AGENDA FOR SPECIAL MEETING

KERRVILLE CITY COUNCIL

WEDNESDAY FEBRUARY 2, 2011, 10:00 A.M.

CITY HALL COUNCIL CHAMBERS

800 JUNCTION HIGHWAY, KERRVILLE, TEXAS

Agenda Item:
(Staff)

2A. Review of documents that established the economic improvement corporation board.

FILED
In the Office of the
Secretary of State of Texas

JUL 20 2009

Corporations Section

ARTICLES OF AMENDMENT

TO THE ARTICLES OF INCORPORATION

OF

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

THE STATE OF TEXAS §
§
COUNTY OF KERR §

Pursuant to the provisions of Section 17(b) of the Development Corporation Act of 1979, (Article 5190.6, Vernon's Texas Civil Statutes), as amended, (the "Act"), the City Council of the City of Kerrville, Texas ("the City Council"), the governing body under whose auspices the City of Kerrville, Texas Economic Improvement Corporation ("the Corporation") was created, adopts the following Articles of Amendment to the Articles of Incorporation of the Corporation:

Article I
Name of Corporation

The name of the corporation is the "City of Kerrville, Texas Economic Improvement Corporation."

Article II
Name of Amendment

The amendment alters or changes Article Nine of the original Articles of Incorporation to read in its entirety as follows, with new wording indicated by <u>underline</u>.

"ARTICLE NINE
Board of Directors

The affairs of the Corporation shall be managed by a board of directors which shall be composed of seven persons appointed by the governing body of the City. Each director must be a resident of the City, and at least three directors must be persons who are not employees, officers, or members of the governing body of the City. The names and addresses of the persons who are to serve as the initial directors and the dates of expiration of their initial terms as directors are as follows:

Name	**Address**	**Expiration Date of Initial Term**
J. C. Gosnell	1011 Lois #35, Kerrville, TX	May 31, 1997
Joe Herring, Jr.	431 Meadow Ridge, Kerrville, TX	May 31, 1997
Charles P. Johnson	430 Timber Ridge, Kerrville, TX	May 31, 1997
Joe B. McKay	103 Westchester Cr., Kerrville, TX	May 31, 1997
James A. Murphy	203 Riverhill Blvd., Kerrville, TX	May 31, 1997
Don D. Sawyer	201 Coronado Dr., Kerrville, TX	May 31, 1997
Robert L. Schmerbeck, III	104 Whippoorwill Ln., Kerrville, TX	May 31, 1997

Other than the initial directors appointed under these Articles of Incorporation, the governing body shall appoint or reappoint all directors of the Corporation for two year terms; provided, however, three of the directors appointed for terms commencing June 1, 1999, shall be appointed for an initial term ending May 31, 2000, in order to place into effect an amendment to these Articles of Incorporation establishing staggered terms for directors. Each director, including the initial directors, and the directors appointed to one year terms commencing June 1, 1999, shall be eligible for reappointment; however, no director shall serve more than two consecutive full terms on the Corporation without having at least one full year off the Corporation between terms. The terms of four of the directors shall begin on June 1 of odd-numbered years and end on the section subsequent ~~May 31~~ June 1. Except for the directors appointed to one year terms commencing June 1, 1999, the terms of three of the directors shall begin on June 1 of even-numbered years and end on the second subsequent ~~May 31~~ June 1. In the event the governing body of the City has not appointed or reappointed a director prior to the expiration of the term of office of a director, the then current director shall continue to serve as director until such appointment or reappointment is made. Directors are removable by the governing body of the City for cause or without case. In the event any director resigns, is removed from office by the governing body of the City, or no longer serves on the board of directors for any reason, the governing body of the City shall appoint a new director to complete the unexpired term. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties as directors."

Article III
Adoption of Amendment by Governing Body

The amendment to the Articles of Incorporation set forth in Article II, above, was adopted by a majority of the members of the City Council of the City of Kerrville, Texas, at its regular meeting held on March 10, 2009, after duly posting the time, date, place, and subject matter of said meeting in accordance with Chapter 551 of the Texas Government Code, as amended.

Dated March 10, 2009

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

By: ____________________
Todd A. Bock, Mayor

ATTEST:

Brenda G. Craig

Brenda G. Craig, City Secretary
City of Kerrville, Texas

T:\Legal\EIC\EIC amendment to Artl of Inc 030609.doc

State of Texas §

County of Kerr §

Before me, a notary public, on this the 10th day of MARCH, 2009, personally appeared Todd A. Bock, Mayor, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

CONNIE LACKEY
Notary Public, State of Texas
My Commission Expires
November 01, 2010

Connie Lackey

Connie Lackey, Notary

ARTICLES OF AMENDMENT

TO THE ARTICLES OF INCORPORATION

OF

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

FILED
In the Office of the
Secretary of State of Texas
MAY 18 1999
Corporations Section

THE STATE OF TEXAS §
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COUNTY OF KERR §

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Article I

Name of Corporation

The name of the corporation is the "City of Kerrville, Texas Economic Improvement Corporation".

Article II

Nature of Amendment

The amendment alters or changes Article Nine of the original Articles of Incorporation to read in its entirety as follows:

Amended July 2009

ARTICLE NINE

Board of Directors

The affairs of the Corporation shall be managed by a board of directors which shall be composed of seven persons appointed by the governing body of the City. Each director must be a resident of the City, and at least three directors must be persons who are not employees, officers, or members of the governing body of the City. The names and addresses of the persons who are to serve as the initial directors and the dates of expiration of their initial terms as directors are as follows:

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Article III

Adoption of Amendment by Governing Body

The amendment to the Articles of Incorporation set forth in Article II, above, was adopted by a majority of the members of the City Council of the City of Kerrville, Texas, at its regular meeting held on May 11, 1999, after duly posting the time, date, place, and subject matter of said meeting in accordance with Chapter 551 of the Texas Government Code, as amended.

Dated May 11, 1999.

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

By Ben R. Low

Ben R. Low, Mayor
City of Kerrville, Texas

ATTEST:

Sheila L. Brand

Sheila L. Brand, City Clerk
City of Kerrville, Texas

The State of Texas

SECRETARY OF STATE

CERTIFICATE OF INCORPORATION

OF

"CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION"
CHARTER NUMBER 1363267-01

The undersigned, as Secretary of State of Texas, hereby certifies that Articles of Incorporation for the above corporation, duly signed pursuant to the provisions of the Development Corporation Act of 1979, have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as such Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Incorporation and attaches hereto a copy of the Articles of Incorporation.

Dated: July 21, 1995

THE STATE OF TEXAS

RR

Antonio O. Garza, Jr.
Secretary of State

FILED
In the Office of the
Secretary of State of Texas

JUL 21 1995

Corporations Section

ARTICLES OF INCORPORATION

OF

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

THE STATE OF TEXAS §

COUNTY OF KERR §

WE, THE UNDERSIGNED natural persons, not less than three in number, each of whom is at least 18 years of age, and each of whom is a qualified elector of the City of Kerrville, Texas (which is a duly established home-rule municipality under the Texas Constitution), acting as incorporators of a public instrumentality and nonprofit industrial development corporation (the "Corporation") under Section 4B of the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as amended (the "Act"), with the approval of the governing body of the City of Kerrville, Texas (the "City") as evidenced by the Resolution attached hereto and made a part hereof for all purposes, do hereby adopt the following Articles of Incorporation for the Corporation:

ARTICLE ONE

Name of Corporation

The name of the Corporation is "City of Kerrville, Texas Economic Improvement Corporation."

ARTICLE TWO

Type of Corporation

The Corporation is a nonprofit corporation, and is an industrial development corporation governed by Section 4B of the Act.

Amended May 1999
Amended July 2009

ARTICLE THREE

Period of Duration

The period of duration of the Corporation is perpetual.

ARTICLE FOUR

Purpose

The Corporation is organized exclusively for the purposes of benefitting and accomplishing public purposes of the City pursuant to the specific purposes for which the Corporation is organized, being any and all purposes permitted by Section 4B of the Act including, but not limited to, the promotion and development of industrial and manufacturing enterprises to promote and encourage employment and the public welfare, and financing the acquisition, construction and/or equipping, and/or the maintenance and operating costs of any "Project" (as defined in Section 4B of the Act). The Corporation is a constituted authority and a public instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Section 103 of the Internal Revenue Code of 1986, as amended, and the Corporation is authorized to act on behalf of the City as provided in these Articles of Incorporation. However, the Corporation is not a political subdivision or political corporation of the State of Texas within the meaning of its constitution and laws, including without limitation Article III, Section 52 of said constitution, and no agreements, bonds, debts or obligations of the Corporation are or shall ever be deemed to be the agreements, bonds, debts or obligations, or the lending of credit, or a grant of public money or thing of value, of or by the City, or any other political corporation, subdivision or agency of the State of Texas, or a pledge of the faith and credit of any of them.

ARTICLE FIVE

Issuance of Bonds Requires City Council Approval

The Corporation may not issue any bonds pursuant to the provisions of the Act without first receiving the written approval of the governing body of the City.

ARTICLE SIX

Membership

The Corporation has no members and is a nonstock corporation.

ARTICLE SEVEN

Amendment of Articles

These Articles of Incorporation may at any time and from time to time be amended as provided in the Act, so as to make any changes therein and add any provisions thereto which might have been included in the Articles of Incorporation in the first instance. Any such amendment shall be effected in either of the following manners: (i) the members of the board of directors of the Corporation shall file with the governing body of the City a written application requesting approval of the amendments to the Articles of Incorporation, specifying in such application the amendments proposed to be made, such governing body shall consider such application and, if it shall by appropriate resolution or ordinance duly find and determine that it is advisable that the proposed amendments be made and shall approve the form of the proposed amendments, then the board of directors of the Corporation may amend the Articles of Incorporation by adopting such amendments at a meeting of the board of directors and delivering articles of amendment to the Secretary of State, or (ii) the governing body of the City may, at its sole discretion, and at any time, amend these Articles of Incorporation, and alter or change the structure, organization, programs or activities of the Corporation, or terminate or dissolve the Corporation (subject to the provisions of the Act and subject to any limitation provided by the constitution and laws of the State of Texas and the United States of America on the impairment of contracts entered into by the Corporation) by written resolution adopting the amendment to the Articles of Incorporation of the Corporation or articles of dissolution at a meeting of the governing body of the City and delivering articles of amendment or dissolution to the Secretary of State, as provided in the Act. Restated Articles of Incorporation may be filed with the Secretary of State as provided in the Act.

ARTICLE EIGHT

Initial Registered Office and Agent

The street address of the initial registered office of the Corporation is 800 Junction Hwy., Kerrville, Texas 78028, and the name of its initial registered agent at such address is Glenn Brown.

ARTICLE NINE

Board of Directors

The affairs of the Corporation shall be managed by a board of directors which shall be composed of seven persons appointed by the governing body of the City. Each director must be a resident of the City, and at least three directors must be persons who are not employees, officers or members of the governing body of the City. The names and street addresses of the persons who are to serve as the initial directors and the dates of expiration of their initial terms as directors are as follows:

NAME	ADDRESS		EXPIRATION DATE OF INITIAL TERM
J. C. Gosnell	1011 Lois #35, Kerrville, TX		May 31, 1997
Joe Herring, Jr.	431 Meadow Ridge "	"	May 31, 1997
Charles P. Johnson	430 Timber Ridge "	"	May 31, 1997
Joe B. McKay	103 Westchester Circle "	"	May 31, 1997
James A. Murphy	203 Riverhill Blvd. "	"	May 31, 1997
Don D. Sawyer	201 Coronado Dr. "	"	May 31, 1997
Robert L. Schmerbeck, III	104 Whippoorwill Lane "	"	May 31, 1997

Other than the initial directors appointed under these Articles of Incorporation, the governing body of the City shall appoint or reappoint all directors of the Corporation for two year terms. Each director, including the initial directors, shall be eligible for reappointment. All terms shall begin on June 1 of odd-numbered years and shall end on the second following May 31; provided however, in the event the governing body of the City has not appointed or reappointed a director prior to the expiration of the term of office of a director, the then current director shall continue to serve as a director until such appointment or reappointment is made. Directors are removable by the governing body of the City for cause or without cause. In the event any director resigns, is removed from office by the governing body of the City or no longer serves on the board of directors of the Corporation for any reason, the governing body of the City shall appoint a new director to complete the unexpired term. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties as directors.

ARTICLE TEN

Incorporators

The name and street address of each incorporator are:

NAMES	ADDRESSES		
Mark Armstrong	426 Crest Ridge Dr., Kerrville, TX		
Charles B. Goodale	1018 Jackson Road	"	"
William A. Olden	2016 Easy Street	"	"

ARTICLE ELEVEN

Approval By City

The City has specifically authorized the Corporation by Resolution to act on its behalf to further the public purposes stated in said Resolution and these Articles of Incorporation, and the City has by said Resolution approved these Articles of Incorporation. A copy of said Resolution is attached to these Articles of Incorporation and made a part hereof for all purposes.

ARTICLE TWELVE

Dividends and Earnings

No dividends shall ever be paid by the Corporation and no part of its net earnings remaining after payment of its expenses shall be distributed to or inure to the benefit of its directors or officers or any individual, firm, corporation or association, except that in the event the board of directors shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the Corporation, then any net earnings of the Corporation thereafter accruing shall be paid to the City. No part of the Corporation's activities shall be carrying on propaganda, or otherwise attempting to influence legislation, and it shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

ARTICLE THIRTEEN

Dissolution

If the Corporation ever should be dissolved when it has, or is entitled to, any interest in any funds or property of any kind, real, personal or mixed, such funds or property or rights thereto shall not be transferred to private ownership, but shall be transferred and delivered to the City after satisfaction or provision for satisfaction of debts and claims.

EXECUTED THIS 20 DAY OF ~~JUNE~~ July, 1995.

Mark Armstrong

Charles B. Goodale

Charles B. Goodale

William A. Olden

William A. Olden

INCORPORATORS

014

THE STATE OF TEXAS

COUNTY OF KERR

I, the undersigned, a Notary Public in and for the State of Texas, do hereby certify that on this 20 day of July, 1995, personally appeared Mark Armstrong, Charles B. Goodale, and William A. Olden, who, each being by me first duly sworn, severally declared that they are the persons who signed the foregoing Articles of Incorporation as incorporators, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year above written.

Notary Public in and for
the State of Texas
My Commission Expires 1-28-97

(SEAL)

RESOLUTION NO. 95 - 112

RESOLUTION AUTHORIZING AND APPROVING THE CREATION OF A NONPROFIT INDUSTRIAL DEVELOPMENT CORPORATION TO ACT ON BEHALF OF THE CITY OF KERRVILLE, TEXAS

STATE OF TEXAS	§
COUNTY OF KERR	§
CITY OF KERRVILLE, TEXAS	§

WHEREAS, the City of Kerrville, Texas (the "City") is a duly created home-rule municipality and political subdivision of the State of Texas created and established under the Constitution and laws of the State of Texas and is located in a county with a population of 500,000 or fewer according to the most recent federal census; and

WHEREAS, for over two years many concerned citizens of the City, along with the City's Planning and Zoning Board, the City Council and the City's staff, examined the infrastructure needs of the City and ways in which to enhance economic development within the City; and

WHEREAS, as a result of such examination many recommendations were made to the City Council regarding economic development objectives and infrastructure improvements including street and drainage improvements, water and sewer system improvements, public safety improvements and park improvements, with the primary objective of enhancing the quality of life and the business opportunities for the citizens of the City; and

WHEREAS, a critical element essential to the implementation of such economic development objectives and infrastructure improvements was to provide a source of revenues to finance such economic development objectives and proposed infrastructure improvements; and

WHEREAS, the City Council desired to finance such economic development objectives and infrastructure improvements as much as possible with funds other than ad valorem taxes; and

WHEREAS, after studying numerous proposed financing methods, the City Council deemed it desirable to finance such economic development objectives and infrastructure improvements primarily with funds derived from a one-half of one percent (½ of 1%) sales and use tax pursuant to the provisions of Section 4B ("Section 4B") of the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as amended (the "Act"); and

WHEREAS, at an election held on May 6, 1995, the voters of the City approved the imposition of such additional sales and use tax pursuant to Section 4B of the Act; and

WHEREAS, an application in writing requesting the authorization and approval of the creation of a nonprofit industrial development corporation to act on behalf of the City governed by the provisions of Section 4B of the Act has been filed with the City Council of the City (being its governing body) by at least three natural persons, each of whom is at least 18 years of age, and each of whom is a qualified elector of the City; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, TEXAS:

SECTION 1. The City Council of the City has found and determined, and hereby finds and determines, that said application is in proper form and that it has been signed by at least three natural persons, each of whom is at least 18 years of age, and each of whom is a qualified elector of the City.

SECTION 2. The City Council of the City has found and determined, and hereby finds and determines, that it is advisable that a nonprofit industrial development corporation be authorized and created, with such nonprofit industrial development corporation to be known as the "City of Kerrville, Texas Economic Improvement Corporation".

SECTION 3. The City Council of the City hereby approves the Articles of Incorporation and the Bylaws proposed to be used in organizing the nonprofit industrial development corporation (copies of which were attached to the above-described application and copies of which are attached to this Resolution and made a part hereof for all purposes) and hereby grants authority for the incorporation of the nonprofit industrial development corporation pursuant to Section 4B of the Act, and the initial directors named in said Articles of Incorporation shall be deemed to have been appointed, and are hereby appointed, as the initial directors by the governing body of the City for the respective terms described therein.

SECTION 4. The City hereby specifically authorizes the Corporation to act on its behalf to further the public purposes stated in this Resolution and in the Articles of Incorporation attached hereto. The City further authorizes the Board of Directors of the Corporation to appoint any officers it deems necessary to conduct its business and operations including (in addition to a President and Secretary required to be appointed by Section 4B of the Act) a Vice President, Treasurer and one or more Assistant Secretaries and Assistant Treasurers.

SECTION 5. The City hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the City hereby incorporates such recitals as a part of this Resolution.

SECTION 6. This Resolution shall become effective immediately after its adoption.

[The remainder of this page left blank intentionally.]

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, TEXAS ON THE 11 DAY OF ~~JUNE,~~ July 1995.

CITY OF KERRVILLE, TEXAS

Charles P. Johnson, Mayor

ATTEST:

City Secretary

(CITY SEAL)

APPROVED AS TO FORM:

WALLACE, MOSTY, MACHANN, JACKSON, WILLIAMS

City Attorney

Date: 6-9-95

018

95-11

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

BYLAWS

ARTICLE I

OFFICES

SECTION 1.01. The principal office of City of Kerrville, Texas Economic Improvement Corporation (the "Corporation") shall be at the then existing City Hall of the City of Kerrville, Texas (the "City").

ARTICLE II

DIRECTORS

SECTION 2.01. The affairs of the Corporation shall be managed by a board of directors (the "Board") which shall be composed in its entirety of persons appointed by, and whose terms of office shall be fixed by, the governing body of the City.

SECTION 2.02. Vacancies in the Board shall be filled for the unexpired term by the appointment of successor directors by the governing body of the City.

SECTION 2.03. The property and business of the Corporation shall be managed by the Board which may exercise all powers of the Corporation and do all lawful acts as permitted by the Development Corporation Act of 1979 (the "Act").

SECTION 2.04. The annual meeting of the Board shall be held at the principal office of the Corporation on the first day of June of each year, if not a legal holiday, and if a Saturday, Sunday or legal holiday, then at the next secular day following, at ____ o'clock, __.m., or at such time and place as shall be fixed by the consent in writing of all of the directors. All other meetings may be held at the place selected by the Board within the boundaries of the City.

SECTION 2.05. Regular meetings, other than the annual meeting, may be held at such time as shall from time to time be determined by resolution of the Board.

2-15-96

SECTION 2.06. Special meetings of the Board may be called by the President and shall be called by the President or Secretary on the written request of two directors. Emergency meetings shall be called by the President on two hours notice, but only upon compliance with the public notice requirements as provided in Section 3.01 below.

SECTION 2.07. At all meetings of the Board the presence of a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, except as may be otherwise specifically provided by these Bylaws.

SECTION 2.08. Directors, as such, shall receive no compensation for services rendered as directors, but shall be reimbursed for all actual expenses incurred in performing their duties as directors in accordance with written policies as may be adopted by the Board of Directors.

COMMITTEES OF THE BOARD

SECTION 2.09. The Board may, by resolution or resolutions adopted by the Board, establish one or more committees, each committee to consist of two or more of the directors of the Corporation. Such committee or committees shall have such name or names, and such powers, as may be determined from time to time by resolution adopted by the Board.

SECTION 2.10. The committees shall keep regular minutes of their proceedings and report the same to the Board when required.

ARTICLE III

NOTICES

SECTION 3.01. The Board, all actions of the Board, all meetings of the Board, whether annual, regular, special, or emergency, and all meetings of committees of the Board shall be subject to the public notice requirements of the Texas Open Meetings Act, Chapter 551, Texas Government

Code, as required by Section 11(b) of the Development Corporation Act of 1979, as amended, Vernon's Ann. Civ. Stat., Article 5190.6 (the "Act").

SECTION 3.02. Whenever under the provisions of any statute or these Bylaws, notice is required to be given to any director, it shall not be construed to mean personal notice, but such notice may be given in writing, by mail, addressed to such director at such address as appears on the books of the Corporation, and such notice shall be deemed to be given at the time when the same shall be thus mailed.

SECTION 3.03. Whenever any notice is required to be given to a director under the provisions of any statute or of these Bylaws, a waiver thereof in writing signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

ARTICLE IV

OFFICERS

SECTION 4.01. The officers of the Corporation shall be chosen by the Board. The Board shall choose from its members a President and a Vice President. The Board shall also choose a Secretary and a Treasurer who may or may not be members of the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary.

SECTION 4.02. The Board shall choose such officers at its first meeting and at each annual meeting thereafter.

SECTION 4.03. The officers of the Corporation chosen pursuant to Section 4.02 shall serve until the next annual meeting of the Board thereafter or until their successors are chosen and qualify in their stead.

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2-15-96

SECTION 4.04. The Board may appoint such other officers and agents as it shall deem necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

SECTION 4.05. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the whole Board. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board.

The President

SECTION 4.06. The President shall preside at all meetings of the directors.

SECTION 4.07. The President shall be exofficio a member of all standing committees and shall see that all orders and resolutions of the Board are carried into effect.

SECTION 4.08. The President shall execute bonds, mortgages and other contracts, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board to some other officer or agent of the Corporation.

Vice President

SECTION 4.09. The Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board shall prescribe.

The Secretary

SECTION 4.10. The Secretary shall attend all sessions of the Board and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all special meetings of the Board and shall perform such other duties as may be prescribed by the Board or the President. The Secretary shall keep in safe custody the seal of the Corporation and, when authorized by the Board, affix the same to any instrument requiring it, and, when so affixed, it shall be attested by the Secretary's signature. When the corporate seal is required as to instruments executed in the course of ordinary business, the Secretary shall attest to the signature of the President or Vice President and shall affix the seal thereto. The Board may appoint one or more persons to serve as an Assistant Secretary, which person may, but need not be, a director. The Assistant Secretary may perform any duty granted to the Secretary in these Bylaws and/or in any resolution or order approved by the Board.

The Treasurer

SECTION 4.11. To the extent not otherwise provided by the Board, by rules or regulations, in resolutions relating to the issuance of bonds, or in any financing documents relating to such issuance, the Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in a depository as shall be designated by the Board. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and directors, at the regular meetings of the Board, or whenever they may require it, an account of all transactions performed as Treasurer and of the financial condition of the Corporation. The Board may appoint one or more persons to serve as an Assistant Treasurer, which person may, but need not be, a director. The Assistant Treasurer may perform any duty granted to the Treasurer in these Bylaws and/or in any resolution or order approved by the Board.

SECTION 4.12. The Board may require the President, Vice President, the Secretary, any Assistant Secretary, the Treasurer, and any Assistant Treasurer to give the Corporation bonds in such sums and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of their office and for the restoration to the Corporation, in case of such person's death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in such person's possession or under such person's control belonging to the Corporation. The costs of any such bonds shall be an expense payable by the Corporation.

SECTION 4.13. The provisions of the Texas Uniform Facsimile Signature of Public Officials Act shall be applicable to the Corporation, which is a duly constituted instrumentality of the City, a political subdivision of the State of Texas.

ARTICLE V

FISCAL PROVISIONS

SECTION 5.01. No dividends shall ever be paid by the Corporation and no part of its net earnings remaining after payment of its expenses shall be distributed to or inure to the benefit of its directors or officers or any individual, firm, corporation, or association, except that in the event the board of directors shall determine that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the Corporation, then any net earnings of the Corporation thereafter accruing shall be paid to the City. No part of the Corporation's activities shall be carrying on propaganda, or otherwise attempting to influence legislation, and it shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

SECTION 5.02. The Board shall have prepared for each annual meeting a full and clear statement of the business and condition of the Corporation.

Checks and Accounting Records

SECTION 5.03. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board may from time to time designate, provided that in no event shall a check be created until it is supported by an approved requisition signed by at least one officer. All accounting records shall conform to the accounting records system of the City of Kerrville.

Fiscal Year

SECTION 5.04. The fiscal year shall commence on each October 1 and end on the following September 30.

ARTICLE VI

SEAL

SECTION 6.01. The corporate seal shall be circular and shall have inscribed in the outer circle "City of Kerrville, Texas Economic Improvement Corporation" and shall have inscribed in the inner circle the letters "T-E-X-A-S" and a five pointed star. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise. The imprint of this seal thus authorized is affixed opposite to this section.

ARTICLE VII

AMENDMENTS

SECTION 7.01. These Bylaws may be altered, changed, or amended at any meeting of the Board at which a quorum is present, provided notice of the proposed alteration, change, or amendment be contained in the notice of such meeting, by the affirmative vote of a majority of the directors at such meeting and present thereat and provided further that any such alteration, change or amendment shall not become effective until approved by the City Council.

Initially adopted and approved by the Board of Directors of the Corporation on August 21, 1995 and amended on January 22, 1996, and approved by the City Council of the City on July 11, 1995 and on February 13, 1996.

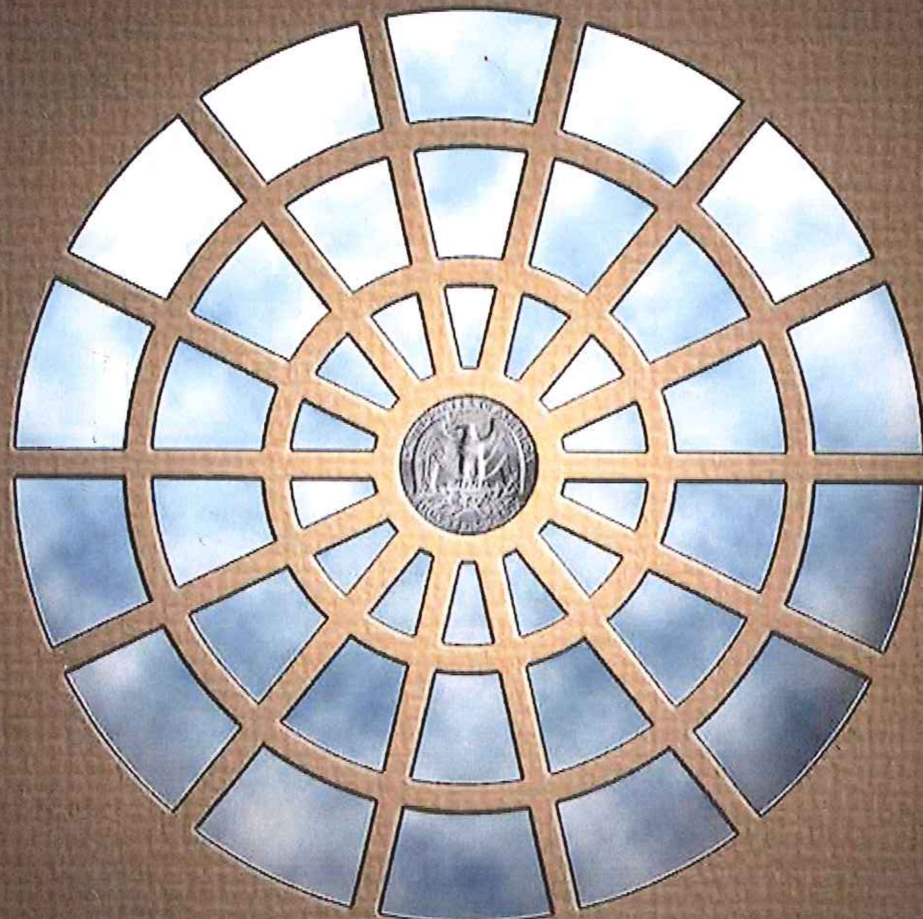
President

026

2-15-96

Agenda Item:
(Staff)

2B. Review and discussion of state law with regard to 4B boards, funding, and project eligibility guidelines.



ECONOMIC DEVELOPMENT HANDBOOK 2008

ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

027

ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

Dear City and County Officials:

Fostering a vibrant, thriving economy is critical to the future of our great state. All across Texas, cities and counties are working to nurture small business, encourage entrepreneurship, advance commerce, and create jobs.

Fortunately, Texas law offers many options for local leaders seeking to generate economic development and opportunity. This compilation of state economic development laws is published to help Texas municipalities and counties realize the wide-range of legal tools that are available to them.

The Economic Development Handbook is compiled annually by the Office of the Attorney General's Municipal and County Affairs sections. Hopefully these legal experts' efforts will prove helpful to local leaders around the State of Texas.

Thank you for your interest in economic development and the laws that help foster growth and opportunity. Together, state and local offices can ensure our great state is ripe with economic opportunity for all Texans.

Sincerely,

Greg Abbott

Greg Abbott
Attorney General of Texas

POST OFFICE BOX 12548, AUSTIN, TEXAS 78711-2548 TEL: (512)463-2100 WEB: WWW.OAG.STATE.TX.US

Acknowledgments

A number of individuals made this publication possible by contributing their time, expertise and support. First, the members of former Attorney General John Cornyn's Municipal Advisory Committee provided the oversight for the original handbook. The mayors, council members and appointed city officials from across Texas who volunteered their time to serve on this committee played an invaluable role in the production of this publication and in the ability of this agency to address the concerns of Texas cities.

Second, staff members from the Office of the Attorney General (OAG) worked diligently to ensure that the handbook provides pertinent information in a format that would be easily understood and useful to city and county leaders. This publication was originally written by Scott Joslove and was revised for 2008 - 2009 by Becky Casares with the County Affairs Section, Julian Grant with the Municipal Affairs Section, and attorneys with the Open Records, Opinions and Public Finance divisions of the OAG. Much appreciation goes to all of their review and insight regarding the content of the publication.

Finally, this publication was reviewed with substantial assistance from many sources outside the OAG. It was vital that program descriptions accurately reflect the economic development tools presently available to Texas cities and counties. This goal was enhanced by the significant assistance provided by experts from:

Jeff Moore - Brown & Hofmeister, L.L.P.
Bob Bearden and Patricia Ann Bailey - Texas Comptroller's Office
Robert Johnson - Texas Historical Commission
Scott Joslove - Texas Hotel Lodging Association
Jody Richardson - Akin, Gump, Strauss, Hauer & Feld, L.L.P
Bennett Sandlin - Texas Municipal League

For additional information on any of the topics covered, please call the OAG's Municipal Affairs Section at (512) 475-4683 or OAG's County Affairs Section at (512) 463-2060.

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federal income tax return, but they should obtain a determination to that effect when they file their Form 1023 with the IRS. If the development corporation has unrelated business income, it will have to file a federal tax return and may have to pay tax on that income. An entity can obtain a Section 501 (c) (3) determination even though it also considers itself exempt under Section 115. The Section 501 (c) (3) exemption is usually relied upon when a written determination from the IRS is desired by the development corporation. Some bond counsel may insist that if this type of entity issues bonds, it would only be eligible to issue Section 501 (c) (3) bonds, which are more expensive to issue than governmental bonds. Contributions to this type of entity are generally tax deductible.

Federal Tax Code Section 501 (c) (4) and 501 (c) (6)

Federal Tax Code Section 501 (c) (4) and 501 (c) (6) exempts the income of corporations organized and operated as community development organizations and business leagues. To obtain a written determination that an organization is exempt under this provision, a Form 1024 must be filed with the IRS. This type of exemption is not difficult to qualify for, but does not have as many advantages as the other IRS code sections discussed earlier. The only major benefit of a Federal Tax Code Section 501 (c) (4) and 501 (c) (6) designation is that it generally allows the exemption of the income of the development corporation from federal taxation. Development corporations qualifying under these sections should not have to file an annual federal income tax return (unless they have unrelated business income) if they receive a determination to this effect from the IRS when they file their Form 1024. Contributions to this type of organization are not considered deductible as charitable contributions. These organizations also cannot issue tax exempt bonds unless they also qualify under Federal Section 115.

Section 4B Economic Development Sales Tax

Eligibility to Adopt a Section 4B Tax

A city may impose the Section 4B tax, with voter approval, if the new combined local sales tax rate would not exceed 2 percent and if the city fits into one of the following categories:[144]

- the city would be eligible to adopt a Section 4A sales tax (see earlier Section on Eligibility to Adopt a Section 4A Tax);
- the city is located in a county with a population of 500,000 or more and the current combined sales tax rate does not exceed 8.25 percent at the time the Section 4B tax is proposed;[145] or
- the city has a population of 400,000 or more and is located in more than one county, and the combined state and local sales tax rate does not exceed 8.25 percent.

[144] Tex. Rev. Civ. Stat. Ann. art. 5190.6, § 4B(a)(1) (Vernon Supp. 2008) (to be codified at Tex. Loc. Gov't Code Ann. § 505.002 (Vernon Supp. 2008), effective April 1, 2009).
[145] *Id.* (to be codified at Tex. Loc. Gov't Code Ann. § 505.002(1)(B) (Vernon Supp. 2008), effective April 1, 2009).

An eligible Section 4B city includes a city "that is located in a county with a population of 500,000 or more," and the Act also provides that an eligible city includes a city "located in a county with a population of 500,000 or fewer." Consequently, every Texas city appears to be eligible to adopt a Section 4B sales tax provided the city's combined local sales tax rate does not exceed two percent.[146] Further, it should be noted that participation in a rapid transit authority does not invalidate a city's ability to adopt a Section 4B tax if adoption of the tax would not place the city above its statutory cap for the local sales tax rate.[147] If the city is not certain whether it fits into one of the above categories, the city can call the Local Assistance Section of the State Comptroller's Office at (800) 531-5441, ext. 3-4679 for a confirmation of its eligibility.

If the city is eligible to adopt a Section 4B tax, it may propose a tax rate equal to one-eighth, one-fourth, three-eighths or one-half of one percent.[148] The city may not adopt a sales tax rate that would result in a combined rate exceeding two percent.[149]

[146] *Id.* §§ 4B(a)(1)(A), 4A(a)(1) (to be codified at Tex. Loc. Gov't Code Ann. §§ 504.002 and 505.002 (Vernon Supp. 2008), effective April 1, 2009).
[147] *See also id.* § 4B(n-1) (to be codified at Tex. Loc. Gov't Code Ann. § 505.257 (Vernon Supp. 2008), effective April 1, 2009).
[148] *Id.* § 4B(e) (to be codified at Tex. Loc. Gov't Code Ann. § 505.252(b) (Vernon Supp. 2008), effective April 1, 2009).
[149] Tex. Tax Code Ann. § 321.101(f) (Vernon 2002), Tex. Rev. Civ. Stat. Ann. art. 5190.6, § 4B(f) (Vernon Supp. 2008) (making Chapter 321 of the Tax Code applicable to a 4B tax) (to be codified at Tex. Loc. Gov't Code Ann. § 505.256 (Vernon Supp. 2008), effective April 1, 2009).

Cities that have Passed a Section 4B Tax (339 Cities)

Alamo
Alba
Alvarado
Alvord
Angleton
Archer City
Arcola
Argyle
Athens
Aubrey
Avinger
Balmorhea
Bandera
Bangs
Bartonville
Bastrop
Bay City
Bedford
Bee Cave
Beeville
Bellville
Benbrook
Benjamin
Bertram
Big Lake
Big Sandy
Bishop
Bonham
Bovina
Breckenridge
Brenham
Brookshire
Brownsboro
Buda
Buffalo
Buffalo Gap
Bullard
Burkburnett
Caddo Mills
Cameron
Canton
Canyon
Carmine
Centerville
Chandler
Chico
Cibolo
Clarendon
Cleburne
Clifton
Clute
Clyde
Colleyville
Columbus
Conroe
Converse
Coppell
Corinth
Corral City
Cotulla
Crandall
Crawford
Cross Plains
Crowley
Cuero
Cuney
Dalworthington-Gardens
Dalhart
Dayton
Dickinson
Domino
Douglassville
Driscoll
Dublin
Dumas
Duncanville
E. Tawakoni
Eden
Electra
Elgin
Emory
Encinal
Ennis
Euless
Everman
Fate
Flower Mound
Floydada
Forest Hill
Forney
Frankston
Freeport
Fritch
Friona
Gainesville
Galveston
Giddings
Glen Rose
Goldthwaite
Goliad
Gonzales
Gordon
Grand Saline
Grapevine
Grapeland
Groesbeck
Groom
Groves
Gruver
Gun Barrel City
Gunter
Gustine
Haltom City
Hamilton
Hart
Hawkins
Hawley
Helotes
Henrietta
Hickory Creek
Hico
Highland Village
Hill Country Village
Hollywood Park
Hondo
Howe
Hubbard
Hudson
Hughes Springs
Huntington
Hurst
Hutchins
Iraan
Industry
Ingleside
Italy
Itasca
Jacksboro
Jacksonville
Jefferson
Jewett
Junction
Karnes City
Keller
Kemah
Kemp
Kenedy
Kennedale
Kerens
Kerrville
Krum
La Grange
La Joya
La Porte
Laguna Vista
Lake Jackson
Lake Worth
Lampasas
Lavon
League City
Leonard
Lewisville
Lexington
Liberty
Liberty Hill
Lincoln Park
Little Elm
Live Oak
Llano
Lockhart
Lockney
Lorena
Los Fresnos
Lott
Lufki
Luling
Lumberton
Mabank
Malone
Manvel
Marble Falls
Marfa
Mathis
Maypearl
McAllen
McCamey
McGregor
McLean
Meridian
Merkel
Mesquite
Mexia
Miles
Mineola
Mission
Montgomery
Morgan's Point
Morton
Mount Enterprise
Mount Vernon
Muenster
Nassau Bay
Navasota
Nederland
Needville
Nevada
New Braunfels
New Deal
N. Richland Hills
Oak Leaf
Oak Ridge
Oak Ridge North
Odem
Olton
Orange
Ovilla
Oyster Creek
Palestine
Palmer
Pampa
Pantego
Paradise
Pasadena
Pearland
Pecos
Pflugerville
Pilot Point
Pittsburg
Point
Ponder
Port Aransas
Port Isabel
Port Neches
Portland
Post
Poth
Prarie View
Presidio
Princeton
Queen City
Quinlan
Quitaque
Quitman
Rankin
Redwater
Refugio
Richland Hills
Richmond
Rio Grande City
Rio Vista
Rising Star
River Oaks
Robstown
Rocksprings
Rollingwood
Roma Los Saenz
Ropesville
Rosenberg
Rosebud
Round Rock
Round Top
Royse City
Runaway Bay
Sachse
San Angelo
San Benito
San Juan
San Saba
Sansom Park
Santa Anna
Santa Fe
Savoy
Schertz
Schulenburg
Seabrook
Seagoville
Sealy
Seminole
Seven Points
Shenandoah
Shepherd
Silverton
Snook
Sonora
South Houston
Southlake
Spearman
Spur
Stafford
Stanton
Sterling City
Stinnett
Stockdale
Stratford
Strawn
Sudan
Sullivan City
Sundown
Sweeny
Taft
Teague
Thorndale
Throckmorton
Tomball
Trenton
Trinidad
Trinity
Troup
Turkey
Tyler
Universal City
Van
Van Horn
Venus
Victoria
Wake Village
Wallis
Watauga
Waxahachie
Webberville
Webster
Weimar
W. Columbia
W. Tawakoni
Westworth Village
Wharton
Wheeler
White Deer
White Oak
White Settlement
Whiteface
Windcrest
Windthorst
Winnsboro
Winona
Wolfforth
Yantis
Yoakum
Yorktown

Cities that have passed both a Section 4A and a Section 4B Tax (104 Cities)

Albany	*Cedar Hill*	*Frisco*	*Justin*	*Newton*	*Sugar Land*
Allen	*Cedar Park*	*Fulshear*	*Keene*	*Nocona*	*Sunnyvale*
Alton	*Celina*	*Georgetown*	*Knox City*	*Northlake*	*The Colony*
Anna	*Center*	*Godley*	*Krugerville*	*Orchard*	*Tioga*
Anson	*Cisco*	*Gorman*	*La Feria*	*Paducah*	*Trophy Club*
Aspermont	*Collinsville*	*Grandfalls*	*Lake Dallas*	*Pottsboro*	*Tye*
Atlanta	*Crystal City*	*Grandview*	*Lancaster*	*Progreso*	*Van Alstyne*
Balch Springs	*DeSoto*	*Groveton*	*Linden*	*Red Oak*	*Westlake*
Beasley	*Donna*	*Hallettsville*	*Little Elm*	*Rio Hondo*	*Whitesboro*
Bells	*Edcouch*	*Harlingen*	*Magnolia*	*Roanoke*	*Whitewright*
Blue Ridge	*Elsa*	*Haslet*	*Mansfield*	*Roaring Springs*	*Wichita Falls*
Bowie	*Escobares*	*Hearne*	*Matador*	*Robert Lee*	*Willis*
Bremond	*Fairview*	*Heath*	*McKinney*	*Roscoe*	*Wortham*
Bronte	*Farmersville*	*Hempstead*	*Melissa*	*Saint Jo*	*Wylie*
Brownsville	*Ferris*	*Iowa Park*	*Miami*	*Sanger*	
Burleson	*Floresville*	*Jarrell*	*Midland*	*Seagraves*	
Calvert	*Fort Stockton*	*Joaquin*	*Midlothian*	*Sinton*	
Carthage	*Franklin*	*Joshua*	*Murphy*	*Somerset*	

Section 4B Projects

The Development Corporation Act provides a wide variety of purposes for which Section 4B tax proceeds may be expended. Section 4B tax proceeds may be spent on land, buildings, equipment, facilities, expenditures, targeted infrastructure and improvements for items that fit the definition of "project" under Sections 2(11)and 4B(a)of the Act. It is important to emphasize that any activities of a development corporation must always be in furtherance of and attributable to a "project."[150] Further, the definition of "project" was significantly amended by House Bill 2912 in the 2003 Legislative Session.[151] Changes made by the bill apply only to a project that is undertaken or approved after the effective date of the bill, June 20, 2003. Any projects undertaken or approved before the effective date of House Bill 2912 are governed by the law that was in effect on the date the project was undertaken or approved.[152]

The 2005 Legislative Session also made some amendments to the definition of "project." House Bill 2928 loosened some of the restrictions that were imposed by the 78th Legislature for certain 4B corporations. There are some projects that a section 4B corporation can do that do not require them to create or retain primary jobs.[153]

Section 4B Projects Which Must Create or Retain Primary Jobs

In 2003, the Texas Legislature amended the definition of "project" in Section 2(11) and Section 4B(a)(2)(B) to require that certain projects result in the "creation or retention of primary jobs."[154]

[150] Op. Tex. Att'y Gen. No. JC-0118 (1999) (concluded that Section 4B sales tax proceeds could only be used for project costs).
[151] Tex. H.B. 2912, 78th Leg., R.S. (2003).
[152] *Id.*
[153] Tex. H.B. 2928, 79th Leg., R.S. (2005).
[154] Tex. Rev. Civ. Stat. Ann. art. 5190.6, §§ 2(11) (as amended by Tex. H.B. 3440, 80th Leg., R.S. (2007)), 4B(a)(2)(B) (Vernon Supp. 2008) (to be codified at Tex. Loc. Gov't Code Ann. § 501.101 and 505.155 (Vernon Supp. 2008), effective April 1, 2009).

Accordingly, most Section 4B projects must now create or retain primary jobs. Yet not all projects contain this requirement. "Primary job" is defined to mean a job that is "available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy;" and meet any one of a certain enumerated sector numbers of the North American Industry Classification System (NAICS).[155] The enumerated sector numbers are:

111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211 to 213	Mining
221	Utilities
311 to 339	Manufacturing
42	Wholesale Trade
48 and 49	Transportation and Warehousing
51 (excluding 51213 and 512132)	Information (excluding movie theaters and drive-in theaters)
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416, 5417, and 5419	Scientific Research and Development Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers
922140	Correctional Institutions; or a job that is included in North American Industry Classification System (NAICS) sector number 928110, National Security, for corresponding index entries for Armed Forces, Army, Navy, Air Force, Marine Corps and Military Bases.

For more information on the North American Industry Classification System, please visit: http://www.census.gov/epcd/naics02/naicod02.htm.

A Section 4B corporation may do the projects listed under Section 2(11) of the Development Corporation Act of 1979, Article 5190.6, which encompasses the land, buildings, equipment, facilities, expenditures, targeted infrastructure and improvements (one or more) that are for the creation or retention of primary jobs that are found by the board of directors to be required or suitable for any of the following projects:

[155] *Id.* § 2(17) (to be codified at Tex. Loc. Gov't Code Ann. § 501.002(12) (Vernon Supp. 2008), effective April 1, 2009).

- Manufacturing and industrial facilities.
- Research and development facilities.
- Military facilities.
- Transportation facilities (including but not limited to airports, hangars, airport maintenance and repair facilities, air cargo facilities, related infrastructure located on or adjacent to an airport facility, ports, mass commuting facilities and parking facilities).[156]
- Sewage or solid waste disposal facilities.
- Recycling facilities.
- Air or water pollution control facilities.
- Distribution centers.
- Small warehouse facilities.
- Primary job training facilities for use by institutions of higher education.
- Regional or national corporate headquarters facilities.

Additionally, Section 4B corporations may provide land, buildings, equipment, facilities and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including a project to provide:[157]

- Public safety facilities.
- Streets and roads.
- Drainage and related improvements.
- Demolition of existing structures.
- General municipally owned improvements.
- Any improvements or facilities that are related to any of those projects and any other projects that the board in its discretion determines promotes or develop new or expanded business enterprises that create or retain primary jobs.

Section 4B Projects Which Are Not Required to Create or Retain Primary Jobs

Some section 4B projects do not require the creation or retention of primary jobs. The following categories are also authorized Section 4B projects pursuant to Section 2(11) of the Act.

> **Job training classes.** Certain job training required or suitable for the promotion of development and expansion of business enterprises can be a permissible project. Section 4B corporations may spend tax revenue for job training classes offered through a business enterprise only if the business enterprise commits in writing to certain conditions. The business enterprise must agree to create new jobs that pay wages at least equal to the prevailing wage for the applicable occupation in the local labor market area; or agree to increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area.[158] The creation or retention

[156] *Id.* art. 5190.6, § 2(11)(A) (as amended by Tex. H.B. 3440, 80th Leg., R.S. (2007)).
[157] *Id.* § 4B(a)(2)(B) (to be codified at Tex. Loc. Gov't Code Ann. § 505.155 (Vernon Supp. 2008), effective April 1, 2009).
[158] *Id.* § 38(b) (to be codified at Tex. Loc. Gov't Code Ann. § 501.162 (Vernon Supp. 2008), effective April 1, 2009).

of primary jobs is not a mandatory requirement for funding permissible job training classes.

Certain infrastructural improvements which promote or develop new or expanded business enterprises. "Project" also includes expenditures found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises limited to streets and roads, rail spurs, water and sewer utilities, electric and gas utilities, drainage, site improvements and related improvements, telecommunications and Internet improvements, and beach remediation along the Gulf of Mexico.[159] Accordingly, Section 4B corporations may assist with limited infrastructural improvement that the board finds will promote or develop new or expanded business development. The funding of these infrastructural improvements does not have to be conditioned upon the creation or retention of primary jobs.

Career centers. Certain career centers can also be provided land, buildings, equipment, facilities, improvements and expenditures found by the board of directors to be required or suitable for use if the area to be benefited by the career center is not located in the taxing jurisdiction of a junior college district.[160]

Commuter Rail, Light Rail or Motor Buses. A Section 4B corporation, as authorized by the corporation's board of directors, may spend tax revenue received under the Act for the development, improvement, expansion or maintenance of facilities relating to the operation of commuter rail, light rail or motor buses.[161]

Additionally, Section 4B(a)(2)(A), (C), (D), and (E) of the Act specifically permit expenditures of Section 4B tax proceeds for land, buildings, equipment, expenditures and improvements suitable for the following types of projects:

Professional and amateur sports and athletic facilities. Professional and amateur sports and athletics facilities, including stadiums and ballparks are permissible Section 4B projects.[162]

Entertainment, tourist and convention facilities. Entertainment, tourist, and convention facilities, including auditoriums, amphitheaters, concert halls, museums and exhibition facilities are permissible Section 4B projects.[163]

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[159] *Id.* § 2(11)(C) (to be codified at Tex. Loc. Gov't Code Ann. § 501.103 (Vernon Supp. 2008), effective April 1, 2009).
[160] *Id.* § 2(11)(D) (to be codified at Tex. Loc. Gov't Code Ann. § 501.104 (Vernon Supp. 2008), effective April 1, 2009).
[161] *Id.* art. 5190.6, § 38A (as added by Tex. S.B. 1089, 80th Leg., R.S. (2007)).
[162] *Id.* § 4B(a)(2)(A) (to be codified at Tex. Loc. Gov't Code Ann. § 505.152) (Vernon Supp. 2008), effective April 1, 2009).
[163] *Id.*

Public parks and related open space improvements. Public parks, park facilities and events, and open space improvements are permissible Section 4B projects.[164]

Affordable housing. Projects required or suitable for the development and expansion of "affordable housing" as defined by federal law (42 United States Code Section 12745) are permissible Section 4B projects.[165]

Water supply facilities. Any water supply facilities, including dams, transmission lines, well field developments, and other water supply alternatives can be permissible Section 4B projects.[166] Nonetheless, to undertake a water supply facility, a majority of the qualified voters of the city voting in an election called and held for that purpose must approve the water supply project.[167] The ballot proposition for the election shall be printed to provide for voting for or against the proposition:[168]

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

Water conservation programs. Water conservation programs, including incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities can be permissible Section 4B projects.[169] As with water supply facilities, to undertake a water conservation program, a majority of the qualified voters of the city voting in an election called and held for that purpose must approve the water conservation program.[170] The ballot proposition for the election shall be printed to provide for voting for or against the proposition:[171]

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

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[164] *Id.*

[165] *Id.* § 4B(a)(2)(C) (to be codified at Tex. Loc. Gov't Code Ann. § 505.153 (Vernon Supp. 2008), effective April 1, 2009).

[166] *Id.* § 4B(a)(2)(D) (to be codified at Tex. Loc. Gov't Code Ann. § 505.154 (Vernon Supp. 2008), effective April 1, 2009).

[167] *Id.* § 4B(a-5)(1)-(2) (to be codified at Tex. Loc. Gov't Code Ann. § 505.304 (Vernon Supp. 2008), effective April 1, 2009).

[168] *Id.* § 4B(a-5)(1) (to be codified at Tex. Loc. Gov't Code Ann. § 505.304 (Vernon Supp. 2008), effective April 1, 2009).

[169] *Id.* § 4B(a)(2)(E) (to be codified at Tex. Loc. Gov't Code Ann. § 505.154 (Vernon Supp. 2008), effective April 1, 2009).

[170] *Id.* § 4B(a-5)(1)-(2) (to be codified at Tex. Loc. Gov't Code Ann. § 505.304 (Vernon Supp. 2008), effective April 1, 2009).

[171] *Id.* § 4B(a-5)(1) (to be codified at Tex. Loc. Gov't Code Ann. § 505.304 (Vernon Supp. 2008), effective April 1, 2009).

Further, the 79th Legislature gave certain section 4B corporations the ability to undertake projects involving airports, ports and sewer or solid waste disposal facilities without the requirement of creating or retaining primary jobs.

Airport Facilities. Section 4B corporations located within twenty-five (25) miles of an international border, with a city population of less than 50,000 or an average rate of unemployment that is greater than the state average rate of unemployment during the preceding twelve (12) month period may assist with land, buildings, facilities, infrastructure, and improvements required or suitable for the development or expansion of airport facilities.[172] Additionally, section 4B corporations may undertake a project which is required or suitable for the development or expansion of airport facilities, including hangars, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility, if the project is undertaken by a corporation created by an eligible city; (i) that enters into a development agreement with an entity in which the entity acquires a leasehold or other possessory interest from the corporation and is authorized to sublease the entity's interest for other projects authorized by this subdivision; and (ii) the governing body of which has authorized the development agreement by adopting a resolution at a meeting called as authorized by law.[173]

Airports, Ports, and Sewer or Solid Waste Disposal Facilities. Section 4B corporations located in a city wholly or partly in a county that is bordered by the Rio Grande, has a population of at least 500,000, and has wholly or partly within its boundaries at least four cities that each have a population of at least 25,000 (Hidalgo County) may provide certain assistance with infrastructure necessary to promote or develop new or expanded business enterprises, including airports, ports and sewer or solid waste disposal facilities, provided section 4B sales tax revenues do not support the project.[174]

Lastly, certain section 4B corporations have been given a broader latitude in deciding what types of projects that they can do with the requirement of creating or retaining primary jobs, but they must meet the requisite conditions.

Revenue Requirement. Section 4B corporations that have not generated more than $50,000 in revenues in the preceding two (2) fiscal years may provide land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development, retention, or expansion of business enterprises, provided the city council authorizes the project by adopting a resolution following two (2) separate readings conducted at least one (1) week apart.[175]

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[172] *Id.* § 2(11)(D) (to be codified at Tex. Loc. Gov't Code Ann. § 501.104 (Vernon Supp. 2008), effective April 1, 2009).

[173] *Id.* art. 5190.6, § 4B(a)(2)(G) (as added by Tex. H.B. 3440, 80th Leg., R.S. (2007)).

[174] *Id.* § 2(11)(E) (to be codified at Tex. Loc. Gov't Code Ann. § 501.105 (Vernon Supp. 2008), effective April 1, 2009).

[175] *Id.* § 4B(a)(2)(F) (to be codified at Tex. Loc. Gov't Code Ann. § 505.156 (Vernon Supp. 2008), effective April 1, 2009).

Population Requirement. A Section 4B corporation in a city with a population of 20,000 or less may provide land, building, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the board of directors to promote new or expanded business development, provided that for projects which require an expenditure of more than $10,000 the city council adopts a resolution authorizing the project after giving the resolution at least two (2) separate readings.[176]

Landlocked Communities. For Section 4B corporations located wholly or partly in a county with a population of two million or more (Dallas and Harris County) that has within its city limits and extraterritorial jurisdiction fewer than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the zoning laws or land use restrictions of the city, the term "project" also includes expenditures found by the board of directors to be required for the promotion of new or expanded business enterprises within the landlocked community.[177]

Undertaking Projects Located Outside of the City

Section 23(a)(1) of the Act provides that an economic development corporation may undertake projects outside of the city limits with permission of the governing body that has jurisdiction over the property. In other words, if the corporation wants to undertake a project that is located completely in the city's extraterritorial jurisdiction or beyond, it should get approval from the governing body of the county, the county commissioners court. The language of the Act, however, does not seem to require this approval if the project is located at least partially within the boundaries of the city. If the project is located completely within the jurisdiction of another municipality, the corporation would need approval of the city council for that municipality.

Use of Section 4B Tax for "Sports Venue" Facilities

As previously noted, Section 4B tax monies may be used to fund projects relating to professional and amateur athletic facilities. Under Texas law, there is additional statutory authority for funding an athletic facility that qualifies as a "sports venue."[178] Special statutory provisions apply to projects involving such a "sports venue." A facility qualifies as a "sports venue" if it is

[176] *Id* § 4B(a)(3) (to be codified at Tex. Loc. Gov't Code Ann. § 505.158 (Vernon Supp. 2008), effective April 1, 2009).

[177] *Id.* § 4B(a)(4) (to be codified at Tex. Loc. Gov't Code Ann. § 505.157 (Vernon Supp. 2008), effective April 1, 2009).

[178] *Id.* § 4B(a-3), (a-4) (to be codified at Tex. Loc. Gov't Code Ann. §§ 505.201 and 505.202 (Vernon Supp. 2008), effective April 1, 2009). (Under Section 4B(a)(2) of the Development Corporation Act, a Section 4B corporation had authority to expend funds on sports and athletic facilities even before the addition of Section 4B(a-3) and (a-4). One question raised by these sections to Section 4B is whether those sections would require that a Section 4B corporation follow the procedures for engaging in a "venue project" every time the 4B corporation chooses to undertake a project that falls under the definition of that term. Currently, it does not appear that either a Texas court or the Texas Attorney General's Office has opined on that issue.)

an arena, coliseum, stadium or other type of area or facility that meets all of the following three criteria:[179]

1. The primary use or primary planned use of the facility is for one or more professional or amateur sports or athletics events.

2. A fee for admission to the sports or athletics events is charged or is planned to be charged, except that a fee need not be charged for occasional civic, charitable, or promotional events.

3. The facility is not and will not be owned and operated by a state-supported institution of higher education.[180]

Texas law specifies that any money authorized by the voters to be spent on a "sports venue and related infrastructure" may be spent on any on-site or off-site improvements that relate to a sports venue and that enhance the use, value, or appeal of the sports venue, including areas adjacent to it. This would include any expenditures reasonably necessary to construct, improve, renovate, or expand the sports venue. The law specifically lists the following uses as examples of permissible "related infrastructure": stores, restaurants, concessions, on-site hotels, parking facilities, area transportation facilities, roads, water or sewer facilities, parks, and environmental remediation. These facilities must relate to and enhance the sports venue.[181]

A city may submit to its voters a ballot proposition that would authorize the use of Section 4B tax monies for a specific sports venue project or category of projects, including any infrastructure related to that project or category. Such a ballot proposition could contain language enabling the Section 4B corporation to use any Section 4B tax money already collected to support the sports venue project. Before an election to authorize the use of the Section 4B tax for a sports venue, a public hearing must be conducted. At that hearing, the city's residents must be informed of the cost and impact of the proposed project or category of projects. It appears that

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[179] *Id* § 4B(a-4)(2) (to be codified at Tex. Loc. Gov't Code Ann. § 505.201(2) (Vernon Supp. 2008), effective April 1, 2009).

[180] Note that the definition of "sports venue" in Section 4B of the Development Corporation Act differs from that contained in Section 4A of the Act. Unlike Section 4A, Section 4B defines a "sports venue" to exclude a facility that is or will be owned and operated by a state-supported institution of higher education. This language was added at the request of the City of Corpus Christi. The city was concerned that the sports venue amendments to Section 4B might later be interpreted to require all Section 4B projects related to a sports venue to undergo the election process outlined in the sports venue amendments. The Section 4B corporation in the City of Corpus Christi was already planning a joint effort with Texas A&M University to construct a baseball facility and wanted to be sure that the new sports venue legislation would not interfere with that project. Therefore, the language in question was added to the definition of "sports venue" to ensure that the new legislation would not apply to the Corpus Christi project. *See* letter dated October 3, 1997, from Mr. Jeffery A. Leuschel (attorney representing Corpus Christi) to Mr. Jim Thomassen (Chief of the Public Finance Division of the Office of the Attorney General of Texas). This letter cites Rep. Berlanga during the House Floor debate on the amendment adding the language in question. During that debate, the letter quotes Rep. Berlanga as stating, "... the City of Corpus Christi is in ... the process of moving forward with an election -- this will grandfather us in under 4B."

[181] Tex. Rev. Civ. Stat. Ann. art. 5190.6, §§ 4B(a-3)(1), 4B(a-4)(1) (Vernon Supp. 2008) (to be codified at Tex. Loc. Gov't Code Ann. §§ 505.202 and 505.201(1) (Vernon Supp. 2008), effective April 1, 2009) and Tex. Loc. Gov't Code Ann. § 334.001(3) (Vernon 2005) (defines "related infrastructure").

the hearing may be conducted at any time before the election takes place, but the city is required to publish notice of the hearing in a newspaper of general circulation in the city at least 30 days before the date set for the hearing.[182] The notice must include the time, date, place, and subject of the hearing and must be published on a weekly basis until the date of the hearing. Accordingly, the city will need to schedule its public hearing early enough so that it can provide at least 30 days notice of the hearing.

In an election to approve the use of Section 4B sales tax monies for a sports venue, the law requires that a specific sports venue project or category of projects be clearly described on the ballot.[183] The description must be clear enough for the voters to discern the limits of the specific project or category of projects to be authorized. State law does not indicate what constitutes a clear description or how to indicate the limits of the specific project. At a minimum, the ballot proposition should clearly indicate the types of projects anticipated. Additionally, if Section 4B monies are to be used to pay the maintenance and operating costs (and not just initial construction cost, etc.) of a sports venue project, then the ballot proposition must state that fact.[184]

A city may have the voters consider the use of Section 4B funds for a sports venue at the same election in which the voters are considering the creation of the Section 4B tax itself. Also, a city may arguably have the voters consider authorizing the use of Section 4B funds for several different sports venue projects or categories of projects at the same election. Before the 79th Legislative Session, the initial authorization of the Section 4B tax would be considered by the voters as a separate ballot proposition. Similarly, any sports venue project must be considered by the voters as a separate ballot proposition. However, with the passage of House Bill 3195, it would seem that authorizing the Section 4B tax and the consideration of several sports venue projects can be considered by the voters in a combined ballot proposition.[185] But, a city is not required to combine these issues into one ballot proposition. A city that pursues such a combined proposition should consult with its local legal counsel and with the State Comptroller's Office on this issue. State law requires that any sports venue election be held on a uniform election date. If a sports venue project or category of projects fails to win voter approval, the city must wait at least one year before holding another election on that particular project or category.

Use of Section 4B Tax Proceeds for Training Seminars

Certain Section 4B economic development and city officials are required to complete a training seminar.[186] The officials must complete a seminar once every 24 months.[187] At least one person from each of the following are required to attend a seminar each 24-month period:

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[182] Tex. Rev. Civ. Stat. Ann. art. 5190.6, § 4B(a-3)(3) (Vernon Supp. 2008) (to be codified at Tex. Loc. Gov't Code Ann. § 505.203 (Vernon Supp. 2008), effective April 1, 2009).
[183] *Id.* § 4B(a-3)(2) (to be codified at Tex. Loc. Gov't Code Ann. § 505.202 (Vernon Supp. 2008), effective April 1, 2009).
[184] *Id.*
[185] Tex. Tax Code Ann. § 321.409 (Vernon Supp. 2008).
[186] Tex. Rev. Civ. Stat. Ann. art. 5190.6, § 39 (Vernon Supp. 2008) (to be codified at Tex. Loc. Gov't Code Ann. § 502.101 (Vernon Supp. 2008), effective April 1, 2009).

- the city attorney, the city administrator or city clerk; and
- the executive director or other person who is responsible for the daily administration of the corporation.[188]

The corporation is authorized to use Section 4B sales tax proceeds to pay for the costs of attending a seminar.[189] The certificates of completion are issued by the person, entity, or organization providing the training seminars, on a form approved by the Comptroller's office.[190]The Comptroller's Office may impose an administrative penalty in an amount not to exceed $1,000 for the failure to attend the seminar.[191]

Public Hearing Requirement for Expending Section 4B Tax Proceeds

Previously, a Section 4B corporation was required to hold at least one public hearing on any proposed project, including a proposal to expend funds on maintenance and operating expenses of a project.[192] However, in 2007, the Act was amended to provide that a corporation created by an eligible city with a population of less than 20,000 is not required to hold a public hearing under this subsection if the proposed project is defined by Section 2 of this Act.[193] If a public hearing is required, the hearing must be held before the corporation expends any Section 4B funds on the project. There is nothing in the Act that prohibits the Section 4B corporation from holding one public hearing to consider a group of Section 4B projects. After the projects have been considered at a public hearing and 60 days have passed since the first public notice of the nature of the projects, the development corporation is free to make expenditures related to the projects pursuant to the adopted budget.

Public Notice Requirement and the 60-Day Right to Petition

The public has a right to gather a petition objecting to a particular Section 4B project.[194] The petition must be submitted within 60 days of the first published notice of a specific project or type of project and must be signed by more than 10 percent of the registered voters of the city. State law does not indicate what would constitute the first published notice of a project. A city should ensure that it provides 60 days notice of the specific project or the category of projects.

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[187] *Id.* § 39(b) (to be codified at Tex. Loc. Gov't Code Ann. § 502.101 (Vernon Supp. 2008), effective April 1, 2009).
[188] *Id.* § 39(b)(1) & (b)(3) (to be codified at Tex. Loc. Gov't Code Ann. § 502.101(a)(1)&(2) (Vernon Supp. 2008), effective April 1, 2009).
[189] *Id.* § 39(d) (to be codified at Tex. Loc. Gov't Code Ann. § 502.101(d) (Vernon Supp. 2008), effective April 1, 2009).
[190] *Id.* § 39(h) (to be codified at Tex. Loc. Gov't Code Ann. § 502.103 (Vernon Supp. 2008), effective April 1, 2009).
[191] *Id.* § 39(c) (to be codified at Tex. Loc. Gov't Code Ann. § 502.103(b) (Vernon Supp. 2008), effective April 1, 2009).
[192] *Id.* § 4B(n) (to be codified at Tex. Loc. Gov't Code Ann. § 505.159 (Vernon Supp. 2008), effective April 1, 2009).
[193] *Id.* Art. 5190.6, § 4B(n) (as amended by Tex. S.B. 1523, 80th Leg., R.S. (2007)).
[194] *Id.* §§ 4B(a-1), 4B(a-2) (to be codified at Tex. Loc. Gov't Code Ann. §§ 505.160 and 505.303 (Vernon Supp. 2008), effective April 1, 2009).

If a petition is pursued by the public, the petition can ask that the city hold an election on the issue before that specific project or type of project is undertaken. If the petition is submitted in a timely manner and an election is required, the corporation may not undertake the project until the voters approve the project at an election on the issue. If the voters disapprove the project at the election, the Section 4B tax proceeds may not be used for that purpose.

It is important to note that a petition cannot force an election on a project if the voters have previously approved the specific project or that general category of projects at an earlier election called under the Act. Cities that know what types of projects they want to undertake may be well advised to specifically list each of these types of projects in the ballot wording when the Section 4B tax is first considered by the voters. If the city includes each of these types of projects in the original ballot proposition, it can assert that the public has already approved that type of project at a prior election. In this scenario, the city arguably would not be required to call an additional election even if a petition were submitted regarding the project.

Specific Costs of a Section 4B Project That May be Funded

Cities must understand what general categories are available for expenditures. Additionally, they need to know what types of specific expenditures are contemplated within each of these categories. For assistance in understanding what is permitted under the Act, cities should review the definition of the term "cost" under Section 2(4) of the Act. Section 2(4) of the Act defines what costs may be applied to a Section 4B project. It states in pertinent part that costs for a project may include:

> **Land and facility improvements:** the cost of acquisition, construction, improvement, expansion of land, buildings and acquisition of right-of-way.
>
> **Machinery and supplies:** the cost of machinery, equipment, inventory, raw materials and supplies.
>
> **Financial transaction costs:** the cost of financing charges, certain interest prior to and during construction, and necessary reserve funds.
>
> **Planning costs:** the cost of research and development, engineering and legal services, development of plans and specifications, surveys and cost estimates; and other expenses necessary or incident to determining the feasibility and practicability of undertaking the project.
>
> **Brownfield cleanup costs:** Should the Texas Governor's office or Texas Commission on Environmental Quality encourage or request a section 4B corporation to use sales tax proceeds to cleanup contaminated property, the corporation may not undertake the project

until the use is approved by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot proposition is as follows:[195]

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

Due to the definition of the term "project" and of the term "cost" contained in the Development Corporation Act, a strong argument can be made that any expenditure by a Section 4B corporation, other than job training classes, must be related to the acquisition or physical improvement of land, buildings, equipment or facilities. Of course, an expenditure could also include administrative or planning costs associated with such an acquisition or improvement.

Administrative Expenses of a Section 4B Project Maintenance and Operating Expenses

Section 2 (4) of the Act states that the cost of a project may also include administrative and other expenses that are incident to placing the project into operation. The law provides that these expenses could include administrative expenses for the acquisition, construction, improvement, expansion and financing of the project. It is this authority that could be cited for the hiring of administrative staff to implement the work of the Section 4B development corporation with regard to its projects. Accordingly, cities that perform some of the administrative functions for the corporation could cite this authority for reimbursement from Section 4B funds for administrative costs related to projects that city staff oversee. Additionally, Section 4B(b) specifically permits a Section 4B corporation to contract with other private corporations to carry out industrial development programs or objectives. Effective June 20, 2003, should a Section 4B corporation contract with a broker, agent or other third party for business recruitment, a written contract approved by the board of directors is required for any payment of a commission, fee, or other thing of value to the third party.[196] Failure to enter into a written contract could result in a civil penalty not to exceed $10,000.

Additionally, Section 4B(a-2) states that the costs of a publicly owned and operated project may include the maintenance and operating costs for the project. The Act, however, allows the voters to object to such an expenditure by submitting a petition of 10 percent of the registered voters of the city. The public has 60 days from the date when notice is first given that the tax will be used for this purpose to submit the petition. Such a petition would ask the city to hold an election to approve the payment of maintenance and operating costs for projects. An election is not required, however, if the voters had previously approved the use of Section 4B tax proceeds for this purpose at an earlier election under the Act.

Cities that are aware that they want to use Section 4B tax proceeds to pay the maintenance and operating costs of projects would be well advised to list this type of expenditure on the ballot when the Section 4B tax is considered by the voters. By including this provision in the original

[195] *Id.* § 4B(p) (to be codified at Tex. Loc. Gov't Code Ann. § 505.305 (Vernon Supp. 2008), effective April 1, 2009).
[196] *Id.* § 41 (to be codified at Tex. Loc. Gov't Code Ann. § 502.051 (Vernon Supp. 2008), effective April 1, 2009).

ballot proposition, the city can assert that the public has already approved this type of expenditure at a prior election. Accordingly, if the city uses such a ballot provision, it cannot be required to hold an additional election even if a petition is submitted regarding these costs.

Promotional Expenses

In the 2001 Legislative Session, the Texas Legislature clarified the use of Section 4B proceeds for promotional expenses. Now, Section 4B(b) limits Section 4B corporations to spending no more than 10 percent of the corporate revenues (Section 4B tax proceeds) for promotional purposes.[197] Yet, the Attorney General has concluded a promotional expenditure "must advertise or publicize the city for the purpose of developing new and expanded business enterprises."[198] Further, a corporation is limited to spending not more than 10 percent of its current annual revenues for promotional purposes in any given year. Nonetheless, unexpended revenues specifically set aside for promotional purposes in past years may be expended along with 10 percent of current revenues without violating the cap.[199] Additionally, a city council may disapprove a promotional expenditure.[200] If there is some question as to whether a particular expenditure should be considered a promotional or an administrative expense, the development corporation should consult with its local legal counsel.

Debt Obligations

The Section 4B development corporation may issue bonds, notes and other contractual obligations to fund its projects.[201] Prior to September 1, 2001, a Section 4B corporation's bond and other obligations could not exceed \$135 million. This limitation was removed in the 77th Legislative Session.[202] Further, a bond or debt instrument of the corporation is not an obligation of the city, nor is it backed by the city ad valorem tax rate.[203] The tax proceeds received by the Section 4B corporation may be used to pay the principal and interest on the bonds and any other related costs.[204] The Legislature has not addressed whether a Section 4B development corporation is prohibited from paying principal or interest on a debt if the debt existed before the date the city created the Section 4B corporation.

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197 *Id.* § 4B(b) (to be codified at Tex. Loc. Gov't Code Ann. § 505.103 (Vernon Supp. 2008), effective April 1, 2009).

198 Op. Tex. Att'y Gen. No. GA-0086 (2003) at 2.

199 *Id.* at 6.

200 *Id.* at 3-5.

201 Tex. Rev. Civ. Stat. Ann. art. 5190.6, §§ 23(a)(6) - (a)(7) (Vernon Supp. 2008) (to be codified at Tex. Loc. Gov't Code Ann. §§ 501.155 and 501.201 (Vernon Supp. 2008), effective April 1, 2009).

202 *Id.* § 4B(h) (to be codified at Tex. Loc. Gov't Code Ann. § 505.104 (Vernon Supp. 2008), effective April 1, 2009).

203 *Id.* § 22 (to be codified at Tex. Loc. Gov't Code Ann. § 501.207 (Vernon Supp. 2008), effective April 1, 2009).

204 *Id.* § 4B(h) (to be codified at Tex. Loc. Gov't Code Ann. § 505.104 (Vernon Supp. 2008), effective April 1, 2009).

Initiating an Election to Approve a Section 4B Tax

An election to adopt a Section 4B economic development sales tax may be initiated by either:

- city council approval of an ordinance calling for an election on the imposition of the tax;[205] or
- a petition signed by a number of qualified voters that equals at least 20 percent of the voters who voted in the most recent regular city election. If the city council receives such a petition, it is required to pass an ordinance to call an election on the imposition of the tax.[206]

Most cities simply pass the ordinance calling for a Section 4B sales tax election on their own motion, and do not wait for the election to be initiated by a petition of the voters. When the city orders an election on the sales tax for economic development, it must follow all applicable requirements for special elections contained in the Texas Election Code, the Municipal Sales and Use Tax Act (Chapter 321 of the Texas Tax Code), and any other Texas statutes regarding elections. Notably, the following requirements must be followed:

> **Potential Election Dates.** The election must be held on a uniform election date as provided by Chapter 41 of the Election Code. In the 2005 Legislative Session, the Texas Legislature changed the May election date and reduced the number of uniform election dates from 4 to 2. The current uniform election dates are:
>
> - the second Saturday in May; or
> - the first Tuesday after the first Monday in November.[207]
>
> **Time Frame for Ordering the Section 4B Election.** The city should order the election at least 62 days prior to the date of the election, unless the election is the general election for state and county officers.[208] If the election is the general election for state and county officers, then the city should order the election at least 70 days prior to the date of the election.[209] The Tax Code requires only that the city order the election at least 30 days before the date of the election.[210] Nonetheless, it is advisable to provide at least 62 or 70 days notice, since this is the requirement applicable to most other special elections in Texas, and it allows time to comply with other Election Code requirements, such as early voting. Additionally, the special election must be submitted for "pre-clearance" to the

[205] *Id.* § 4B(f) (to be codified at Tex. Loc. Gov't Code Ann. § 505.256 (Vernon Supp. 2008), effective April 1, 2009) (stating that Chapter 321 of the Texas Tax Code governs the imposition of a 4B tax) and Tex. Tax Code Ann. § 321.401(a) (Vernon 2002) (an election may be called by the adoption of a city ordinance by city council).

[206] *See* Tex. Rev. Civ. Stat. Ann. art. 5190.6, § 4B(f) (Vernon Supp. 2008) (to be codified at Tex. Loc. Gov't Code Ann. § 505.256 (Vernon Supp. 2008), effective April 1, 2009) (stating that Chapter 321 of the Texas Tax Code governs the imposition of a 4B tax) and Tex. Tax Code Ann. § 321.401(c) (Vernon 2002) (requiring that the city council pass an ordinance calling for a sales tax election if a petition is presented). *See* Tex. Elec. Code Ann. ch. 277 (Vernon 2003 & Supp. 2008) for requirements for petition signatures.

[207] Tex. Elec. Code Ann. § 41.001(a) (Vernon Supp. 2008).

[208] *Id.* § 3.005.

[209] *Id.* § 3.005 (c).

[210] Tex. Tax Code Ann. § 321.403 (Vernon 2002).

U.S. Department of Justice. Additionally, the Legislature added a provision noting the Election Code provision "supersedes a law outside this code to the extent of any conflict."[211]

Notice to be Provided for a Section 4B Election. The city must publish notice of the election at least once in a newspaper of general circulation in the city.[212] The notice must be published no more than 30 days and no less than 10 days before the date of the election. The notice must state the nature and date of the election, the location of each polling place, hours that the polls will be open, and any other early voting and election-related information required by law. The notice must also include the wording of all the ballot propositions. The entire notice must generally be provided both in English and in Spanish.[213]

Prohibition from Electioneering. The city is prohibited from expending public funds or public resources to influence the results of an election, commonly referred to as "electioneering."[214] A city may publish fact sheets to inform the public of the applicable statistics and proposed plans for the use of the tax. However, city stationery, city funds and city staff (during the work day) may not be used to urge the public to vote one way or the other.

Additionally, in certain cases a court may find that a city has "made a contract" with the voters to use money for a specific purpose if the city has indicated to the voters through informational materials or by other means that the money would be used for that purpose.[215] Therefore, a city will want to be careful not to represent that money from the economic development sales tax will be used for a particular project unless the city intends to be legally limited by that representation.

Other Procedural Requirements. The city must follow all other procedural requirements under the Election Code for special elections. For further information about the requirements contained in the Election Code, contact the Secretary of State's Office, Elections Division, at (800) 252-8683. For further information about the prohibition against expenditure of public funds to influence the results of an election, contact the Texas Ethics Commission at (800) 325-8506.

Ballot for a Section 4B Tax

Current law does not provide any required wording for the ballot for a Section 4B sales tax for economic development. Nonetheless, cities should use great care to include wording that describes all of the categories of projects that the city may want to have the development

[211] Tex. Elec. Code Ann. § 3.005 (b) (Vernon Supp. 2008).
[212] *See id.* Ch. 4 (Vernon 2003 & Supp. 2008) (general requirements for providing notice of an election).
[213] *See id.* Ch. 272.
[214] *Id.* § 255.003 (Vernon 2003).
[215] *See San Saba County v. McCraw*, 108 S.W. 2d 200 (Tex. 1937); *Black v. Strength*, 246 S.W. 79 (Tex. 1922); *Devorsky v. La Vega I.S.D.*, 635 S.W.2d 904 (Tex. App. -- Waco 1982, no writ); *Wright v. Allen*, 257 S.W. 980 (Tex. Civ. App.-- Dallas 1923, writ ref'd). *But see San Antonio I.S.D. v. Hudson*, 92 S.W.2d 527 (Tex. Civ. App. -- San Antonio 1936), *affirmed*, 95 S.W.2d 673 (Tex. 1936). *See also* Op. Tex. Att'y Gen. No. JC-400 (2001) at 4-5.

corporation pursue. For example, if a city includes only "the promotion of industrial and manufacturing programs and the development of city parks" in its ballot proposition, the city will be able to expend the Section 4B tax to accomplish only these two purposes.

In addition, the city should consider including a provision in the wording of the Section 4B ballot that would clearly indicate that the Section 4B tax proceeds may be expended on the "maintenance and operations expenses for any of the above described projects." Including such a provision will clarify that the Section 4B tax proceeds may be used for the upkeep and day-to-day costs of any public facilities or programs undertaken with the Section 4B tax.[216] It is possible to use Section 4B proceeds for maintenance and operating costs of a project even if this use is not specifically included in the ballot proposition for the Section 4B tax. However, Section 4B tax proceeds may not be used to pay for maintenance and operating costs of a project unless the city publishes notice of this proposed use. If within 60 days of this notice, the proposed use is challenged by a petition of more than 10 percent of the voters, the city is required to hold an election to obtain voter approval of the use of Section 4B proceeds for maintenance and operating costs.

In Attorney General Opinion JC-400 (2001), the issue considered was whether a Section 4B corporation could expend Section 4B sales tax proceeds to fund certain public park projects. "Project" is defined to include "public park purposes" and "parks and park facilities."[217] Yet, public park projects were not specifically enumerated in the city's ballot originally adopting the Section 4B sales tax. The city's Section 4B ballot had provided, in part, that sales and use tax proceeds could "be used and applied in the manner and to the purposes authorized by Section 4B of the Act, *including but not limited* to ... ." Additionally, park projects were authorized under Section 4B when the city's sales tax election was held. The conclusion reached by the Attorney General was that 4B sales tax proceeds could be spent on the public park project. The city's Section 4B ballot language proposition had not limited the use of sales tax proceeds to the specified projects. Rather, it had indicated that projects other than those itemized could be funded with Section 4B sales tax by including the phrase "including but not limited to."[218]

In 2001, the Texas Legislature expanded the definition of "project" to include water supply facilities and water conservation programs.[219] Permissible water projects could include dams, transmission lines, well field development, other water supply alternatives, incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to

[216] *Id.* § 4B(a-2) (to be codified at Tex. Loc. Gov't Code Ann. § 505.303 (Vernon Supp. 2008), effective April 1, 2009).

[217] *Id.* § 4B(a)(2)(A) (to be codified at Tex. Loc. Gov't Code Ann. § 505.152 (Vernon Supp. 2008), effective April 1, 2009).

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

[219] Tex. Rev. Civ. Stat. Ann. art. 5190.6, §§ 4B(a)(2)(D) - (E) (Vernon Supp. 2008) (to be codified at Tex. Loc. Gov't Code Ann. § 505.154 (Vernon Supp. 2008), effective April 1, 2009).

replace malfunctioning or leaking water lines and other water facilities. However, for a Section 4B corporation to undertake a water supply facility project or a water conservation program, a majority of the qualified voters of the city voting in an election called and held for that purpose must approve the water supply project or the water conservation program."[220]

If a city were to include every type of project authorized under a Section 4B tax, and if it also chose to include the above wording with regard to maintenance and operations expenses, the ballot for a Section 4B tax could be worded as follows:

> **"The adoption of a Section 4B sales and use tax at the rate of (insert one-eighth, one-fourth, three-eighths, or one-half, as appropriate) of one percent to undertake projects as described in Section 2(11) and Section 4B of Article 5190.6 of Revised Civil Statutes, including but not limited to projects for the promotion of professional and amateur athletics and sports including stadiums, ball parks, auditoriums, projects related to entertainment, convention, tourist, and exhibition facilities, amphitheaters, concert halls, and public parks, park facilities and events, open space improvements, military facilities, including closed or realigned military bases, primary job training facilities for use by institutions of higher education, research and development facilities, regional or national corporate headquarters facilities, museums and related stores, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, recycling facilities, and projects to promote new or expanded business enterprises that create or retain primary jobs, and public safety facilities, streets and roads, drainage, and related improvements, demolition of existing structures, development and expansion of affordable housing, and targeted infrastructure and any other improvements, expenditures, or facilities that are related to any of the above projects and any other project that the board determines will promote new or expanded business enterprises that create or retain primary jobs, and the maintenance and operations expenses for any of the above described projects."**

The actual wording used on the ballot must indicate what rate is proposed for the Section 4B sales tax.[221] The voters then vote for or against the proposition. The wording of the above ballot incorporates virtually all of the categories for expenditures currently provided under Section 4B of the Act. It also allows for the payment of maintenance and operations expenses on any of the above described projects. A city could change the ballot wording to take out any categories that are not related to the goals the city has for its economic development program. In any case, the ballot wording must clearly indicate that the tax to be adopted is a Section 4B sales tax. Cities should be sure to have their local legal counsel review any proposed ballot wording prior to its use in an election proposition.

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[220] *Id.* § 4B(a-5) (to be codified at Tex. Loc. Gov't Code Ann. § 505.304 (Vernon Supp. 2008), effective April 1, 2009).

[221] *Id.* § 4B(e) (to be codified at Tex. Loc. Gov't Code Ann. § 505.254 (Vernon Supp. 2008), effective April 1, 2009).

It is important to note that a city may make a contract with the voters by means other than the language contained in the ballot proposition.[222] Regardless of how broadly a city words the proposition to create a Section 4B tax, the use of that tax money may be limited to certain specific uses if the city represents to the voters through informational materials or by other means that it intends the tax money to be subject to such limits. Therefore, a city will want to be careful not to represent that money from the economic development sales tax will be used for a particular project unless the city intends to be legally limited by that representation.

Project and Time Limitations on Section 4B Ballots

As noted earlier, there is no required wording for a Section 4B tax ballot. Accordingly, there is no special wording that must be used to limit the use of the Section 4B tax to certain projects. If a city wants to limit the use of Section 4B tax proceeds to certain projects, it may choose to list only the types of projects it desires on the ballot. In 2007, the Act was amended to provide certain authorization to expand the types of projects undertaken if subsequently approved by the eligible voters.[223]

Additionally, in 2007, the Act was amended to provide that an eligible city may also allow the voters to vote on a ballot proposition that limits the length of time that a sales and use tax may be imposed. An eligible city that imposes a tax for a limited time under this subsection may later extend the period of the tax's imposition or reimpose the tax only if the extension or reimposition is authorized by a majority of the qualified voters of the city voting in an election called and held for that purpose in the same manner as an election held under Section 4A(n) of this Act.[224]

Combined Proposition to Reduce or Abolish a Section 4A Tax and Adopt a Section 4B Tax

As of September 1, 1999, a city may offer a combined ballot proposition that would reduce or abolish an existing Section 4A tax and at the same time approve the creation of a Section 4B tax.[225] That is, the city can have the voters approve or reject both items together by one "yes" or "no" vote. However, a city is not required to combine these two issues into one ballot proposition. It is not clear under the Act what statutory wording would be used in the ballot proposition for this type of combined proposition. A city that pursues such a combined proposition should consult with its local legal counsel and with the Texas State Comptroller's Office on this issue.

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[222] *See San Saba County v. McCraw*, 108 S.W. 2d 200 (Tex. 1937); *Black v. Strength*, 246 S.W. 79 (Tex. 1922); *Devorsky v. La Vega I.S.D.*, 635 S.W.2d 904 (Tex. App. -- Waco 1982, no writ); *Wright v. Allen*, 257 S.W. 980 (Tex. Civ. App.-- Dallas 1923, writ ref'd). *But see also, San Antonio I.S.D. v. Hudson*, 92 S.W.2d 527 (Tex. Civ. App. -- San Antonio 1936), *affirmed*, 95 S.W.2d 673. *See also*, Op. Tex. Att'y Gen. No. JC-400 (2001) at 4 &5 discussing "contract with the voters" cases.

[223] *Id.* art. 5190.6, § 4B(e-2) (as added by Tex. S.B. 1523, 80th Leg., R.S. (2007)).

[224] *Id.* art. 5190.6, § 4B(e-2) (as added by Tex. S.B. 1523, 80th Leg., R.S. (2007)).

[225] *Id.* § 4B(e) (to be codified at Tex. Loc. Gov't Code Ann. § 505.255 (Vernon Supp. 2008), effective April 1, 2009).

A city can still choose to have the voters vote on repealing or reducing a Section 4A tax and adopting a Section 4B tax as separate ballot propositions.[226] If the city separates the items onto separate ballot propositions, it is possible that one, both, or neither of the items would be approved at such an election. A city that chooses to provide these options to the voters would use the ballot wording suggested earlier for each of these items. In no case, may a city offer ballot propositions that, if passed, would cause the city to exceed its two percent local sales tax cap.[227]

Combined Proposition of a Section 4B tax and Other Municipal Sales Taxes

The 79th Legislature passed House Bill 3195 that now allows cities to have combined ballots propositions to lower, repeal, raise or adopt various municipal sales taxes.[228] This would include the Section 4B tax. If a city wants to lower the Section 4B tax and create a sales tax for property tax relief, the city could combine the ballot propositions instead of having separate ballot propositions. If the combined ballot proposition does not pass, then there will be no effect on those sales taxes.

Increasing, Reducing or Abolishing a Section 4B Tax

Section 4B Corporations Created Before September 1, 1999

For a Section 4B corporation created before September 1, 1999, there is no statutory authority that allows a Section 4B tax to be increased or decreased after its initial adoption.

The city could use its power by resolution under Section 34 of the Act to terminate or dissolve the development corporation. If the city takes such an action, the corporation and the tax would continue only for the time period necessary to pay off any outstanding debt.

There also is no authority for the voters to abolish a Section 4B tax prior to the payment of all outstanding bonds and other forms of indebtedness. However, once all of the debt is paid, the voters, through an action in district court, could arguably seek to compel the dissolution of the corporation and a termination of the collection of the tax.[229]

Section 4B Corporations Created on or after September 1, 1999

For a Section 4B corporation created on or after September 1, 1999, Texas law provides that a city must hold an election on the issue of dissolving the corporation if a proper petition is

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[226] *Id.*
[227] *See id.* § 4B(f) (to be codified at Tex. Loc. Gov't Code Ann. § 505.256 (Vernon Supp. 2008), effective April 1, 2009) and Tex. Tax Code Ann. § 321.101(f) (Vernon 2002). (However, there may be a limited exception to this principle for certain taxes to support a sports venue. *See* Tex. Rev. Civ. Stat. Ann. art. 5190.6, § 4B(a-3) and (a-4) and consult with local legal counsel if it appears that this exception may be applicable).
[228] *See* Tex. Tax Code Ann. § 321.409 (Vernon Supp. 2008).
[229] Tex. Rev. Civ. Stat. Ann. art. 5190.6, § 4B(i) (Vernon Supp. 2008) (to be codified at Tex. Loc. Gov't Code Ann. § 505.258 (Vernon Supp. 2008), effective April 1, 2009).

Agenda Item:

(Staff)

2C. Discussion of goals and projects.

Five Year Capital Improvement Plan FY 2011-2015
Projects By Funding Source

Funding Source: General Fund

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Future Funding	TOTAL
Safe Routes to School Program	$60,000	$0	$0	$0	$0	$0	**$60,000**
Callioux Center ADA Compliance Repairs	$50,000	$200,000	$0	$0	$0	$0	**$250,000**
Airport RAMP Grants	$25,000	$25,000	$25,000	$25,000	$25,000	$0	**$125,000**
Olympic Pool Repair and Renovation Phase I	$0	$40,000	$0	$0	$0	$0	**$40,000**
Station 4 - 911 Ambulance	$0	$236,500	$0	$0	$0	$0	**$236,500**
Thoroughfare Plan Update	$0	$30,000	$70,000	$50,000	$0	$0	**$150,000**
Louise Hays Park Renovations	$0	$0	$25,000	$0	$0	$0	**$25,000**
Scott Schreiner Golf Course Parking Lot Improvements	$0	$0	$0	$120,000	$0	$0	**$120,000**
TOTAL	**$135,000**	**$531,500**	**$120,000**	**$195,000**	**$25,000**	**$0**	**$1,006,500**

Funding Source: Water/Sewer

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Future Funding	TOTAL
WWTP Paving for Building	$50,000	$0	$0	$0	$0	$0	$50,000
Water Supply Acquisition	$50,000	$50,000	$50,000	$50,000	$0	$0	**$200,000**
Water System Leak Detection Program	$0	$50,000	$50,000	$50,000	$50,000	$0	**$200,000**
G Street Lift Station Decommission	$0	$0	$70,000	$0	$0	$0	**$70,000**
Remote Well Field Analysis	$0	$0	$0	$0	$0	$200,000	**$200,000**
Water Production Maintenance Building	$0	$0	$0	$0	$0	$700,000	**$700,000**
TOTAL	**$100,000**	**$100,000**	**$170,000**	**$100,000**	**$50,000**	**$900,000**	**$1,420,000**

Funding Source: General Fund Debt

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Future Funding	TOTAL
Aerial Platform Ladder Truck Replacement	$0	$1,300,000	$0	$0	$0	$0	**$1,300,000**
Arcadia Loop Cut-Off	$0	$327,000	$0	$0	$0	$0	**$327,000**
Remedial Drainage Program	$0	$1,000,000	$0	$0	$0	$0	**$1,000,000**
Sample Park	$0	$100,000	$0	$0	$0	$0	**$100,000**
Schultz Park Renovation	$0	$100,000	$0	$0	$0	$0	**$100,000**
Singing Winds Park	$0	$200,000	$0	$0	$0	$0	**$200,000**
Westland Park	$0	$100,000	$0	$0	$0	$0	**$100,000**
Street Reconstruction	$0	$1,500,000	$1,500,000	$1,500,000	$1,500,000	$0	**$6,000,000**
Relocate Central Fire Station/Admin Offices	$0	$0	$4,205,000	$0	$0	$0	**$4,205,000**
Fire Station #5	$0	$0	$0	$0	$0	$1,871,000	**$1,871,000**
G-Street Bridge over Quinlan Creek	$0	$0	$0	$0	$0	$2,245,000	**$2,245,000**
Olympic Pool Complex Renovation Phase II	$0	$0	$0	$0	$0	$500,000	**$500,000**
Spur 100 Extension Phase I	$0	$0	$0	$0	$0	$5,000,000	**$5,000,000**
TOTAL	**$0**	**$4,627,000**	**$5,705,000**	**$1,500,000**	**$1,500,000**	**$9,616,000**	**$22,948,000**

Funding Source: Water/Sewer Debt

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Future Funding	TOTAL
Birkdale Lift Station & New Force Main	$4,866,000	$0	$0	$0	$0	$0	**$4,866,000**
Force Main Co-mingle Box at WWTP	$305,000	$0	$0	$0	$0	$0	**$305,000**
G Street 24"/27" Interceptor	$308,000	$2,052,900	$0	$0	$0	$0	**$2,360,900**
I/I Evaluation, Rehabilitation and Replacement - Engineering	$100,000	$100,000	$0	$0	$0	$0	**$200,000**
I / I Evaluation, Rehabilitation and Replacement Construction	$600,000	$600,000	$600,000	$0	$0	$0	**$1,800,000**
WTP Clearwell Improvements	$0	$2,760,000	$0	$0	$0	$0	**$2,760,000**
New Jefferson Lift Station & New Force Main to G Street Interceptors	$0	$644,500	$4,290,000	$0	$0	$0	**$4,934,500**
Knapp Lift Station Expansion	$0	$0	$349,000	$2,324,000	$0	$0	**$2,673,000**
12" Water Line from Meadowview Well	$0	$0	$0	$828,000	$0	$0	**$828,000**
Leslie Drive Water Main Loop around Benson	$0	$0	$0	$542,000	$0	$0	**$542,000**
New Legion Basin 24" Interceptor	$0	$0	$0	$899,500	$0	$0	**$899,500**
Quinlan Basin 15" Interceptor	$0	$0	$0	$1,163,000	$0	$0	**$1,163,000**
Reconstruction of Road Surface at Wastewater Treatment Plant	$0	$0	$0	$450,000	$0	$0	**$450,000**
12 Inch Line Crossing Guadalupe River	$0	$0	$0	$110,000	$731,000	$0	**$841,000**
Lois Pump Station Expansion	$0	$0	$0	$45,000	$300,000	$0	**$345,000**
Redirect Broadway Force Main	$0	$0	$0	$48,000	$317,000	$0	**$365,000**
River Hill Pressure Plane Improvements	$0	$0	$0	$188,503	$1,256,688	$0	**$1,445,191**
SH 173 Force Main Extension	$0	$0	$0	$46,000	$306,000	$0	**$352,000**
Stadium Pump Station Expansion	$0	$0	$0	$75,000	$480,000	$0	**$555,000**
Spur 98 Water Line (WTP to Spur 98 Bridge)	$0	$0	$0	$0	$88,000	$700,000	**$788,000**
Guadalupe Plaza Lift Station Elimination	$0	$0	$0	$0	$0	$145,000	**$145,000**
Jefferson Basin 12" and 15" Interceptor	$0	$0	$0	$0	$0	$979,000	**$979,000**
UTC Building	$0	$0	$0	$0	$0	$750,000	**$750,000**
Wastewater Treatment Aquifier Replenishment	$0	$0	$0	$0	$0	$6,825,000	**$6,825,000**
Water Plant Addition Phase II (IMGD)	$0	$0	$0	$0	$0	$239,000	**$239,000**
TOTAL	**$6,179,000**	**$6,157,400**	**$5,239,000**	**$6,719,003**	**$3,478,688**	**$9,638,000**	**$37,411,091**

Funding Source: Other

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Future Funding	TOTAL
Butt-Holdsworth Memorial Library Renovation / Expansion	$0	$1,000,000	$0	$0	$0	$0	**$1,000,000**
River Trail II & III	$0	$0	$0	$0	$0	$4,200,000	**$4,200,000**
Spur 100 Extension Phase I	$0	$0	$0	$0	$0	$5,000,000	**$5,000,000**
TOTAL	**$0**	**$1,000,000**	**$0**	**$0**	**$0**	**$9,200,000**	**$10,200,000**