



NOTICE OF REGULAR MEETING
Park Board of Trustees of the City of Galveston
Finance and Operations Committee
Tuesday, February 14, 2023, 1:30 p.m.
Park Board Plaza Board Room - 1st Floor
601 Tremont
Galveston, Texas 77550

- I. Call Meeting To Order
- II. Pledge Of Allegiance
- III. Roll Call And Declaration Of A Quorum
- IV. Conflict Of Interest Declarations
- V. Requests To Address The Committee
The public shall be allowed to provide comment to the committee regarding one or more agenda or non-agenda items. All requests to address the committee must be submitted in writing and can be presented to the committee reporter the day of the meeting or by completing the Public Comment Form available on the Park Board of Trustees website at the following link prior to the start of the meeting:

[HTTPS://WWW.GALVESTONPARKBOARD.ORG/FORMS.ASPX?FID=65.](https://www.galvestonparkboard.org/forms.aspx?fid=65)
- VI. Discuss And Consider Approval Of The January 10, 2023 Finance And Operations Committee Meeting Minutes (Schel Heydenburg)

Documents:

[01-10-2023 FINANCE AND OPERATIONS COMMITTEE MEETING MINUTES.PDF](#)
- VII. Discuss And Consider Approval To Award A Contract To Flamingo Landscape For Upgrades At Dellanera RV Park (Vince Lorefice, 5 Minutes)

Documents:

[DELLANERA LANDSCAPE OVERVIEW.PDF](#)
[FLAMINGO PARK BOARD RV PARK BID.PDF](#)
- VIII. Discuss And Consider Approval To Award A Contract To Immaculate Painting For Retiling The Restrooms And Laundry Room At Dellanera RV Park (Vince Lorefice, 5 Minutes)

Documents:

[DP FLOOR TILE REPLACEMENT OVERVIEW.PDF](#)
[DELLANERA FLOOR TILE BID TABULATION.PDF](#)
- IX. Discuss And Consider Approval To Purchase Access Matting From AccessRec (Vince

Lorefice, 5 Minutes)

Documents:

[ACCESSREC ADA MATS.PDF](#)
[ADA MAT BID COMPARISON.PDF](#)

- X. Discuss And Consider Approval Of A Budget Amendment To Nourished Beach For The Dellanera Beach Repair (Sheryl Rozier, 10 Minutes)

Documents:

[2023-02-14 FOC OV NB BUDGET AMENDMENT.PDF](#)

- XI. Discuss And Consider Approval To Dispose Of Park Board Vehicle 3704 (Bryson Frazier, 5 Minutes)

Documents:

[DISPOSAL OF PARK BOARD VEHICLE 3704.PDF](#)

- XII. Discuss And Consider Approval Of Addition Of Professional Services And Legal Services Procurement Procedures To The Park Board Purchasing Policies, Procedures And Controls Manual (Bryson Frazier, 10 Minutes)

Documents:

[PROFESSIONAL SERVICES AND LEGAL SERVICES PROCUREMENT PROCEDURES.PDF](#)

- XIII. Discuss And Review Process For Requesting Hotel Occupancy Tax Funds From The City Of Galveston (Bryson Frazier, 15 Minutes)

Documents:

[HOT BUDGET ALLOTMENT REQUESTS TO CITY.PDF](#)

- XIV. Discuss And Consider Approval Of Coastal Zone Management Facility Loan Term Renewal (Bryson Frazier, 15 Minutes)

Documents:

[CZM LOAN TERM RENEWAL.PDF](#)

- XV. 2022-2023 Committee Work Plan

Documents:

[FOC FY22-23 WORKPLAN.PDF](#)

- XVI. Future Agenda Items

- XVII. Announcements

- XVIII. Adjournment

I certify that the above Notice of Meeting was posted in a place convenient to the public, in

accordance with Chapter 551 of the Texas government Code, on or before February 10, 2023, 5:00 p.m.

Approved

Dave Jacoby, Chair, FOC

Approved

Marty Fluke, Chair, Park Board of Trustees

Approved as to Format

Kelly de Schaun, Chief Executive Officer

Please Note Members of the City Council may be attending and participating in the discussion.

In accordance with the provisions of the Americans with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall, within three (3) days prior to any proceeding, contact the Park Board Administration

Office, 601 Tremont, Galveston Texas 77550 (409-797-5147)



**Park Board of Trustees of the City of Galveston
Finance and Operations Committee**

1/10/2023 - Minutes

I. Call Meeting To Order

The meeting was called to order at 1:30 p.m.

II. Pledge Of Allegiance

The pledge was recited by those present.

III. Roll Call And Declaration Of A Quorum

Roll was called and a quorum declared.

Committee members present: Dave Jacoby, Will Wright, Jeff Ossenkop and Spencer Priest.

IV. Conflict Of Interest Declarations

There were no conflicts declared.

V. Requests To Address The Committee

There were no requests to address the committee.

VI. Discuss And Consider Approval Of November 8, 2022 Meeting Minutes

Motion: Spencer Priest motioned to approve the November 8, 2022 meeting minutes.

Second: Jeff Ossenkop seconded.

Vote: Approved (4-0).

VII. Discuss And Consider Approval For Bus Stop Lighting Repair At Urban Park (Vincent Lorefice, 5 Minutes)

Vince Lorefice reported that the some of the lights for the bus stops along the seawall are in need of repairs and that staff is asking to contract with Crescent Electric to troubleshoot each stop to determine the repairs needed through at a cost not to exceed \$31,033.24.

Motion: Will Wright motioned to approve a contract with Crecent Electric not to exceed \$31,033.24.

Second: Spencer Priest.

Vote: Approved (4-0).

VIII. Discuss And Consider Approval Of Lease Agreement With Visual Edge IT For Park Board Plaza Printer/Copier Machines (Schel Heydenburg, 5 Minutes)

Schel Heydenburg shared that the two copies currently on lease from Visual Edge were installed in August 2020 and are experiencing frequent mechanical failures. She reported that the vendor will replace these machines with

new copiers at the same monthly cost of \$1,908.00 as well as a reduction in the overage rates contingent on a new 63 month agreement and staff is asking approval to proceed.

Motion: Spencer Priest motioned to approve the new lease agreement with Visual Edge.

Second: Will Wright seconded.

Vote: Approved (4-0).

IX. Discuss And Consider Approval To Award Contract To Vanguard Truck Centers Of Houston For Visit Galveston Box Truck With Lift Gate (Jacquelyn Helton, 5 Minutes)

Jacquelyn Helton shared that with the transportation of all of the Visit Galveston assets as well as the Island Soul visitor guide distribution and the costs related to freight for these assets, staff is seeking approval to purchase a box truck with a lift gate. She reported that it has been discussed to lease a truck however due to the size of the vending machine used at events, this is not a viable option. Mrs. Helton stated that a sealed bid process was activated and Vanguard Truck Centers of Houston was the only bid received in the amount of \$78,230. Bryson Frazier shared that this will need to go before the Tourism Development Advisory Committee and the Board before being taken to the City for approval since it is not part of the funded budget already approved. Dave Jacoby asked that all items coming before the committee should include whether or not it is currently funded via approval from the City as necessary.

Motion: Spencer Priest motioned to approve the box truck purchase.

Second: Will Wright seconded.

Vote: Approved (4-0).

X. Discuss And Consider Approval Of Scope Of Work And Process For 3rd Party Cash Balance Audit (Bryson Frazier, 15 Minutes)

Bryson Frazier reminded the committee that on December 13, 2022, the Board authorized staff to solicit a third-party auditor to audit the Park Board's cash reconciliation procedures and cash balance classifications. In addition, at the next meeting, December 21, 2022, the Board expressed interest in having the City Auditor involved in the process of establishing the scope of work for the audit and recommendations for auditors. He reported that shortly after the meeting on the 21st, he was notified by the City that they supported the audit but may want to expand the scope, specifically auditing the hotel occupancy tax (HOT) from receipt to final disposition to help achieve the result of best defined accounting practices in the use of HOT moving forward. Mr. Frazier shared that staff is recommending approving the scope of work to include a review of the Park Board's cash reconciliation procedures, cash balance classifications and comparing the results of the City's HOT Transfer calculation to ensure compliance with the ordinance. In addition, staff is recommending the development of a review team consisting of the Chief Financial Officer, Controller, City Auditor and City Finance Director to develop the scope of work and agreed upon procedures for a limited scope audit and review the results.

Motion: Will Wright motioned to approve the staff recommendations for the limited scope audit and review team.

Second: Jeff Ossenkop seconded.

Vote: Approved (4-0).

XI. Discuss And Review City Auditor's Request To Schedule A Follow-Up Audit On The Park Board's Procurement Procedures (Bryson Frazier, 5 Minutes)

Bryson Frazier reported that the City Auditor has requested to schedule a follow-up audit on the Contract Management System and Procurement Policy, Procedures and Controls that were implemented in 2021 with assistance from their office. He shared that he did request that this audit wait until after January when the annual third-party audit is completed and the City Auditor has agreed.

XII. Discuss And Consider Approval Of Fiscal Year 2022 September Unaudited Financial Statements (Bryson Frazier, 15 Minutes)

Bryson Frazier reviewed the September 2022 Unaudited Financial Statements.

Motion: Will Wright motioned to approve.

Second: Spencer Priest seconded.

Vote: Approved (4-0).

XIII. 2022-2023 Committee Work Plan

Bryson Frazier shared that Financial Projections item would be rescheduled and will need to be revised based on the HOT funding requests to the City per the recently approved ordinance. He also shared that the software implementation update would also be rescheduled.

XIV. Future Agenda Items

Annual Financial Audit Draft

XV. Announcements

Galveston Restaurant week started January 9 and runs through February 5.

XVI. Adjournment

The meeting was adjourned at 2:21 p.m.



Agenda Item: Discuss and Consider Awarding A Contract TO Flamingo Landscape For Upgrades At Dellanera RV Park

Background:

With continued effort to increase the guest experience at Dellanera RV Park, staff is recommending a landscape package that will improve the aesthetics of the facility. Utilizing a City of Galveston contract (CON-22-891), Park Board staff worked with Flamingo Landscape in designing a landscape package using rates from the City contract. The plants, shrubs and trees selected are resilient to coastal conditions.

Staff Recommendation:

Staff recommends awarding a contract to Flamingo Landscape utilizing the City of Galveston's contract # CON-22-891 in the amount of \$43,131.00

Funding Source (if applicable): Project outlined in the approved budget under DP 51 5250.



FLAMINGO GARDENS INC.

814 61st STREET, GALVESTON TX 77551
 Off: 409-632-7329 Fax: 409-974-4931

Date	Quote#
1/25/2023	125234

Invoice To.
Galveston Park Board
Seawall Planters RV Park

P.O. #	REP	Ship	VIA	PROJECT
Quantity	Item Code	DESCRIPTION	UNIT PRICE	AMOUNT
Tower				
15		Oleander 7G	\$ 63.00	\$ 945.00
2		CY Soil & Mulch	\$ 60.00	\$ 120.00
Total				\$ 1,065.00
Entry Sign				
		Excavation		\$ 200.00
3		Sabal Palm 12' CT	\$ 980.00	\$ 2,940.00
12		CY Soil & Mulch	\$ 60.00	\$ 720.00
32		Muhly Grass 3G	\$ 24.00	\$ 768.00
60		LF Composite Edging	\$ 7.00	\$ 420.00
Total				\$ 5,048.00
South Building				
		Excavation	\$ 300.00	\$ 300.00
8		CY Soil & Mulch	\$ 60.00	\$ 480.00
6		CY Granite Gravel	\$ 150.00	\$ 900.00
30		LF Composite Edging	\$ 7.00	\$ 210.00
2		Sabal Palm 12' CT	\$ 980.00	\$ 1,960.00
12		Dwarf Pittosporum 3G	\$ 27.00	\$ 324.00
24		Wedelia 1G	\$ 6.00	\$ 144.00
Total				\$ 4,318.00
West Building				
10		Sabal Palm 12' CT	\$ 980.00	\$ 9,800.00
2		Mediterranean Fan Palm 7/8'	\$ 1,200.00	\$ 2,400.00
4		Sago with Ivy	\$ 400.00	\$ 1,600.00
20		Oleander 7G	\$ 63.00	\$ 1,260.00
15		Var Pittosporum 3G	\$ 27.00	\$ 405.00
30		LF Composite Edging	\$ 7.00	\$ 210.00
1		Labor to install Paver Edge	\$ 1,350.00	\$ 1,350.00
12		Tons of Concrete Rip Rap to finish forming drainage ditch	\$ 200.00	\$ 2,400.00
1		Excavation/Grading for Drainage	\$ 800.00	\$ 800.00
3		Birds of Paradise 15G	\$ 125.00	\$ 375.00
50		Wedelia 1G	\$ 6.00	\$ 300.00
1		Ground Prep for Sod	\$ 800.00	\$ 800.00
10		Pallets of Celebration Bermuda	\$ 400.00	\$ 4,000.00
10		CY Soil & Mulch	\$ 60.00	\$ 600.00
Total				\$ 26,300.00
Irrigation				
8		1" Zones of Irrigation	\$ 800.00	\$ 6,400.00
Total				\$ 6,400.00
Total				\$ 43,131.00



Agenda Item: Discuss And Consider Awarding Contract To Immaculate Painting For Retiling The Restrooms and Laundry Room At Dellanera RV Park

Background: Over the past year, significant investments have been made into upgrading the pavilion at Dellanera RV Park. Recently, the pavilion had an exterior upgrade with the exterior repairs and repainting of the entire building. As part of the current years approved budget, funds are allocated toward retiling the restrooms and the laundry room. The existing tile has cracks, chips, and is outdated. New tile will tie into the overall design of recent improvements.

Staff solicited bids from qualified firms who have the experience to perform the replacement of the tile. After meeting with numerous firms, only three bids were submitted. Of these bids, the scope of work and the cost of services varied greatly. The company who had the lowest submitted pricing at \$9,200 could not perform all aspect of the scope of work and would require staff to contract with a plumber for the removal and reinstallation of all plumbing items needed to perform the work. Additionally, this bid only included labor to perform the scope of work and did not include the tile and materials needed for the installation. This submittal was incomplete and therefore not considered. The highest submitted project came in at \$35,286.30. This bid was completed and was considered for evaluation. The bid that came in from Immaculate Painting was in the middle at \$20,600. This bid was complete and included all labor and material needed to fully replace the tile flooring as outlined in the scope of work.

Staff Recommendation: Staff recommends awarding contract to Immaculate Painting in the amount of \$20,600 for retiling of the Dellanera RV Park Pavilion.

Funding Source (if applicable): Project outlined in the approved budget under DP-52 5250.



Agenda Item: Discuss and Consider Approval to Purchase Access Matting From AccessRec

Background:

The Park Board of Trustees of the City of Galveston applied for, and was awarded, a \$20,000 grant to support increasing mobility and accessibility at R.A. Apffel Beach Park (East Beach). The National Environmental Education Foundation's (NEEF) Driving Mobility and Accessibility on Public Lands grant program is a nationally competitive grant program funded through a partnership with Toyota Motor North America. The goal of this program is to make public lands more accessible and enjoyable for Americans of all abilities. With the generous support of NEEF, Galveston's beaches will be significantly more accessible to guests with a range of abilities.

Earlier this year, the Board accepted the grant from NEEF and locals funds were allocated for the local match. Staff has worked with NEEF in further outlining the scope of the project which will include installation of 500 linear feet of access matting (300 from this purchase and 200 of existing Park Board supplies), addition of 10 ADA parking spaces closer to the beach front (non-concrete pads) and connectivity to the stage area near the pavilion. This project will allow seamless access from the pavilion to the beach template.

As illustrated in the bid tabulation, there are several options for this material. Staff recommends the submittal at \$13,817. While not the lowest priced option, this vendor also provided the stakes, straps, caps/plugs and aluminum connectors along with a 5-year warranty. Having the stakes, straps, caps/plugs and connectors will save staff time in locating these supplies and making additional purchase, likely to be more costly than the direct purchase option included in this bid. Additionally, the 5-year warranty gives assurances of the quality of the product. For these reasons, staff recommends awarding this contract to AccessRec in the amount of \$13,817 for access matting and related supplies.

Staff Recommendation:

Staff recommends the purchase of 300 linear feet of access matting from AccessRec in the amount of \$13,817.

Funding Source (if applicable): Project outlined in the approved budget under RA 52 5250.



Agenda Item: Discuss and Consider a Budget Amendment to Nourished Beach for the Dellanera Beach Repair

Background:

The stretch of beach for this project encompasses the area from the western end of the Galveston Seawall to the western property line of Dellanera RV Park. This nourishment is necessary due to the damage sustained to the beach from Hurricane Harvey in 2017 and is a beach project with no dune work. The project is being carried out through a FEMA claim in conjunction with our project partner the Texas General Land Office (GLO) Coastal Erosion Planning & Response Act (CEPRA). This project is being funded through FEMA (90%) and CEPRA (10%) and can be found in the Park Board Nourished Beach budget. The FEMA project worksheet was valued at \$4,680,797.02 in 2021 when awarded.

A construction contract was awarded in October 2022 and was valued at approximately \$6.4 million dollars. With this change in project costs the Park Board received an amended contract with CEPRA for the increase for their 10% share in the project.

After the final bids came in for actual construction costs Park Board staff engaged with FEMA through the Texas Division of Emergency Management (TDEM) to make them aware of the funding shortfall in the obligated project worksheet. A request has been made for the cost overrun for the total project costs in the amount of \$6.8 million dollars. The reasoning conveyed was that the estimated cost to complete this project’s scope of work greatly exceeds the obligated amount due to increased material, labor, surveying, and other associated costs relating to the coastal work. This request has been supported by TDEM and all necessary documentation has been presented to FEMA Region 6 for review. The FEMA Consolidated Resources Center is currently reviewing the cost change request for completeness. Upon their acceptance they will write an amendment to the project worksheet to increase the cost of the project.

Due to the increases in accounts 5195, 4665 & 4650 Nourished Beach budget a budget amendment is requested.

Staff Recommendation:

Staff is recommending approval of this amendment to align the Park Board budget with actual project costs.

Funding Source (if applicable):

FY23 BUDGET PROJECTIONS				
Nourished Beach -- Expenses				
Account Code	Account Short Title	Original Budget	Budget Adj.	Adjusted Budget
5195	FEMA Storm Repa	\$7,663,650.00	\$2,133,879.00	\$9,797,529.00
FY23 BUDGET PROJECTIONS				
Nourished Beach -- Revenues				
Account Code	Account Short Title	Original Budget	Budget Adj.	Adjusted Budget
4650	Grant Proceeds	\$1,414,271.00	\$213,387.90	\$1,627,658.90
4665	FEMA Reimbu	\$6,897,285.00	\$1,920,491.42	\$8,817,776.42



Agenda Item: Discuss and Consider Approval to Dispose of Park Board Vehicle 3704

Background: On November 11, 2022, an employee driving park board vehicle 3704 (2017 Chev Colorado, VIN 1GCHTDEN8H1164608) was involved in a collision when another driver ran a red light and hit him. No injuries were reported but the accident resulted in heavy damage to the vehicle. Upon inspection, TML determined that the damage to the vehicle was beyond repair and advised staff that they deemed the vehicle a total loss. TML presented the following 2 options:

Option 1- TML takes possession of the vehicle salvage.

Settlement = \$27,700.00 market value - \$1,000.00 deductible = **\$26,700.00 + \$533.24** Towing Cost

Option 2- The park board keeps the vehicle salvage.

Settlement = \$26,700.00 - \$5,007.31 salvage = **\$21,692.69 + \$533.24** Towing Cost

Based on advice from CZM manager Larry Jackson that we could not get what TML is offering in salvage, staff believes taking the larger, more immediate settlement amount from TML would be the most advantageous.

Staff Recommendation: Staff recommends approval of Option 1 as method of disposing of park board vehicle 3704.

Funding Source: Funds will be deposited in BP70-4666



Agenda Item: Discuss and Consider Approval of Addition of Professional Services and Legal Services Procurement Procedures to the Park Board Purchasing Policies, Procedures and Controls Manual

Background: The Park Board of Trustees of the City of Galveston (herein referred to as Park Board or Board) has developed and published a Purchasing Policies, Procedures, and Controls manual to operate efficiently and effectively. It was approved in April 2021 and recognizes existing requirements from the State law and the Board policy established through Board approval that governs different types of major purchases.

State law governs the significant parameters that control procurement by local governments in Texas. These requirements are found in Texas Local Government Code Chapters 252 and 271 and Texas Government Code Chapters 2254 and 2269. These laws control the formal bidding limits, define the basis for procuring different types of goods and services, and regulatory standards to ensure compliance with the competitive bidding laws.

Most purchases over \$50,000 are governed by State law with few exceptions. One of those exceptions is personal and professional services. Most professional service procurement falls under The Professional Services Procurement Act. However, that does not apply to attorneys and the selection of an attorney is exempt from competitive bidding requirements as a “professional service.” (See TEX. LOC. GOV’T CODE § 252.022(a)(4) ; Op. Tex. Att’y Gen. No. JM-940 at 3 (1988), MW-344(1981)).

In addition to the items exempt from Texas Local Government Code 252, legal services are exempt from the Park Board Purchasing Policy’s competitive bidding procedures. All other requirements in the policy, and by law, are still applicable. Any expenditures with a value of \$10,000 or more requires board approval, this includes legal services.

Legal and organizational changes and process improvements will bring about policy and procedural changes. Revisions will be issued as needed that reflect these changes to keep this manual current.

While legal and professional services are exempt from competitive bidding, the method for their procurement should be provided for in the Park Board’s procurement manual. During the public Board meeting held on January 24, 2023, Board directed staff draft specific procedures for soliciting and procuring professional and legal services.

Included herein is the draft Professional Services and Legal Services Procurement Procedures addition to the Park Board’s procurement policy. The procedures were developed by staff with the assistance of the City Auditor’s office. Staff is appreciative of the assistance provided by the City Auditor.

The additional procedures for procuring professional services can be summarized as follows:

No professional services will be procured by the Park Board without a written contract, agreement, or engagement letter. The contract or agreement for professional services shall contain the following:

- Scope of services, scope of work, deliverables, and/or a clear description of the services rendered and their purpose.

- A summary of cost to include hourly rates for all individuals providing the service – this can include a lump sum cost and/or hourly rates. All agreements must include a “not to exceed” amount.
- Identify the Park Board employee who will manage the contract, agreement, or engagement letter and guide the work performed under the contract, agreement, or engagement letter. And identify the contact person for the person or firm providing the professional services.
- Provide for dispute resolution.
- Include an appropriations clause.
- Provide for the regular billing for legal services rendered. Billing shall occur at least monthly.
- A termination date for the contract, agreement, or engagement letter. The contract, agreement, or engagement letter can be extended only with board approval.
- Any other items the Park Board or Park Board general counsel deem necessary.

The additional procedures for procuring legal services can be summarized as follows:

No legal services will be procured by the Park Board without a written contract, agreement, or engagement letter. The non-contingent fee contract or agreement for legal services shall contain the following:

- Scope of services, scope of work, deliverables, and/or a clear description of the services rendered and their purpose.
- A summary of cost to include hourly rates for all attorneys providing the service – this can include a lump sum cost and/or hourly rates. All agreements must include a “not to exceed” amount.
- Identify the Park Board employee who will manage the contract, agreement, or engagement letter and guide the work performed under the contract, agreement, or engagement letter. And identify the contact person for the attorney or firm providing the legal services.
- Provide for dispute resolution.
- Include an appropriations clause.
- Provide for the regular billing for legal services rendered. Billing shall occur at least monthly.
- A termination date for the contract, agreement, or engagement letter. The contract, agreement, or engagement letter can be extended with board approval.
- Any other items the Park Board or Park Board general counsel deem necessary.

Staff believes this is an example of how local governments can come together to improve processes and procedures to ensure public funds are spent in legal and appropriate ways that benefit the City, residents, and tourists.

Staff Recommendation: Staff recommends approval of the addition of Professional Services and Legal Services Procurement Procedures to the Park Board Purchasing Policies, Procedures and Controls Manual

Procurement Method – Professional Services

Local Governments are authorized to procure professional services under Chapter 2254, Subchapter A, of the Texas Government Code. The procurement of most professional services falls under the provisions of the aforementioned state law.

Professional services refer to services that are

1. within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing;
2. provided in connection with the professional employment or practice of a person who is licensed or registered as one of the following: a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse; or
3. provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior designer under Chapter 1053 of the Occupations Code 242

Professional services procurements are usually advertised as either an RFQ or RFP. The award of a professional services contract is based on (1) demonstrated competence and qualifications to perform the services, and (2) a fair and reasonable pricing. The professional fees under the contract may not exceed any maximum provided by law.

To procure architectural, engineering, or land surveying services, the Park Board must first select the most highly qualified provider based on demonstrated competence and qualifications (this is achieved through the RFQ/RFP process), and then attempt to negotiate a fair and reasonable price for the services. If a satisfactory contract cannot be negotiated with the most highly qualified respondent, the Park Board must formally end negotiations with the respondent and then must attempt to negotiate a fair and reasonable price with the next most highly qualified respondent. This process may continue until a contract is executed for the service solicited by the Park Board. Although the described process applies to the services of an architect, engineer or land surveyor, this selection process can be used for all professional services.

A contract entered into or an arrangement made in violation of Chapter 2254, Subchapter A, of the Texas Government Code is void as against public policy.

A contract awarded for professional services totaling \$10,000 or more will be in a public meeting in accordance with Section [551.041](#) of the Open Meetings Act.

No professional services will be procured by the Park Board without a written contract, agreement, or engagement letter. The contract or agreement for professional services shall contain the following:

- Scope of services, scope of work, deliverables, and/or a clear description of the services rendered and their purpose.

- A summary of cost to include hourly rates for all individuals providing the service – this can include a lump sum cost and/or hourly rates. All agreements **must** include a “not to exceed” amount.
- All agreements must include the following statements:
 - “If the contractor performs work or provides services that if billed or invoiced to the park Board would exceed the ‘not to exceed’ amount, the contractor expressly acknowledges they will **not** be compensated for the work performed or services provided that cause the contractor to exceed the ‘not to exceed’ amount.”
 - “If the contractor anticipates that work will need to be performed or service provided that is necessary to fulfil the deliverables of the agreement and the performance of that work or rendering of that service will cause the contractor to exceed the ‘not to exceed’ amount, the contractor must seek written approval from the Park Board or their designee **before** performing the work or rendering the service, or otherwise incurring any other cost that will cause the contractor to exceed the ‘not to exceed’ amount.”
 - “Any changes in the ‘not to exceed’ amount that total \$10,000 or more **must** be approved by a vote of the Park Board of Trustees in a public meeting **before** any work is performed or service rendered by the contractor that precipitated the change in the ‘not to exceed’ amount.”
 - “Any changes in the ‘not to exceed’ amount that total less than \$10,000 **must** be approved in writing by the Chief Executive Officer **and** Chief Financial Officer of the Park Board **before** any work is performed or service rendered by the contractor that precipitated the change in the ‘not to exceed’ amount.”
- Identify the Park Board employee who will manage the contract, agreement, or engagement letter and guide the work performed under the contract, agreement, or engagement letter. And identify the contact person for the individual or firm providing the professional services.
- Provide for dispute resolution.
- Include an appropriations clause.
- Provide for the regular billing for legal services rendered. Billing shall occur at least monthly.
- A termination date for the contract, agreement, or engagement letter. The contract, agreement, or engagement letter can be extended only with board approval.
- Any other items the Park Board or Park Board general counsel deem necessary.

Other requirements for procuring professional services are as follows:

- For professional service agreements totaling \$1,000 or more in compensation for the service provider, a requisition must be entered into Abila and a Purchase Order issued by the Accounting Department **before** any work is performed or service rendered by the contractor. A copy of the Purchase Order shall be presented to the contractor **before** any work is performed or service rendered by the contractor.
- The written contract, agreement, or engagement letter must be fully executed by all parties **before** any work is performed or service rendered by the contractor.
- Apparent policy violations shall be reported to the CEO’s office. Employees guilty of violations of this policy are subject to disciplinary action, up to and including termination from employment.

Procurement Method – Legal Services

One exception to the requirements of Chapter 2254 and Chapter 252 of the Texas Government Code is legal services. The requirements of Chapter 2254 and Chapter 252 do not apply to attorneys and the selection of an attorney is exempt from competitive bidding requirements as a “professional service.” (See TEX. LOC. GOV'T CODE § 252.022(a)(4) ; Op. Tex. Att’y Gen. No. JM-940 at 3 (1988), MW-344(1981)).

While legal services are exempt from the requirements of Chapter 2254 and Chapter 252, if the contract is for a contingent fee, then the provisions of Chapter 2254.003 and 2254.1032 apply. A contingent fee contract is defined as:

Sec. 2254.101

- (1) "Contingent fee" means that part of a fee for legal services, under a contingent fee contract, the amount or payment of which is contingent on the outcome of the matter for which the services were obtained.
- (2) "Contingent fee contract" means a contract for legal services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained. The term includes an amendment to a contract for legal services described by this subdivision if the amendment:
 - (A) changes the scope of representation; or
 - (B) may result in:
 - (i) the filing of an action; or
 - (ii) the amending of a petition in an existing action.

If a contract or agreement for legal services meets the definition of a contingent fee contract, then the requirements of Chapter 2254.003 and 2254.1032 apply. Those requirements are as follows:

Sec. 2254.1032

- (a) A political subdivision may select an attorney or law firm to award a contingent fee contract only in accordance with Section 2254.003(a) and this section.
- (b) In procuring legal services under a contingent fee contract, a political subdivision shall:
 - (1) select a well-qualified attorney or law firm on the basis of demonstrated competence, qualifications, and experience in the requested services; and
 - (2) attempt to negotiate a contract with that attorney or law firm for a fair and reasonable price.

Sec. 2254.003

- (a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:
 - (1) on the basis of demonstrated competence and qualifications to perform the services; and
 - (2) for a fair and reasonable price.
- (b) The professional fees under the contract may not exceed any maximum provided by law.

Chapter 2254.1036 also provides for how a local government’s governing body must approve a contingent fee contract for legal services in an open meeting. The requirements are as follows:

Sec. 2254.1036

(a) A political subdivision may enter into a contingent fee contract for legal services only if the political subdivision:

(1) before or at the time of giving the written notice required by Section [551.041](#) for a meeting described by Subdivision (2), also provides written notice to the public stating:

(A) the reasons for pursuing the matter that is the subject of the legal services for which the attorney or law firm would be retained and the desired outcome of pursuing the matter;

(B) the competence, qualifications, and experience demonstrated by the attorney or law firm selected under Section [2254.1032](#);

(C) the nature of any relationship, including the beginning of the relationship, between the political subdivision or governing body and the attorney or law firm selected under Section [2254.1032](#);

(D) the reasons the legal services cannot be adequately performed by the attorneys and supporting personnel of the political subdivision;

(E) the reasons the legal services cannot be reasonably obtained from attorneys in private practice under a contract providing for the payment of hourly fees without contingency; and

(F) the reasons entering into a contingent fee contract for legal services is in the best interest of the residents of the political subdivision; and

(2) approves the contract in an open meeting called for the purpose of considering the matters listed in Subsection (a)(1).

(b) On approval of a contingent fee contract, the governing body of a political subdivision shall state in writing that the political subdivision finds that:

(1) there is a substantial need for the legal services;

(2) the legal services cannot be adequately performed by the attorneys and supporting personnel of the political subdivision; and

(3) the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained or because the political subdivision does not have funds to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

It is the Park Board's policy to award non-contingent fee contracts or agreements for legal services in a public meeting in accordance with Section [551.041](#) of the Open Meetings Act, regardless of the amount of the contract.

No legal services will be procured by the Park Board without a written contract, agreement, or engagement letter. The non-contingent fee contract or agreement for legal services shall contain the following:

- Scope of services, scope of work, deliverables, and/or a clear description of the services rendered and their purpose.

- A summary of cost to include hourly rates for all attorneys providing the service – this can include a lump sum cost and/or hourly rates. All agreements **must** include a “not to exceed” amount.
- All agreements must include the following statements:
 - “If the contractor performs work or provides services that if billed or invoiced to the park Board would exceed the ‘not to exceed’ amount, the contractor expressly acknowledges they will **not** be compensated for the work performed or services provided that cause the contractor to exceed the ‘not to exceed’ amount.”
 - “If the contractor anticipates that work will need to be performed or service provided that is necessary to fulfil the deliverables of the agreement and the performance of that work or rendering of that service will cause the contractor to exceed the ‘not to exceed’ amount, the contractor must seek written approval from the Park Board or their designee **before** performing the work or rendering the service, or otherwise incurring any other cost that will cause the contractor to exceed the ‘not to exceed’ amount.”
 - “Any changes in the ‘not to exceed’ amount that total \$10,000 or more **must** be approved by a vote of the Park Board of Trustees in a public meeting **before** any work is performed or service rendered by the contractor that precipitated the change in the ‘not to exceed’ amount.”
 - “Any changes in the ‘not to exceed’ amount that total less than \$10,000 **must** be approved in writing by the Chief Executive Officer, Chief Financial Officer, and General Counsel of the Park Board **before** any work is performed or service rendered by the contractor that precipitated the change in the ‘not to exceed’ amount.”
- Identify the Park Board employee who will manage the contract, agreement, or engagement letter and guide the work performed under the contract, agreement, or engagement letter. And identify the contact person for the individual or firm providing the professional services.
- Provide for dispute resolution.
- Include an appropriations clause.
- Provide for the regular billing for legal services rendered. Billing shall occur at least monthly.
- A termination date for the contract, agreement, or engagement letter. The contract, agreement, or engagement letter can be extended only with board approval.
- Any other items the Park Board or Park Board general counsel deem necessary.

Other requirements for procuring professional services are as follows:

- All legal service agreements must be approved by a vote of the Park Board of Trustees in a public meeting **before** any work is performed or service rendered by the contractor, regardless of the amount to be paid to contractor.
- For legal service agreements totaling \$1,000 or more in compensation for the service provider, a requisition must be entered into Abila and a Purchase Order issued by the Accounting Department **before** any work is performed or service rendered by the contractor. A copy of the Purchase Order shall be presented to the contractor **before** any work is performed or service rendered by the contractor.
- The written contract, agreement, or engagement letter must be fully executed by all parties **before** any work is performed or service rendered by the contractor.
- Apparent policy violations shall be reported to the CEO’s office. Employees guilty of violations of this policy are subject to disciplinary action, up to and including termination from employment.



Agenda Item: Discuss and Review Potential Process for Hotel Occupancy Budget Allotment Requests to the City of Galveston

Background: City Council passed 3 ordinances on December 8, 2022 (22-043, 22-073 & 22-074), that did several things, but the three main things it did are as follows:

- Gave budget approval authority to City Council
- Required the transfer of millions of dollars of HOT cash to the City
- Approved or deferred projects included in our Capital Improvement Plan (CIP)

The Park Board received provisional approval of the fiscal year 2023 budget from council on December 8th, but that approval did not include special projects and capital outlays. Capital outlays were considered in a separate ordinance, also passed on December 8th, with some gaining approval and others deferment (see 22-043). Also, some projects and capital outlays are not included in the board approved CIP that is sent for City Council consideration. Those include most projects and equipment purchases in the governmental funds (Beach Cleaning, Beach Patrol, General Fund, Nourished Beach, and Tourism Development).

Exactly how the budget approval or capital/special project approval process will look in the future is to be determined in the ongoing interlocal agreement negotiations with the City. But all discussion right now seems to indicate we will need to prepare an allotment/draw request for expenditures including special projects on a quarterly basis. The quarterly allotment requests will likely be accompanied by a budget to actual schedule for the previous quarter's actual revenue and expenditures. City staff has indicated that a line-item detail as is currently depicted in our annual budget will be sufficient to satisfy State law requirement for listing of eligible HOT expenditures. Right now, it appears these allotment requests will be limited to the HOT recipient funds which are Beach Cleaning (CZM), Beach Patrol, Nourished Beach, and Tourism Development.

That said, Park Board staff is changing the way we prepare budget projections to accommodate this. The current process was projecting revenues and expenses through yearend and presenting updated projections to the Finance and Operations Committee (FOC) on a quarterly basis. The process will be revised to include a breakdown projected expenditures by fiscal year. For fiscal year 2023, the breakdown will include the final two quarters of the year (April to June and July to August).

Staff is currently working the first allotment request now and hopes to have it ready for Board consideration at the February meeting, scheduled for February 28, 2023. For future quarterly allotment requests, staff plans to run them through FOC before taking it to the board for consideration.

Staff Recommendation: N/A

Funding Source: N/A



Agenda Item: Discuss and Consider Approval of Coastal Zone Management Facility Loan Term Renewal

Background: Loan #0012 held by Moody National Bank (MNB) will be maturing on February 22, 2023. This loan is secured by the Coastal Zone Management Facility located at 2902 Church Street. The current balance on the loan is \$316,973.59 with the February payments due on the 22nd of February. Once those payments are made the balance at renewal will be approximately \$312,638.42.

The original loan was on a 20-year amortization schedule with an original maturity of 15 years, and a renewal requirement for the final 5 years. The loan was originated on February 28, 2008, so there five years remaining on the amortization schedule. Based on the current rate (7.75%), the monthly payment will increase by \$334.26 above the current monthly payment of \$5,967.58. MNB has indicated they will work with the Park Board to keep the payment as close to the current payment as possible.

There will be some cost involved in renewing the loan. The renewal will require attorney prepared documents (\$750 - \$1,500 cost estimate), a title search (\$216.50) and a UCC search (\$33-\$34). The attorney fees are an estimate from MNB.

Staff Recommendation: Staff recommends approval to renew the CZM loan #0012 held by MNB for an additional 5-years, maturing on February 22, 2028.

Funding Source: BC-70-5204 – Professional Fees (attorney and other processing fees), BC-70-5156 – Interest Expense, and BC-70-5251 – Financed Capital Principal Payments.

Finance & Operations 2022-2023 Workplan

Quarter 1		
<i>October</i>	<i>November</i>	<i>December</i>
No Meeting	Discuss & Consider renewal of credit line at MNB Discuss & Review Vehicle & Equip. Needs Assessment Discuss & Review Investment Polciy Discuss & Review Investment Portfolio Options	No Meeting

Quarter 2		
<i>January</i>	<i>February</i>	<i>March</i>
Receive & Review FY2022 unaudited financial statements Discuss & Review FY2023 financial projections Update on Park Board STR software implementation Discuss & Review City Wage Assessment Survey	Receive & Review FY2020/21 draft financial audit Discuss & Consider Capital Asset Policy	Discuss & Consider Cash Handling Policy

Quarter 3		
<i>April</i>	<i>May</i>	<i>June</i>
Discuss & Review FY2023 financial projections Discuss & Consider Accounts Payable and Credit Card Use Policies	No Meeting	Discuss & Recommend FY2024 HOT values

Quarter 4		
<i>July</i>	<i>August</i>	<i>September</i>
Discuss & Review 2024 draft park budgets Discuss & Review 2024-2028 Capital Improvement Plans Discuss & Review FY2023 financial projections	Discuss & Recommend merit increase Discuss & Recommend compensation changes Discuss & Review 2024 draft gov. fund budgets	Discuss & Consider FY2024 full budget

On-going agenda items:

- Receive and review monthly financial statements
- Receive and review quarterly financial reports
- New Concessionaire Agreements