Activities which are neither exempt nor categorically excluded (under either category) will require an environmental assessment (EA) documenting compliance with NEPA, HUD and with the environmental requirements of other applicable Federal laws.

Chapter 15: Environmental Review

The responsible entity must take the following steps to complete environmental requirements for projects requiring an environmental assessment:

Complete the Modified Format II: Environmental Assessment form completely. The responsible entity must ensure that reliable documentation sources are cited for every item on this assessment checklist. The grantee's HUD Environmental Representative can provide detailed guidance on the Modified Format II, including appropriate documentation for each area of the checklists.

Once the Format II has been completed, including consultation with applicable agencies and persons, the grantee must make a determination as to whether the project will or will not have a significant impact on the environment. This can be done once the review has been completed and any comments have been addressed appropriately. The Responsible Entity must select one of the following two findings/determinations:

The project is not an action that significantly affects the quality of the human environment and, therefore, does not require the preparation of an environmental impact statement; or

The project is an action that significantly affects the quality of the human environment and, therefore, requires the preparation of an environmental impact statement. Both the finding and the environmental assessment must be signed by your environmental certifying officer and included in the ERR.

In most instances, the environmental assessment will result in a finding that the project is not an action that significantly affects the quality of the environment and, therefore, does not require an environmental impact statement. If this is the case, the responsible entity must complete the following:

Publish and distribute a public notice called a Combined/Concurrent Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF).

The RROF and Environmental Certification must be submitted to HUD no sooner than 16 days after publishing the combined/concurrent notice. The Certification must be signed by the Certifying Officer of the jurisdiction.

HUD must hold the Release of Funds for a 15-day period to allow for public comment. If no comments are received during this time, HUD will send back a signed Release of Funds and the project may proceed.

If the environmental assessment will result in a finding that the project will significantly affect the environment and, therefore, requires an environmental impact statement, the grantee should contact its HUD Environmental Representative for guidance.

15.1.9 Environmental Impact Statement

An Environmental Impact Statement (EIS) details the recipient's final analyses and conclusions, according to NEPA, related to potential significant environmental impact of the project. Recipients must follow prescribed steps in the course of preparation, filing and review of an Environmental Impact Statement (See 24 CFR 58, Subpart G, and 40 CFR 1500-1508).

An EIS may be required when:

Chapter 15: Environmental Review

The project is so large that it triggers density thresholds, and common sense suggests it may have a substantial environmental impact.

A Finding of Significant Impact (FOSI) is found as a result of completing an environmental assessment for the project.

Preparation of an EIS is mandatory if the project meets any of these requirements below:

Any project to provide a site or sites for hospitals and nursing homes with a total of at least 2,500 beds.

Any project to remove, destroy, convert or substantially rehabilitate at least 2,500 existing housing units.

Any project to construct, install or provide sites for at least 2,500 housing units.

Any project to provide water and sewer capacity for at least 2,500 housing units.

Any project that exceeds the 2,500-unit threshold for nonresidential housing construction.

EISs are very rare under the CDBG program. Contact your HUD Environmental Officer if there is any indication an EIS may be necessary.

CITY COMMISSION REGULAR MTG

(8) (a)

Meeting Date: 05/03/2023

Amend the fiscal year 2022/2023 budget

Submitted For: Laura Boyd, Finance

Submitted By: Laura Boyd, Finance

Department: Finance

Information

ACTION REQUEST

Consider approval of a request to amend the fiscal year 2022-2023 budget to appropriate funds for purchase of dehumidification unit for the natatorium.

BACKGROUND (Brief Summary)

A budget amendment is required for the purchase of the PACU/ADC-1 PoolPak: Enhanced Pool Dehumidification, 80 ton, rooftop unit for the natatorium.

The cost of the unit is \$570,000.00 and will be funded through the General Fund's unassigned fund balance.

See the attached information from the BuyBoard vendor, Heat Transfer Systems, Inc. (dba: HTS Texas).

RECOMMENDATION

Budget Amendment:

General Fund (101) Recreation & Tourism Department (401):

Capital Equipment \$570,000.00

Unassigned fund balance (\$570,000.00)

Fiscal Impact

Attachments

HTS Texas quote



Job 22302200
Texas City Natatorium Renovs

Closing Date 2023-03-23 02:00:00 PM

Title Mechanical Bill Of Material
Version 1.0
Designer DBR ENGINEERING

Plans Dated
Date of Specifications
Last Addendum
Printed 2023-04-24 13:26
Commander Matt McPherson

Bidder CITY OF TEXAS CITY
D Hutchinson
1801 9th Ave N
Texas City TX 77590
United States

Direct Phone
Mobile
Email dhutchinson@texascitytx.gov
Our Rep

Base Equipment Summary

Tags	Description	Quantity	Total Capacity	Spec Level	Section Pricing
Mechanical Sales: Buy BOARD CONTRACT#631-20					
PACU/ADC-1	POOLPAK: Enhanced Pool Dehumidification Roof Top Unit Spec Section , PoolPak Natatorium Unit	1	80 tons	Basis of Design	\$ 570,000.00

Total Bulk Price \$ 570,000.00

Pricing Terms

PRICING VALID FOR 30 DAYS

- Taxes Extra
- Freight Allowed to Job Site Curb
- FOB our Factory
- Consolidate Shipments are not included, Price add Available upon request
- No Holdbacks acceptable
- Liquidated Damages are not included

Base Equipment Details - Mechanical Bill Of Material Scope of Work

Mechanical Sales:

Buy BOARD CONTRACT#631-20

Spec Section: -- PoolPak Natatorium Unit

Tags	Description	Quantity	Capacity	Spec Level
PACU/ADC-1	POOLPAK: Enhanced Pool Dehumidification Roof Top Unit	1	80 tons	Basis of Design

Included:

- Painted Steel Cabinet w/ 2" Fiberglass Insulation
- Mixing Box w/ Low Leak Dampers
- 2" MERV 8 Pre-Filters Filters
- DX Cooling Coil w/ Painted Aluminum Drain Pans
- Modulating Hot Gas Reheat Coil
- Polyester/Enamel Baked-and-Dipped Coating on All Coils
- Modulating Gas Heat
- Twin Direct Drive Supply Fan w/ TEFC Motor & Internal Spring Isolation
- Multiple Refrigerant Circuits w/ Scroll Compressors
- Exhaust and Purge Fans
- Auxiliary Pool Water Heater
- Command Center DDC Controller w/ BACnet Interface
- Live Unit Monitoring & Troubleshooting Via WebSentry (Requires Ethernet Connection)
- Air Cooled Condenser Dry Cooler
- Non-Fused Disconnect Switches for Indoor Unit & Fluid Cooler
- 16" Flat Roof Curb
- Startup
- Five Year Entire Unit Parts Warranty
- One Year Entire Unit Labor Warranty (Valid Only With Connection to WebSentry)

Not Included:

- Wiring or Piping to Fluid Cooler
- External Vibration Isolation
- Connection to Ethernet
- Spring Isolation Rails

-- End of Base Equipment Detail --

Terms and Conditions

TERMS AND CONDITIONS OF SALE

BY ACCEPTING THIS PROPOSAL, PURCHASER AGREES TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS:

1. **COMPANY:** The Company as used herein shall mean Heat Transfer Solutions, Inc. D/b/a HTS Texas.
2. **PRICE POLICY:** Prices of the good may be increased depending on the date of release and/or shipment of the order, announced increases in the Company's list prices, or increases in labor and material cost.
3. **TERMS OF PAYMENT:** Terms of payment are subject at all times to prior approval of the Company's credit department. Terms of payment are net 30 days of date of invoice unless previously otherwise agreed in writing. If at any time the financial condition of the Purchaser or other circumstance affecting the credit decision, in the Company's opinion, does not justify continuance of production of products or shipment of products on the terms of payment specified, the Company may require full or partial payment in advance, or may at its sole discretion stop or delay production or shipment of products. In the event of default in payment, Purchaser agrees to pay all costs of collection incurred by the Company including but not limited to collection agency fees, attorney's fees, legal expenses and court costs. All past due amounts shall bear interest at highest rate allowed by law.
4. **SHIPPING TERMS:** All shipments will be made F.O.B. Factory with freight as quoted. All shipments will be made via a low cost common carrier and charges for special carrier services requested by the Purchaser shall be paid by the Purchaser. The Company may ship the goods in one or more lots.
5. **CLAIMS:** The responsibility of the Company for all shipments ceases upon delivery of goods in good order to the carrier. Since all goods are shipped at Purchaser's risk, damage or shortage in transit must be filed by Purchaser against the carrier. Claims for factory shortages will not be considered unless made in writing to the Company within five (5) days after receipt of the goods and accompanied by reference to the Company's bill of lading and factory order numbers.
6. **TAXES:** The amount of any present or future taxes applicable to the product shall be added to the price contained herein and paid by the Purchaser in the same manner and with the same effects as if originally added thereto.
7. **CANCELLATIONS:** Orders accepted by Company are not subject to cancellation without the Company being reimbursed for any and all expenses, and being indemnified by Purchaser against any and all loss.
8. **SHIPMENT DATES:** Shipment dates are only estimates. No contract has been made to ship in a specified time unless in writing, and signed by two officers of the Company. Company shall not be liable for any damage as a result of any delay or failure to deliver due to disapproval of Company's credit department or due to any cause beyond Company's reasonable control, including without limitation, any act of God, act of Purchaser, governmental act, accident, disease, epidemic, pandemic, labor unrest, delay in transportation, or inability to obtain necessary labor, materials or manufacturing facilities.
9. **PRODUCT CHANGES:** In the interest of continuous product improvements, the Company reserves the right to change specifications and/or design without incurring obligation.
10. **RETURNED GOODS:** Goods may not be returned except by permission of an authorized Company official, and when so returned will be subject to handling and transportation charges. Authorized return goods must be shipped prepaid to the location designated by the authorization.
11. **LIMITED WARRANTY:** Free replacement parts will be provided by the manufacturer the Company represents in the event any product supplied by the Company and used in the United States proves defective in material or workmanship for a period of twelve (12) months from the initial start-up or eighteen (18) months from date of shipment, whichever expires sooner. Goods sold under this agreement are warranted only to the extent that the manufacturer warranted them to the Company or directly to the Purchaser. The Company's warranty does not apply to any goods which have been opened, disassembled, repaired, or altered by anyone other than the Company or its authorized service representative or which have been subjected to misuse, negligence, accidents, abnormal use or service, misapplication, or abuse. The Company is not obligated to pay any labor or service costs for removing or replacing parts, or any shipping charges. Refrigerants, fluids, oils, and expendable items such as filters are not covered by this warranty. This parts warranty and any optional extended warranties are granted only to the original user. Company's duty to perform under any warranty may be delayed, at Company's sole option, until Company has been paid in full for all goods purchased by Purchaser. No such delay shall extend the warranty period. For additional consideration the Company will provide an extended warranty(ies) on certain goods or components thereof. To obtain assistance under this limited warranty please contact Heat Transfer Solutions 3350 Yale Street, Houston, TX 77018; (832) 328-1010. The Company must receive a start-up information report for goods containing motor-compressors and/or furnaces. The registration/start-up form must be completed and returned to the Company within ten (10) days of original equipment start-up or start-up date and ship date will be deemed the same for warranty period determination, and the warranty shall expire twelve (12) months from that date. No person has the authority to expand the Company's obligation beyond the terms of this express warranty. **THIS WARRANTY DESCRIBED HEREIN CONSTITUTES THE PURCHASER'S SOLE REMEDY. IT IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. THERE IS NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
12. **LIMITATION OF LIABILITY AND INDEMNITY:** Company's liability with respect to the products sold hereunder shall be limited to the warranty provided in section 11 hereof, and shall not exceed the lesser of (a) the cost of repairing or replacing defective products, or (b) the payment actually received by Company from Purchaser under this Agreement. **IN NO EVENT AND UNDER NO CIRCUMSTANCES SHALL THE COMPANY BE LIABLE TO PURCHASER, SUBSEQUENT PURCHASER, OR ANY OTHER PARTY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF USE OR LOSS OF PROFITS OR REVENUE) ARISING FROM ANY CAUSE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, ANY DELAY, ACT, ERROR OR OMISSION OF THE COMPANY), WHETHER THE THEORY BE BREACH OF THIS OR ANY OTHER WARRANTY, NEGLIGENCE OR STRICT TORT.** Purchaser agrees to indemnify Company from any liability and expenses (including, but not limited to, attorney's fees and legal expenses), of any kind, arising from any claims of any subsequent purchaser or third party related to the products sold hereunder.
13. **TERMS OF AGREEMENT:** Sale of goods covered hereby to Purchaser is made solely on the terms and conditions set forth herein, notwithstanding any additional or conflicting terms and conditions that may be contained in any purchase order or other form or purchase, all of which additional or conflicting terms and conditions are hereby rejected by the Company unless agreed upon in writing and signed by an officer of the Company. Specifically, the Company does not accept any holdbacks from its billings (see TERMS OF PAYMENT above). No waiver, alteration or modification of the foregoing terms and conditions shall be valid unless made in writing and signed by an authorized official of the Company. In particular and without limiting the foregoing, notwithstanding anything to the contrary in Purchaser's purchase order or any other documents, the Company does not accept any order subject to project design and specifications. Purchaser agrees to accept full and sole responsibility to determine whether the product ordered by Purchaser meets the design and specification requirements of any project.
14. **PAYMENT DEFAULT:** In the event of default in payment, Purchaser shall pay all costs of collection incurred by Company to collect such payment, including but not limited to collection agency fees, attorney's fees, legal expenses and court costs.
15. **GOVERNING LAW:** This Agreement is governed by and construed in accordance with the laws of the State of Texas.
16. **DISPUTE/CONTEST:** In the event a dispute arises related in any way to the products sold hereunder, HTS may elect, at its sole discretion, to submit the dispute to a commercial arbitrator in lieu of resolving the dispute in a court of law or equity. In any event, all lawsuits, causes of action, arbitrations or other disputes related in any way to the products sold hereunder shall occur in Harris County, Texas.

CITY COMMISSION REGULAR MTG

(8) (b)

Meeting Date: 05/03/2023

Amend the fiscal year 2022/2023 budget

Submitted For: Laura Boyd, Finance

Submitted By: Laura Boyd, Finance

Department: Finance

Information

ACTION REQUEST

Consider approval of a request to amend the fiscal year 2022-2023 budget to appropriate additional funds for the 2023 Blaze & BBQ Bash.

BACKGROUND (Brief Summary)

In September 2023, the Texas City Cultural Arts Foundation will sponsor a live music feature of local and regional artists in conjunction with the annual Texas City Firefighter Games. The Blaze & BBQ Bash will also include a barbeque cookoff and cornhole tournament.

The total additional funding required for the event will be \$25,000. Sponsors and vendor registration will be sought to help offset the costs.

Funding will be sourced by the Texas City Cultural Arts Foundation unassigned fund balance. The Foundation board met April 26, 2023, to consider approval of their Resolution No. 2023-04 for this additional funding.

RECOMMENDATION

Budget Amendment:

Texas City Cultural Arts Foundation (Fund 807):

Special Event Expenses	\$25,000.00
Unassigned fund balance	(\$25,000.00)

Fiscal Impact