

City of Uvalde

CITY COUNCIL AGENDA

REGULAR MEETING
Tuesday, July 23, 2024
6:00 P.M.



COUNCILMEMBERS:

Vacant - Mayor

Everardo "Lalo" Zamora - Mayor Pro Tem

Hector R. Luevano – District 2

Eloisa R. Medina – District 3

Stephen E. Balke – District 4

Ernest W. "Chip" King, III – District 5

**CITY OF UVALDE, TEXAS
REGULAR CITY COUNCIL MEETING
6:00P.M., TUESDAY JULY 23, 2024
CITY HALL COUNCIL CHAMBERS**

AGENDA

Page

- 1. CALL MEETING TO ORDER**
- 2. INVOCATION**
- 3. PLEDGE OF ALLEGIANCE**
- 4. CITIZENS INPUT**

Citizens are requested to sign up prior to council meeting if requesting time to address council. Presentations will be limited to no more than three (3) minutes.

5. REPORTS

- 5.A. Report by Chief Homer Delgado, Uvalde Police Department on the department progress.
- 5 - 7 5.B. Report by David Smith on the City of Uvalde Municipal Golf Course.
[P&D Consulting Report](#)
- 8 - 9 5.C. Report by John Yeackle, Director of Tourism Operations for the Uvalde Area Chamber of Commerce.
[2nd Quarter Tours 2024](#)

6. CONSENT AGENDA

(All consent agenda items are considered routine by City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests an item be removed and considered separately).

- 10 - 15 6.A. Consider the minutes of the July 9, 2024 Regular City Council meeting.
[Regular Council - Jul 09 2024 - Minutes - Pdf](#)
- 16 6.B. Consider payment of bills over \$5,000.00 from July 5, 2024 through July 19, 2024.
[AP in Excess of 5000 ending July 19](#)

7. NEW BUSINESS

- 17 7.A. Consider request from John Yeackle, Uvalde Area Chamber of Commerce Director of Tourism Operations to approve a sponsorship to the South Texas Showdown Organization.
[Agenda Item Request](#)
- 18 - 20 7.B. Consider the inclusion of municipal territory and extraterritorial jurisdiction in the proposed Uvalde County Emergency Services District No. 3, including approval of resolutions for the same.
[Emergency Services District Order of City of Uvalde](#)
- 21 - 29 7.C. Consider awarding the contract agreement for the reconstruction of Public Water System (PWS) well #5.

[Business of the Council Report - Business of the Council Report-24-025 - Pdf Agenda PWS Well No.5 Alvin Stock Award Recommendation 7-18-24](#)

- 7.D. Consider approval of proposal for engineering services related to the development of a master water system plan.
[Business of the Council Report - Business of the Council Report-24-024 - Pdf Water master Plan Proposal Final 7-10-24](#)

8. EXECUTIVE SESSION

- 8.A. Convene into executive session pursuant to Texas Government Code Section 551.071, Consultation with Attorney, to discuss pending or contemplated litigation or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, related to the Robb Elementary School incident on May 24, 2022.
- 8.B. Convene into executive session pursuant to Texas Government Code Section 551.072, deliberations regarding real property.

9. RECONVENE FROM EXECUTIVE SESSION

10. ADJOURNMENT

Certificate: I certify that the above and foregoing notice was posted in compliance with 551.043, Texas Government Code at 4:00 P.M. on July 19, 2024.

Vince DiPiazza, City Manager

In this Notice of Open Meeting, the posting of an agenda item as a matter to be discussed in open session is not intended to limit or require discussion of that matter in open session if it is otherwise appropriate to discuss the matter in executive session. If, during the discussion of any agenda item, a matter is raised that is appropriate for discussion in executive session the council may, as permitted by law, convene into executive session to deliberate on the matter. The posting of an agenda item as a matter to be discussed in executive session is not intended to limit or require discussion of that matter in executive session. The council may discuss in open session any matter for which notice has been given in this notice of open meeting including an agenda item posted for executive session. In no event, however, will the council take action on any agenda item in executive session, whether it is posted for open or executive session discussion.

City Hall Municipal Building is wheelchair accessible with accessed and special parking available on the West Side of the Building. The Council Chamber is accessible by elevator to the second floor. Requests for special services must be received forty-eight (48) hours prior to meeting time by calling City Hall (830) 278-3315.

CERTIFICATION

I, the undersigned authority, do hereby certify that the attached agenda of meeting of the City of Uvalde City Council is a true and correct copy and that I posted a true and correct copy of said notice on two glass public notice cases at City Hall, readily accessible to the general public at all times, and said Notice was posted on the 19 day of July 2024 and will remain so posted continuously for at least 72 hours preceding the scheduled time of said meeting in accordance with Chapter 551 of the Texas Government Code.

Sorayda A. Sanchez, City Secretary

I certify that the attached agenda of items to be considered by the City Council was removed by me from the City of Uvalde City Hall glass public notice cases on the ____ of _____, 2024.

_____ Title: _____

P&D Consulting

Associations:

- Members of USGA
- Members of Central TX Superintendent Association
- Members of PGA Professional Golf Association
- Members of JHIN Handicap WorldWide
- Members of Chamber of Commerce, Uvalde TX
- West Texas HUB for First Tee, Kids 9-13

Tournaments:

- Local spring tournament-2man low ball (50 players)
- April 27th UCGA (108 players)
- May 25th Fire Fighters (80 players)
- June 1st St. Henrys (60 players)
- Wal-Mart Children's Miracle Network (30 players)
- 4TH OF July 5,6 & 7 2 Man scramble (66 players)
- Oct. 12 Knights of Columbus
- Oct. 26 Renfro Vocational Scholarship
- Nov. 16 Texas A&M
- TBD Club Championship
- Weekly Thursday Scrambles (20-30 Players)

Rounds:

10/01/2021 to 09/30/2022 11,633

10/01/2022 to 09/30/2023	13,077
10/01/2023 to 06/30/24	9,449

Lessons:

Regular	16
Senior	9
Students	11

Summary of Operation

Financials	10/01/2023 to 03/31/2024	6 months
Revenue		\$260,525.00
Expenses		\$230,562.00
Profit		\$29,963.00

Financial	10/01/2023 to 06/30/2024	9 Months
Revenue		\$418,182.00
Expenses		\$300,427.00
Profit		\$62,713.00

Financials	04/01/2024 to 06/30/2024	last 3 months
Revenue		\$157,657.00
Expenses		\$107,439.58
Profit		\$27,689.00



2nd Quarter Tours 2024

April: Staff conducted 5 tours = 58 Visitors

May : Staff conducted 2 tours = 7 Visitors

June: Staff conducted 1 tour= 1 Visitor

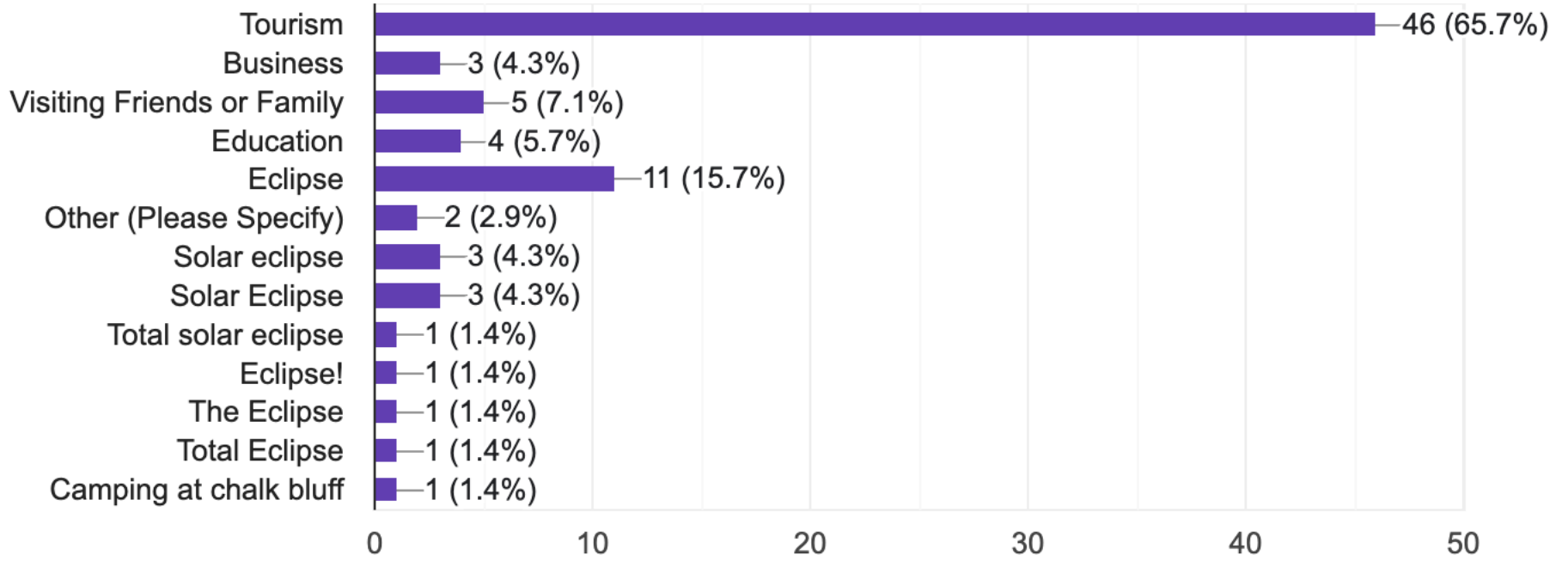
Quarterly Total equalled **8** tours for **66** visitors

*Visitors hailed from Texas and California

Purpose of Visit (Please select all that apply)

 Copy

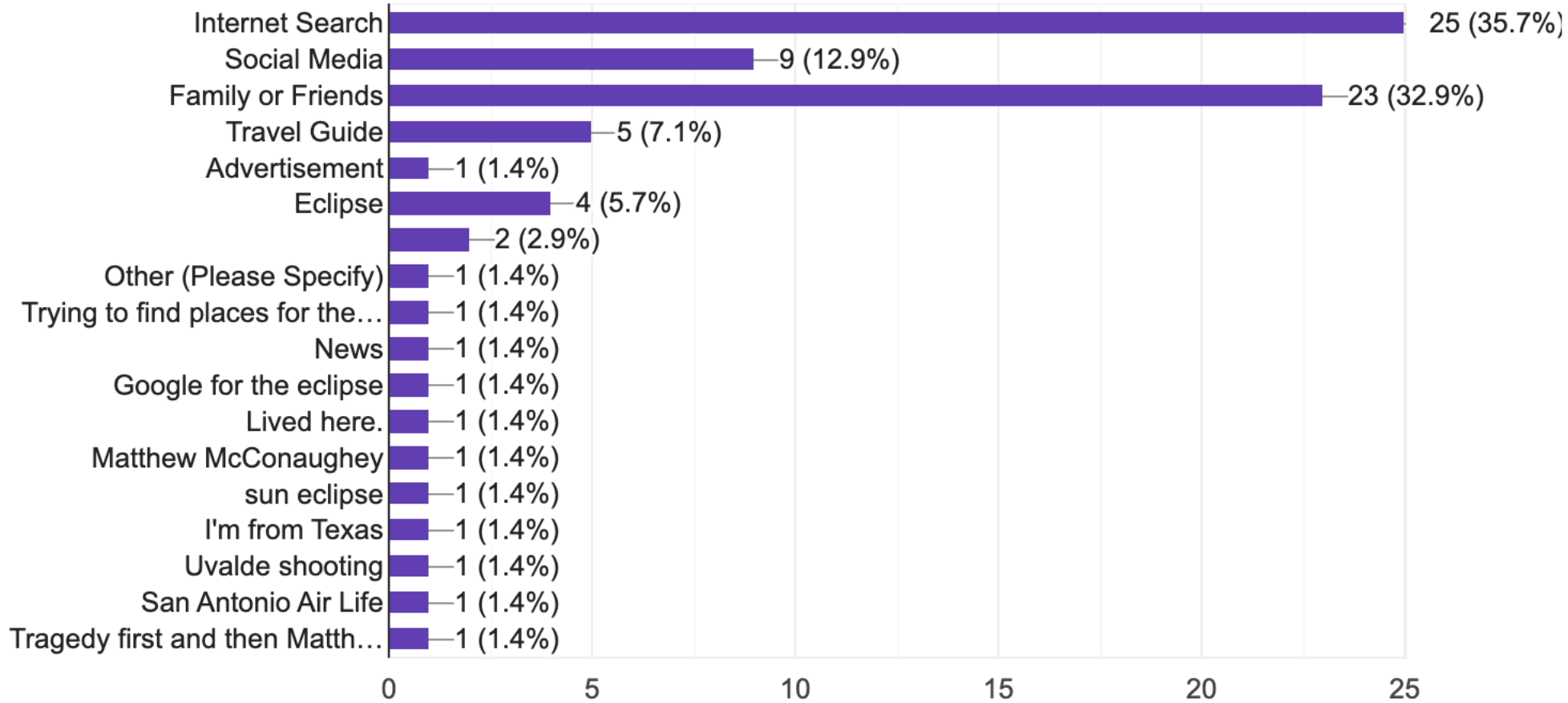
70 responses



How did you hear about Uvalde? (Select one or more)

 Copy

70 responses





MINUTES

Regular City Council Meeting

6:00PM - Tuesday July 9, 2024

City Hall-Council Chambers

101 E. Main St.

Uvalde, TX 78801

The Regular City Council meeting of the City of Uvalde was called to order on Tuesday July 9, 2024, at 6:00PM, in the City Hall, Council Chambers, with the following members present:

COUNCIL PRESENT: Everardo "Lalo" Zamora-Mayor Pro Tem
Hector R. Luevano-Council Member District 2
Eloisa R. Medina-Council Member District 3
Stephen Balke-Council Member District 4
Ernest "Chip" King-Council Member District 5

COUNCIL ABSENT:

STAFF PRESENT: Vince DiPiazza-City Manager
Joe A. Cardenas-Assistant City Manager
Alexadra Wegrzyn-City Attorney
Sorayda A. Sanchez-City Secretary
Susan Anderson-Director of Planning and Development
Jovita Maldonado-Code Enforcement Officer
Larissa Rodriguez-Director of Human Resources
Felix Castillo-Director of Finance
Assistant Chief Mike Davis-Uvalde Police Department

1 CALL MEETING TO ORDER

2 INVOCATION

Pastor Mark Tews, Trinity Lutheran Church.

3 PLEDGE OF ALLEGIANCE

4 CITIZENS INPUT

Citizens are requested to sign up prior to council meeting if requesting time to address council. Presentations will be limited to no more than three (3) minutes.

Diana Olvedo-Karau addressed Mayor and Council. Mrs. Olvedo-Karau stated she had seen a post on social media over the weekend regarding an incident at the cemetery, specifically that someone tried to dig up and remove a tree. She also mentioned that she has seen several other posts on Facebook about property being damaged and things being stolen from the cemetery. She recalled a prior discussion to install gates at the cemetery entrances and would like for council and city staff to revisit that topic. Mrs. Olvedo-Karau's last comment was regarding the downtown plaza. Mrs. Olvedo-Karau acknowledged the sensitivity and difficulty of the topic and expressed her sympathies to everyone that lost a loved one. She stated that she has been approached by several members of the community regarding the removal of the items located around the fountain. Mrs. Olvedo-Karau stated that the plaza belongs to all of the

citizens of Uvalde and there are several members of the community that would to have it returned to the community. She is aware that there is a lawsuit that has been settled and asked for council or staff to provide a timeline to the community as to when the items would be removed. Council Member Chip King addressed the council and staff regarding the planned changes to the Cemetery Advisory Committee. He asked for staff to accelerate the appointment. He asked for the appointment to be added the next council meeting. Emma Trimble expressed her apologies for the comment that she made at the last city council meeting. She asked for staff to look at the possibility of having the mail in ballots delivered to the elections office with a locked box.

5 CONSENT AGENDA

(All consent agenda items are considered routine by City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests an item be removed and considered separately).

- 5A.** Consider the minutes of the June 25, 2024, Regular City Council meeting.
- 5B.** Consider payment of bills over \$5,000.00 from June 21, 2024, through July 5, 2024.

Motion to approve consent agenda items 5A and 5B made by Council Member Chip King. Motion seconded by Council Member Stephen Balke. Motion carried 5-0.

6 PUBLIC HEARING AND ZONING MATTERS

6A. Case File 20-24PZ

Consider the request of **Dora Margarita Lopez, for a Zone Change from Business 1 to Residential 2a. The property address is 521 Boone St. NCB 111, West End Subdivision, Lot C 1, City of Uvalde, Uvalde County Texas.**

- a) Staff comments
- b) Public hearing
- c) Reconvene meeting for discussion and decision on application

Susan Anderson, Director of Planning and Development addressed Mayor Pro Tem and Council. Mrs. Anderson displayed the property on the Future Land Use Map and showed that the property is located on Grove St., right off of Main St. She stated that everything facing Main St. is zoned Business and the properties toward Grove St. have been zoned Business, but the predominate zoning is Residential. The property owners would like to rezone to Residential to build a house. There were 15 letters mailed, 12 received, 3 not received, and no comment for or against the case was received. This case passed the planning and zoning commission.

Public hearing opened at 6:12pm

No comment.

Public hearing closed at 6:12pm

Motion to approve agenda item 6A made by Council Member Stephen Balke. Motion seconded by Council Member Eloisa Medina. Motion carried 5-0.

6B. Case File 21-24PZ

Consider the request of **Alfredo Garza, for a Zone Change from Business 2 to Residential 1b. The property is located at 317 West Nopal St, Weymiller Subdivision, Blk 5, Lot 4B, 5B, City of Uvalde, Uvalde County Texas.**

- a) Staff comments

- b) Public hearing
- c) Reconvene meeting for discussion and decision on application

Susan Anderson, Director of Planning and Development addressed Mayor Pro Tem and Council. Mrs. Anderson displayed the property on the Future Land Use Map and stated that this case was similar to the previous one. Mrs. Anderson showed that the property is located on Nopal St. and like the previous case, the property is near Main St. The predominate zoning on Main St. is Business. There are a few properties on Nopal St. facing the alley zoned Business and some that face Nopal St. were Business at one time, but the predominate zoning on Nopal St. is Residential. The property owners would like to rezone to Residential to build a house. There were 22 letters mailed, 18 received, 1 unclaimed, and 3 we have not heard back on. There were 2 letters received that were in agreement with the request. This case passed the planning and zoning commission.

Public hearing opened at 6:13pm

Council Member Hector Luevano asked what the difference between Business 2 and Business 1 zone is and the difference between a Residential 2a and Residential 1b. Mrs. Anderson explained that Residential 1b is a single-family house, the "b" has to do with the size of the lot and R2 is for a duplex. The Business zoning is from the old original zoning codes, B1 are businesses within a neighborhood and B2 are highway businesses.

Public hearing closed at 6:15pm

Motion to approve agenda item 6B made by Council Member Chip King. Motion seconded by Council Member Stephen Balke. Motion carried 5-0.

6C. Case File 22-24PZ

Consider the request of Dr. Jeff S Curtis, for a Zone Change from Residential 4 to Factory/Industrial division 1. The property is located at 210 E Oak St, NCB 33, Old Town Subdivision, Blk 17, Lot 333, 337, City of Uvalde, Uvalde County Texas.

- a) Staff comments
- b) Public hearing
- c) Reconvene meeting for discussion and decision on application

Susan Anderson, Director of Planning and Development addressed Mayor Pro Tem and Council. Mrs. Anderson explained that the property is located on East Oak St. behind First State Bank. The property owner is requesting to re-zone from Residential 4 to Factory/Industrial division 1. Mrs. Anderson stated that at one point the area was all zoned Industrial because the railroad used to run down Wood St. and cut through to downtown. It hasn't been rezoned to business, but there are businesses in the area, First State Bank, Dr. Curtis (chiropractor), and Capital Farm Credit, to name a few. There were 17 letters mailed, 15 received, 1 returned unclaimed, 1 we have not heard back from, 1 in favor, and 2 opposed. This case did not pass the planning and zoning commission.

Public hearing opened at 6:18pm

Dr. Jeff Curtis addressed Mayor Pro Tem and Council. Dr. Curtis is requesting a zone change to relocate the fuel tanks currently stored behind Texas Farm Store to his property on Oak St., less than a block away. He wants to store them on his property to ensure their security and to monitor them more effectively. Dr. Curtis provided the council with pictures of the tanks as well as a more detailed plat of the property. Council Member Chip King stated that there are gas stations all over town that are

located near many homes. He stated that the council is to determine whether or not to approve a zone change not necessarily discuss the gas tanks. If zoning is approved, then the property owner would need to follow the rules set by TCEQ. Council Member Hector Luevano asked the following questions: is there an ordinance that states where gas tanks can go? How will the zone change impact property owners? How were property owners informed of the zone change. Mrs. Anderson stated no ordinance says where gas tanks can go, however they are allowed in certain zones. She stated the appraisal district would be the entity to provide that information on property taxes. Regarding the notification to property owners, Mrs. Anderson stated that property owners received certified letters from city staff. Some of the homes are not owner-occupied, but the letter was sent to the property owner.

Public hearing closed at 6:46pm

Motion to approve agenda item 6C made by Council Member Chip King. Motion died for lack of a second.

Motion to deny made by Council Member Stephen Balke. Motion seconded by Council Member Eloisa Medina. Motion carried 5-0.

7 NEW BUSINESS

- 7A.** Consider approving the appointment of the following individuals to the Grant Search, Procurement, and Implementation Committee (GSPI).

Mr. Simon E Ortiz - USNA Citizen Committee Member, Chair Person

Ms. Priscilla Rodriguez - USNA Citizen Committee Member

Mr. Alfred Hernandez - USNA Citizen Committee Member

Mr. Richard Jones - At- Large Citizen Committee Member

Mr. Stephen Balke - At Large Citizen Committee Member

Mr. Rafael Arias-Staff Appointment

Mrs. Sorayda A. Sanchez-Staff Appointment

Mr. Felix Castillo-Staff Appointment

Mr. Vince DiPiazza-Staff Appointment

Motion to approve agenda item 7A made by Mayor Pro Tem Lalo Zamora. Motion seconded by Council Member Chip King. Council Member Stephen Balke abstained. Motion carried 4-0-1.

- 7B.** Consider a resolution establishing a day of remembrance in the City of Uvalde.

Motion to approve agenda item 7B made by Mayor Pro Tem Lalo Zamora. Motion seconded by Council Member Stephen Balke and Council Member Eloisa Medina. Motion carried 5-0.

- 7C.** Consider request from Enriqueta Rangel for outside the city limits utility services, the property is located at 941 A South Evans St.

Vince DiPiazza, City Manager explained to Mayor Pro Tem and Council that the city is already servicing properties that surround this address. Motion to approve agenda item 7C made by Council Member Chip King. Motion seconded by Council Member Eloisa Medina. Motion carried 5-0.

- 7D.** Consider request from Craig and Helen Cox for outside the city limits utility services, the property is located at 227 Barnes Rd.

Vince DiPiazza, City Manager explained to Mayor Pro Tem and Council that this request is similar to Agenda item 7C. Motion to approve agenda item 7D made by Council Member Stephen Balke. Motion seconded by Council Member Chip King. Motion carried 5-0.

Mr. DiPiazza added that there are several pending applications for outside the city limits services that are not practical to serve. One of the applications belongs to an individual that has approached the council in the past.

- 7E.** Consider adopting ordinance concerning electioneering at the Civic Center.

Vince DiPiazza, City Manager explained to Mayor Pro Tem and Council that this ordinance adopts the rules by reference. He asked for clarification from City Attorney Alexandra Wegrzyn who stated that adopting the rules by reference was allowed. The council asked if the rules were enforceable by a fine and City Attorney Wegrzyn confirmed they are enforceable by a fine. Motion to approve agenda item 7E made by Council Member Chip King. Motion seconded by Council Member Eloisa Medina. Motion carried 5-0.

- 7F.** Consider declaring local state of disaster due to immigration crisis.

Motion to approve agenda item 7F made by Mayor Pro Tem Lalo Zamora. Motion seconded by Council Member Stephen Balke. Motion carried 5-0.

8 EXECUTIVE SESSION

- 8A.** Convene into executive session pursuant to Texas Government Code Section 551.071, Consultation with Attorney, to discuss pending or contemplated litigation or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, related to the Robb Elementary School incident on May 24, 2022.

Council entered executive session at 6:55PM

Council reconvened into open session at 7:34PM

No action taken.

- 8B.** Convene into executive session pursuant to Texas Government Code Section 551.072, deliberations regarding real property.

9 RECONVENE FROM EXECUTIVE SESSION

10 ADJOURNMENT

Motion to adjourn made by Council Member Stephen Balke. Motion seconded by Council Member Chip King. Motion carried 5-0. Motion carried 5-0.

Mayor

City Secretary

Accounts Payable in Excess of \$5,000.00



For the period ending July 19th, 2024

Requesting Approval to RELEASE payment.

*** The following payments are being held and will be released upon approval ***

NAME	AMOUNT	DESCRIPTION	DEPARTMENT	DEPT. HEAD	APPROVED BY
Vulcan Materials	\$12,387.39 \$30,333.34	LRA TY 1 GR Plus-Royal Lane. LRA TY 1 GR Plus-College Lane.	Street	Juan Zamora	Felix Castillo
Tyler Technologies	\$11,618.25	Insite trans fees utility.	IT	Adrian Trevino	Sonia Hernandez
Dirksen Engineering	\$9,000.00	Cemetery survey to mark headstones and space boundary.	Cemetery	Felix Castillo	Vince DiPiazza
SCS Engineers	\$6,832.50	Professional services from May 1-31, 2024. Work completed overall project mgt, including coordination with subconsultants. MPA application, waste mgt, unit design, prep of drilling plan.	Landfill	Juan Zamora	Sonia Hernandez
Silsbee Ford	\$61,778.91	2024 Ford Interceptor Utility.	Lone Star Grant	Homer Delgado	Felix Castillo
Theatrical Rights Worldwide	\$5,115.00	Rights for the amateur production of The Addams Family musical.	Opera House	Allyson Jefcoat	Sonia Hernandez

From: [John Yeackle](#)

Sent: Mon, 15 Jul 2024 21:54:34 +0000ARC

To:

Subject: Agenda Item Request

Sensitivity: Normal

I am pleased to request a \$10,000 event request on behalf of the South Texas Showdown Organization. Together we wish to appeal to the city council for a \$10,000 contribution of Hot Tax to go towards the marketing of their first year event. We believe they will attract up to 700 participants as well as several thousand spectators from outside our community. This event is a four day event to be held at the Uvalde County Fairplex. We formal request to present our request to council for their consideration and action for this purpose. As a brand new event of very large scale and seeing as it was not foreseen in the budget we would respectfully request the additional \$10,000. If approved this would still not exceed the Hot Tax total approved budgeted for 2023-2024

John Yeackle

Director of Tourism Operations

300 E. Main St.

Uvalde, Texas 78801

Office: (830) 278-3361

THE STATE OF TEXAS §
 §
COUNTY OF UVALDE §

The City Council of Uvalde, Texas, convened in regular session of the Court in the City Hall Council Chambers, at 6:00 P.M. on July 23, 2024, with the following members present, to wit:

The Honorable Everardo Zamora, Mayor Pro Tem
The Honorable Hector Luevano, District 2 Councilman
The Honorable Eloisa Medina, District 3 Councilwoman
The Honorable Stephen Balke, District 4 Councilman
The Honorable Chip King, District 5 Councilman

and constituting a quorum, when the following business was transacted:

ORDER OF CITY OF UVALDE APPROVING PARTICIPATION IN
THE ELECTION ON THE PETITION FOR THE CREATION OF
UVALDE COUNTY EMERGENCY SERVICES DISTRICT NO. 3

Councilmember _____ introduced an Order and made a Motion that the same be adopted. Councilmember _____ seconded the Motion for adoption of the Order. The Motion carrying with it the adoption of the Order prevailed by the following vote:

AYES: _____

NAYS: _____

The Mayor Pro Tem thereupon announced that the Order had been duly and lawfully adopted. The Order adopted reads as follows:

ORDER OF CITY OF UVALDE APPROVING PARTICIPATION IN
THE ELECTION ON THE PETITION FOR THE CREATION OF
UVALDE COUNTY EMERGENCY SERVICES DISTRICT NO. 3

WHEREAS, notice of this meeting of the Uvalde City Council, Texas, has been given in the manner and for the time required by law; and

WHEREAS, the City Council, has received a request from petitioners and copy of the petition filed with the Uvalde County Commissioners Court signed by more than one hundred (100) qualified voters who own taxable real property within the area of Uvalde County, Texas, calling for the creation of an emergency services district to be known as "Uvalde County Emergency Services District No. 3" (the "District"); and

WHEREAS, the Petition has been set for a Public Hearing by the Commissioners Court to be held on August 12, 2024; and

WHEREAS, the City of Uvalde has been asked to grant its permission under Texas Health and Safety code § 775.014 to allow the voters who reside within the city limits of the City of Uvalde to participate in the election on the Petition and grant the City's consent for inclusion of the territory located within the City to be included in the proposed Emergency Services District No. 3 if approved by the voters; and

WHEREAS, the City of Uvalde has been asked to grant its permission under Texas Health and Safety code § 775.014 to allow the voters who reside within the extraterritorial jurisdiction of the City of Uvalde to participate in the election on the Petition and grant the City's consent for inclusion of the territory located within the City's extraterritorial jurisdiction to be included in the proposed Emergency Services District No. 3 if approved by the voters; and

WHEREAS, the City Council finds that:

(1) The inclusion of the territory within the city limits of the City of Uvalde in the proposed Emergency Services District No. 3 would be beneficial to the City and its residents; and

(2) The inclusion of the territory within the extraterritorial jurisdiction of the City of Uvalde in the proposed Emergency Services District No. 3 would be beneficial to the City and the residents of the extraterritorial jurisdiction;

THEREFORE, BE IT ORDERED, ADJUDGED, AND DECREED BY THE UVALDE CITY COUNCIL THAT:

Section 1. The matters and facts recited in the preamble of this Order are hereby found and determined to be true and correct. All acts, conditions and things required to be done precedent to the City acting have been properly done and performed and have happened in regular and due time, form and manner as required by law.

Section 2. The City Council does hereby give its consent to the inclusion of the territory located within the City to be included in the proposed Emergency Services District No. 3 if approved by the voters of City of Uvalde at an election to be called by the County Commissioners Court and held by Uvalde County.

Section 3. The City Council does hereby give its consent to the inclusion of the territory located within the extraterritorial jurisdiction of the City to be included in the proposed Emergency Services District No. 3 if approved by the voters of the extraterritorial jurisdiction at an election to be called by the County Commissioners Court and held by Uvalde County.

Section 4. The City Secretary is directed to provide a copy of this Order to the Honorable Mayor Pro Tem and Commissioners Court of Uvalde County prior to the hearing scheduled for August 12.

PASSED AND APPROVED this 23rd day of July 2024.

Everardo "Lalo" Zamora Mayor Pro Tem

ATTEST:
City Secretary

By: _____
Sorayda A. Sanchez, City Secretary



CITY OF UVALDE

P.O. BOX 799, 78802-0799
(830) 278-3315
FAX: (830) 278-2234

BUSINESS OF THE COUNCIL

SUBJECT: Consider awarding the contract agreement for the reconstruction of Public Water System (PWS) well #5.

PREPARED FOR: Mayor & Council

MEETING DATE: July 23, 2024

STAFF CONTACT: Joe Cárdenas, Assistant City Manager

MEETING TYPE: Regular Council

DEPARTMENT/GROUP: Administration

MEETING: Regular Council - Jul 23 2024

BACKGROUND INFORMATION:

Objective: This award will allow for us to reconstruct and convert PWS #5 from an Edwards well to an alternative water source or Buda well. In addition to that it will now allow for us to take advantage of the additional 1,000-acre feet of Buda water that we haven't been able to incorporate into our water system. Long term it will also save us (city) from having to pay an annual management fee to the Edwards Aquifer on those 1,000-acre feet of water. Up until the bid proposal submittal date we were working with 3 different companies that had expressed interest in our project. Unfortunately, only one proposal was actually submitted and fell within the engineer's projected costs.

Recommended Action: it is staff's recommendation to award this contract to Alvin E. Stock, LLC

BUDGET INFORMATION:

Was this a budgeted item? yes

If not, where will funds be allocated from?

<u>Expenditure Amount:</u>	<u>Budget Amount:</u>
<u>Annual Cost:</u>	<u>One Time Cost: \$653,140</u>

Vendor Quotes

<u>Name of Vendor:</u>	<u>Cost:</u>



July 18, 2024

Mr. Joe Cardenas, Asst City Manager
City of Uvalde

Via: Email

Re: PWS Well No.5 Improvements
Bid Evaluation and Award Recommendation

Dear Mr. Cardenas:

Bids were received on July 16, 2024 for the referenced project. One bid was received from Alvin E. Stock Contractor LLC (Stock). Following is a summary of Stock’s bid, and CDSm’s related award recommendation.

Submittal Requirements:

- | | |
|---------------------------------|-----|
| 1. Bid Bond | Yes |
| 2. Addenda Acknowledgement (1) | Yes |
| 3. Completed Bid Form | Yes |
| 4. Bidder Qualification Summary | Yes |
| 5. Non-Bribery Form | Yes |

Pricing Summary:

The Base Bid includes one Lump Sum price item (All PWS Well No.5 Work except Add Alt. No.1) The Base Bid was bid at **\$653,140** compared to the Engineer’s Opinion of Probable Construction Cost of \$750,000 (13% below the OPCC). This pricing seems reasonable for the related scope.

The Additive Alternate Item – Chlorine System Dry Scrubber was bid at **\$221,480** which reflects recent escalation in the cost of these systems. This item was included for consideration given proximity of the well to nearby residential development, and potential election of this additive alternate item should consider the city’s related emergency preparedness and response plans.

Bidder Qualifications:

Stock’s Qualifications Statement is complete and confirms significant similar successful project experience. Stock has also completed past successful utility projects for Uvalde and projects designed by CDSm. While Stock intends to subcontract the work to MGB Construction, it will provide needed oversight and construction administration, and Stock’s proposed project personnel appear qualified. We conclude Stock to therefore be fully qualified for this project.

Safety Record and Non-Bribery Form:

Stock reports no safety record incidents, and the Non-Bribery Form is complete, presenting no concerns.

Award Recommendation:

Based upon this bid review and our shared successful project history with Stock, CDSm recommends that the city award the PWS Well No.5 Improvements project to Alvin E. Stock Contractor LLC.

Depending on available funding, the city may elect to initially award the Base Bid (PWS Well No.5 Work) in the amount of **\$653,140**, and then include the Additive Alternate work for an additional **\$221,480** if desired.

If funding becomes available for the Additive Alternate item after the initial award, then this item can be added during project execution (120 Days), subject to potential related Schedule adjustments.

Please advise if you need any additional information or assistance in this regard.

Very truly,
CDS Muery



Mark Roetzel, P.E.
Project Manager

Attachment: Stock Bid Form, Bid Bond

c: Juan Zamora-City of Uvalde
John Rothe-CDSm

(This Bid Form shall be detached from the Project Manual, and submitted in a separate envelope as described in the Instruction to Bidders)

BID FORM

BID FOR:

PUBLIC WATER SYSTEM WELL No.5 IMPROVEMENTS PROJECT BID TO:

City of Uvalde
101 Main Street
P.O. Box 799
Uvalde, Texas 78802
Attention: Mr. Joe Cardenas, Asst. City Manager

BID FROM: Alvin E. Stock Contractor, LLC

(Print or Type Name of Bidder)

(A Corporation/A Partnership/A Limited Liability Company/An Individual/A Joint Venture [Bidder to strike out inapplicable Terms.]

Gentlemen:

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the price(s) and within the times indicated in this Bid and in accordance with the Bidding Documents.
- 2.01 Bidder accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for the time period set forth in the Instruction to Bidders. Bidder will sign the Agreement and will furnish the required contract security, and other required documents within the time periods set forth in the Bidding Documents.
- 3.1 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:
 - A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, if any, and the following Addenda receipt of all of which is hereby acknowledged.

<u>Addendum No.</u>	<u>Date Received</u>	<u>Addendum No.</u>	<u>Date Received</u>
<u>1</u>	<u>June 20, 2024</u>	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.
- D. Bidder has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and evaluated underground utilities as provided in paragraph 4.04 of the General Conditions.
- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.
- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies or data are necessary for the determination of this Bid for performance of the Work at the price(s) and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents and all additional examinations, investigations, explorations, tests, studies and data with the Bidding Documents.
- I. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by ENGINEER is acceptable to Bidder.

- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- 4.01 Bidder further represents that this Bid is genuine and is not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER; and that no person or persons acting in any official capacity for the OWNER are directly or indirectly interested in this Bid, or in any portion of the profit thereof.
- 5.1 Bidder will complete the Work in accordance with the Contract Documents for the following lump sum (LS) amounts, and or unit prices as applicable:

Base Bid Work:

Item No.	Bid Quantity	Unit	Description
5.01-1	1	LS	All Work associated with the PWS Well No.5 well improvements, the chlorine disinfection system, site building, and associated site improvements, as shown on the Drawings and specified under Divisions 1 through 16 of the Specifications.

Bid Price:

Six Hundred Fifty Three Thousand
 One Hundred Forty _____ Dollars and Zero Cents
 Cents (Use Words) (Use Words)

\$ 653,140.00
 Bid Price (Use Figures)

Base Bid: (Sum of Bid Prices for all base bid item 5.01-1)

Six Hundred Fifty Three Thousand
 \$ One Hundred Forty _____ Dollars and Zero Cents
 (Use Words) (Use Words)

\$ 653,140.00
 Base Bid Price (Use Figures)

Additive Alternate Work:

5.2 Additive Alternate Work

Item No.	Bid Quantity	Unit	Description
5.02-1	1	LS	All Work associated with the chlorine system dry scrubber, including all equipment, ducts, power, controls, slab, supports, and associated appurtenances for a complete and operational system, as shown on the Drawings and specified under Divisions 1 through 16 of the Specifications.

Bid Price:

Two Hundred Twenty One Thousand
 Four Hundred Eighty _____ Dollars and Zero Cents
 Cents (Use Words) (Use Words)

\$ 221,480.00
 Alternate Bid Price (Use Figures)

Bidder acknowledges and agrees determination of the lowest responsive bidder is in Accordance with paragraph 22.07 of the Instructions to Bidders.

The Base Bid will be the only number announced at the bid opening.

- 6.1 Bidder agrees that the Work will be substantially complete and completed and ready for final payment in accordance with Paragraph 14.07.B of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.2 Bidder accepts the provisions of the Agreement as to liquidated and special damages in the event of failure to complete the Work within the times specified above.
- 7.1 The following documents are attached to and made a condition of this Bid:
 - A. Required Bid security in the form of Bid Bond.
 - B. Required Bidder Qualifications Statement with supporting data
 - C. A tabulation of Subcontractors, Suppliers and other individuals and entities required to be identified in this Bid.
 - D. Non-Bribery Form.

8.01 The terms used in this Bid will have the meanings indicated in the Instructions to Bidders and the General Conditions and Supplementary Conditions.

Respectfully submitted on July 16th, 2024.

If Bidder is:

An Individual

By _____
(Individual's Signature)

(Printed or Typed Name of Individual)

Doing business as: _____

Business Address: _____

Phone No: _____ Fax No: _____

A Partnership

By: _____
(Firm Name)

(General Partner's Signature)

(Printed or Typed Name of General Partner)
(Attach evidence of authority to sign.)

Business Address: _____

Phone No: _____ Fax No: _____

A Corporation

By Alvin E. Stock Contractor, LLC
(Corporation Name)

Texas
(State of Incorporation)

By 
(Signature of Officer Authorized to Sign)

Lewis E. Stock, Manager

(Printed or Typed Name and Title of Officer Authorized to Sign)
(Attach evidence of authority to sign.)

(CORPORATE SEAL)

Attest 
(Secretary)

Business Address: P.O. BOX 2512

Eagle Pass, TX 78853-2512

Phone No.: 830-773-2291 FAX No. 830-773-2138



CITY OF UVALDE

P.O. BOX 799, 78802-0799
(830) 278-3315
FAX: (830) 278-2234

BUSINESS OF THE COUNCIL

SUBJECT: Consider proposal to develop water master plan.

PREPARED FOR: Mayor and Council

MEETING DATE: July 23, 2024

STAFF CONTACT: Vince DiPiazza, City Manager

MEETING TYPE: Regular Council

DEPARTMENT/GROUP: Administration

MEETING: Regular Council - Jul 23 2024

BACKGROUND INFORMATION:

Objective:

After the council rejected the first engineering proposal last month, we invited the second-place firm on the list, as required by the procurement rules for professional services, to discuss a detailed scope of work and pricing for the project. The proposal from CDS Muery is attached. This firm's proposed cost is significantly less than the first one that was considered.

Again, the purpose of the water master plan is to:

Create a working water model of the city's existing water system.

- Use the system model to evaluate the condition/capacity/performance of the existing system and plan improvements, in order of priority, to the system's infrastructure (including locations, lengths, sizes, and cost estimates, etc.) that are necessary to ensure that the water system meets current demands and to accommodate future demands.
- Evaluate the need for additional elevated or ground storage tanks and identify potential locations, sizes, and costs.

All three of the firms that originally submitted proposals are well-qualified to do the work, and we are very familiar with CDS Muery. It is not obvious in the proposal, but we have some question that the scope of work is reduced a bit, but given the pricing on offer, we should not have any problem with adding something else to the project later that we might decide is needed.

We are proposing that the project be paid for out of the water rights fund, a dedicated fund set aside to finance water supply acquisitions and water infrastructure projects. The current balance in the water rights fund is \$3,820,880.

Recommended Action: This is still an important project. Recommend accepting the proposal from CDS Muery.

<u>Expenditure Amount: \$129,560</u>	<u>Budget Amount:</u>
<u>Annual Cost:</u>	<u>One Time Cost:</u>

Vendor Quotes

July 10, 2024

Mr. Joe A. Cardenas
Assistant City Manager
101 E. Main Street
P.O. Box 799
Uvalde, Texas 78802

**Re: City of Uvalde
Water Master Plan
Engineering Support Services Proposal**

Dear Mr. Cardenas:

This proposal presents CDS Muery's (CDSm) recommended engineering support services for updating the City of Uvalde's Water Master Plan. Related services include developing a computer-based water model to assess the Public Water Systems (PWS) current system capacity, required short-term supply and distribution improvements to maintain obligatory service, and to support long-term planning in response to continued community growth.

Background

The City of Uvalde has enjoyed significant growth in recent years, and expects continued growth into the future, particularly east of town. The City's Public Water System (PWS) water utility has expanded in response to historic growth, without formal master planning or overall system evaluations. Consequently, it is increasingly difficult for the city to respond to ongoing requests for additional service with confidence in the PWS utility to meet desired service. Therefore, the city desires to complete a thorough engineering assessment of the water utility.

The city also now has 2 supply wells in the Buda Aquifer (Wells No.5 and 7) not subject to Edwards Aquifer withdrawal limits, and desires to maximize use of this water resource. Modeling will allow evaluation of preferential use of these wells, specifically assessment of city-wide pressure distribution when these wells are sequenced into service ahead of the other Edwards supply wells.

Like many medium-sized city PWS groundwater supply systems, Uvalde does not have dedicated transmission between the wells and elevated storage tank, instead using the distribution system to both move water to storage and provide customer service. This can result in a wide range of shifting system pressures as multiple pumps cycle in and out of service. The model will assess these multiple conditions and help identify optimum operational sequences and potential system upgrades for improved energy distribution.

PWS modeling will support development of an effective *PWS Water Master Plan*, including current and recommended definition of service areas and pressure planes, wells, storage tanks, transmission lines, water distribution mains and pump stations. Defining the water utility will also support cost-effective planning of future production, storage, transmission, and distribution facilities as the city continues to grow. Associate mapping can be maintained in both AutoCAD and GIS database formats, allowing convenient segregation, layering, and plotting of information for various planning and presentation purposes, and supporting convenient updates to the model and maps as improvements are considered. Modeling will also support Capital

Improvement budget planning, and determination of developer Impact Fees to ensure proper assignment of utility service costs.

Proposed Water Model Services

CDS Muery (CDSm) will assist the City of Uvalde by preparing a computer-based model of the PWS water utility. We assume that as-built record drawings present a reasonably accurate depiction of the utility, avoiding the need for extensive field surveys or data validation. We will validate model input with utility personnel and with late-night validation testing (flow and pressure measurements) before beginning analysis. CDSm uses Bentley WaterCAD® software. Associated tasks include:

Task 100 – Water Model Setup.

Prepare a Water Model Layout of the city's PWS water utility using *Water-CAD*® software. The utility layout CAD drawing will define the location and elevation of all supply wells, ground storage tanks, service pumps, transmission, and distribution lines (with sizes and materials), and elevated storage tanks. Following verification review by city personnel, the water utility base map will be integrated into *Water-CAD*® for modeling. Demand nodes will be assigned throughout the PWS reflecting customer demands on the system. TCEQ requires all PWS systems to maintain 35psi minimum pressure under Normal Demand (1.5gpm/residential customer connection plus any other commercial/industrial demand), and 20psi minimum pressure under Fire Flow Demand (an additional 1,000gpm hydrant flow distributed at various locations throughout the system).

Task 200 – Model Validation.

Late night conditions are expected to present the lowest system demand flows, allowing field validation of the model. Any known late-night demands will be entered into the model to better ensure accuracy. Several fire hydrants will then be sequentially opened with hydrant flow and distributed pressure measured and recorded. These flows will then be entered into the model and predicted distributed pressures compared to field measured pressures. If significant measured versus predicted pressure differences occur, we will review system definition in suspect areas with city personnel to make needed model input parameter adjustments, and if needed repeat the validation testing (up to 3 times) to ensure reasonable accuracy. Once validated, the model can be used for system analysis.

Task 300 – Current Conditions Water Model Analysis.

The validated model will allow analysis of the current PWS system for Normal and Fire Flow demand conditions. The current well pumps operating sequence will be entered into the model, allowing evaluation of energy input distribution. If results indicate areas of deficiency (low pressure) alternate well operating sequences and/or distribution system improvements will be assessed to restore needed service pressure. The preferred use of Buda Wells No.5 and 7 will also be modeled to ensure required service conditions can be maintained under this operating sequence. System components sizing will be compared to TCEQ minimum requirements to ensure rule compliance. CDSm will offer recommendations for any system revisions or improvements needed to ensure proper current operating conditions.

Task 310 – Future Conditions Water Model Analysis. The model will also allow any number of potential future service expansions to be analyzed for various PWS expansions for Normal and Fire Flow demand conditions. The current or revised well pumps operating sequence will be entered into the model, allowing evaluation of energy input distribution. If results indicate areas of deficiency (low pressure) alternate well operating sequences, additional wells, additional elevated storage, and/or transmission-distribution system improvements will be assessed to

ensure future needed service pressure. Again, the preferred use of Buda Wells No.5 and 7 will also be modeled to ensure required future service conditions can be maintained under this operating sequence. System components sizing will be compared to TCEQ minimum requirements to ensure rule compliance. CDSm will offer recommendations for any system revisions or improvements needed to ensure proper future operating conditions. These model results will assist the city's CIP and developer cost-sharing planning. Once set up the model also provides a valuable tool for convenient assessment of future development proposals as they are defined.

Cost Proposal

CDSm will complete the defined PWS water utility modeling tasks for the following fixed fee costs:

Task 100 – Water Model Setup	\$ 45,580
Task 200 – Water Model Validation	\$ 18,380
Task 300 – Current Conditions Water Model	\$ 46,720
Task 310 – Future Conditions Water Model	<u>\$ 18,880</u>
Water Model Total Fee:	\$129,560

CDSm appreciates the opportunity to offer these services and we look forward to continuing working with you and your staff. Please advise if this proposal meets your approval, and we can proceed at your convenience. Please also advise if you require any additional information.

Very truly,

CDS Muery



John E. Rothe, P.E.
Principal

ACCEPTANCE

This Proposal accepted this ___ day of _____ 2024.

By: _____
Signature Title

Attachments: Terms & Conditions, Rate Schedule

Copy: Vince DiPiazza, City Manager
Juan Zamora, Public Works Director
Mark Roetzel, PE-CDSm

TERMS AND CONDITIONS

STANDARD OF CARE

In providing services under this Agreement, the Consultant will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

TIMELINESS OF PERFORMANCE

The Client and Consultant are aware that many factors outside the Consultant's control may affect the Consultant's ability to complete the services to be provided under this Agreement. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices.

INDEMNIFICATION

The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable.

Neither the Client nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

CERTIFICATIONS, GUARANTEES AND WARRANTIES

The Consultant shall not be required to execute any document that would result in their certifying, guaranteeing or warranting the existence of conditions whose existence Consultant cannot ascertain.

BILLING/PAYMENTS

Invoices for Consultant services shall be submitted, at Consultant option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, Consultant may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service. Retainers shall be credited on the final invoice.

LATE PAYMENTS

Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.5% (or the legal rate) on the then unpaid balance. In the event any portion or all of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

BURIED UTILITIES AND/OR STRUCTURES

Consultant will perform reasonable research to locate utility lines and other man-made objects that may exist beneath the site's surface. Client will furnish to Consultant all available records and information identifying the type and location of utility lines and other man-made objects beneath the site's surface.

Consultant will show on prepared drawings the locations of the subsurface facilities and locations of intended excavations or penetrations. Client will review the drawings and approve the penetration locations before any excavations or penetrations are made.

Client recognizes that, despite due care, Consultant may be unable to identify the location of all subsurface utility lines and man-made objects, and information obtained by Consultant may contain errors or be incomplete. Client shall, to the fullest extent permitted by law, waive any claim against Consultant, and indemnify and hold Consultant harmless from any claim or liability for injury or loss arising

from damage to or contact with buried utility lines or other buried man-made objects that were not called to Consultant's attention or which were not properly located on drawings furnished to Consultant.

CONSTRUCTION OBSERVATION

The Consultant shall visit the site at intervals appropriate to the stage of construction, or as otherwise agreed to in writing by the Client and the Consultant, in order to observe the progress and quality of the Work completed by the Contractor. Such visits and observation are not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather are to allow the Consultant, as an experienced professional, to become generally familiar with the Work in progress and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

Based on this general observation, the Consultant shall keep the Client informed about the progress of the Work and shall endeavor to guard the Client against deficiencies in the Work.

If the Client desires more extensive project observation or fulltime project representation, the Client shall request that such services be provided by the Consultant as Additional Services in accordance with the terms of this Agreement.

The Consultant shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents.

The Consultant shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The Consultant does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

RISK ALLOCATION

To the maximum extent permitted by law, the Client agrees to limit the Design Professional's liability for the Client's damages to the sum of \$100,000 or the Design Professional's fee, whichever is greater. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

JOBSITE SAFETY

Neither the professional activities of the Consultant, nor the presence of the Consultant or its employees and subconsultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Consultant and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The Client agrees that the General Contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the Client's contract with the General Contractor. The Client also agrees that the Client, the Consultant and the Consultant's subconsultants shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies of general liability insurance.

RECORD DOCUMENTS

Upon completion of the Work, the Consultant shall compile for and deliver to the Client a reproducible set of Record Documents based upon the marked-up records drawings, addenda, change orders and other data furnished by the Contractor. These Record Documents will show significant changes made during construction. Because these Record Documents are based on unverified information provided by other parties, which the Consultant shall assume will be reliable, the Consultant cannot and does not warrant their accuracy.

OWNERSHIP OF DOCUMENTS

All documents including original drawings, estimates, specifications, field notes, and data will remain the property of Consultant as instruments of service. However, it is understood that the Client shall have free access to all such information with the right to make and retain copies of drawings and all other information. Any reuse without specific written consent from Consultant will be at the

Client's sole risk and without liability or legal exposure to Consultant.

CHANGED CONDITIONS

Client has relied on Consultant's professional judgment in establishing Consultant's scope of service and fee for this project, given the project's nature and risks. Client shall also rely on Consultant's professional judgment in evaluating the continued adequacy of this Agreement in light of occurrences or discoveries that were not originally contemplated by or known to Consultant. Should Consultant call for contract renegotiation, Consultant shall identify the changed conditions that in Consultant's professional judgment make such renegotiation necessary, and Consultant and Client shall promptly and in good faith enter into the renegotiation process. If renegotiated terms cannot be agreed to, Consultant shall have the right to terminate this Agreement without penalty, as per the Termination clause outlined below.

TERMINATION

In the event of termination of this Agreement by either party, the Client shall within fifteen (15) calendar days of termination pay the Consultant for all services rendered and all reimbursable costs incurred by the Consultant up to the date of termination, in accordance with the payment provisions of this Agreement.

The Client may terminate this Agreement for the Client's convenience and without cause upon giving the Consultant not less than seven (7) calendar days' written notice.

Either party may terminate this Agreement for cause upon giving the other party not less than seven (7) calendar days' written notice for any of the following reasons:

1. Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;
2. Assignment of this Agreement or transfer of the Project by either party to any other entity without the prior written consent of the other party;
3. Suspension of the Project or the Consultant's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate;
4. Material changes in the conditions under which this Agreement was entered into, the Scope of Services or the nature of the Project, and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes.

DISPUTE RESOLUTION

Any claims or disputes made during design, construction or post-construction between the Client and Consultant shall be submitted to non-binding mediation. Client and Consultant agree to include a similar mediation agreement with all contractors, sub contractors, sub consultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties.

CONSEQUENTIAL DAMAGES

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and the Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.