

AN ACT

relating to the procurement methods of certain political subdivisions and certain other entities for the construction, rehabilitation, alteration, or repair of certain projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 252.021(a), Local Government Code, is amended to read as follows:

(a) Before a municipality may enter into a contract that requires an expenditure of more than \$25,000 from one or more municipal funds, the municipality must:

(1) comply with the procedure prescribed by this subchapter and Subchapter C for competitive sealed bidding or competitive sealed proposals;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Subchapter H or J, Chapter 271.

SECTION 2. Sections 271.111(7) and (10), Local Government Code, are amended to read as follows:

(7) "Facility" means, unless otherwise specifically provided, buildings the design and construction of which are governed by accepted building codes. The term does not include:

(A) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants,

1 water and wastewater distribution or conveyance facilities,
2 wharves, docks, airport runways and taxiways, drainage projects, or
3 related types of projects associated with civil engineering
4 construction; or

5 (B) buildings or structures that are incidental
6 to projects that are primarily civil engineering construction
7 projects.

8 (10) "Governmental entity" means a municipality,
9 county, hospital district, water district or authority created
10 under Section 59, Article XVI, Texas Constitution, including a
11 river authority or conservation and reclamation district, or a
12 defense base development authority established under Chapter 379B
13 [378 as added by Chapter 1221, Acts of the 76th Legislature, Regular
14 Session, 1999].

15 SECTION 3. Section 271.116, Local Government Code, is
16 amended by adding Subsection (a-1) to read as follows:

17 (a-1) In this section "facility" means an improvement to
18 real property.

19 SECTION 4. Section 271.118, Local Government Code, is
20 amended by adding Subsection (a-1) to read as follows:

21 (a-1) In this section "facility" means an improvement to
22 real property.

23 SECTION 5. Section 271.120(i), Local Government Code, is
24 amended to read as follows:

25 (i) If a job order contract or an order issued under the
26 contract requires engineering or architectural services that
27 constitute the practice of engineering within the meaning of

1 Chapter 1001, Occupations Code, or the practice of architecture
2 within the meaning of Chapter 1051, Occupations Code, the
3 governmental entity shall select or designate an architect or
4 engineer to prepare the construction documents for the facility
5 ~~[those services shall be provided in accordance with applicable~~
6 ~~law]~~. If the architect or engineer is not a full-time employee of
7 the governmental entity, the governmental entity shall select the
8 architect or engineer on the basis of demonstrated competence and
9 qualifications as provided by Section 2254.004, Government Code.

10 SECTION 6. Chapter 271, Local Government Code, is amended
11 by adding Subchapter J to read as follows:

12 SUBCHAPTER J. DESIGN-BUILD PROCEDURES FOR CERTAIN CIVIL WORKS
13 PROJECTS

14 Sec. 271.181. DEFINITIONS. In this subchapter:

15 (1) "Architect" means an individual registered as an
16 architect under Chapter 1051, Occupations Code.

17 (2) "Civil works project" means:

18 (A) roads, streets, bridges, utilities, water
19 supply projects, water plants, wastewater plants, water
20 distribution and wastewater conveyance facilities, desalination
21 projects, airport runways and taxiways, storm drainage and flood
22 control projects, or transit projects;

23 (B) types of projects or facilities related to
24 those described by Paragraph (A) and associated with civil
25 engineering construction; and

26 (C) buildings or structures that are incidental
27 to projects or facilities that are described by Paragraphs (A) and

1 (B) and that are primarily civil engineering construction projects.

2 (3) "Design-build firm" means a partnership,
3 corporation, or other legal entity or team that includes an
4 engineer and a construction contractor qualified to engage in civil
5 works construction in Texas.

6 (4) "Design criteria package" means a set of documents
7 that:

8 (A) provides sufficient information to convey
9 the intent, goals, criteria, and objectives of the civil works
10 project; and

11 (B) permits a design-build firm to:

12 (i) assess the scope of work and the risk
13 involved; and

14 (ii) submit a proposal on the project.

15 (5) "Engineer" means an individual licensed as an
16 engineer under Chapter 1001, Occupations Code.

17 (6) "Local governmental entity" means a municipality,
18 a county, a river authority, a defense base development authority
19 established under Chapter 379B, a municipally owned water utility
20 with a separate governing board appointed by the governing body of a
21 municipality, or any other special district or authority authorized
22 by law to enter into a public works contract for a civil works
23 project. The term does not include a regional tollway authority
24 created under Chapter 366, Transportation Code, a regional mobility
25 authority created under Chapter 370, Transportation Code, or a
26 water district or authority created under Section 52, Article III,
27 or Section 59, Article XVI, Texas Constitution, with a population

1 of less than 50,000.

2 Sec. 271.182. APPLICABILITY. (a) Before September 1,
3 2009, this subchapter applies to a local governmental entity with a
4 population of 500,000 or more within its geographic boundaries or
5 service area.

6 (b) On or after September 1, 2009, and before September 1,
7 2011, this subchapter applies to a local governmental entity with a
8 population of more than 100,000 within its geographic boundaries or
9 service area.

10 Sec. 271.183. APPLICABILITY OF OTHER LAW. (a) The
11 purchasing requirements of Section 361.426, Health and Safety Code,
12 apply to purchases by a local governmental entity made under this
13 subchapter.

14 (b) Except as provided by this section, to the extent of any
15 conflict, this subchapter prevails over any other law relating to
16 the purchasing of goods and services except a law relating to
17 contracting with historically underutilized businesses.

18 Sec. 271.184. NOTICE REQUIREMENTS. (a) A local
19 governmental entity shall advertise or publish notice of requests
20 for bids, proposals, or qualifications in any manner prescribed by
21 law.

22 (b) For a contract entered into by a local governmental
23 entity under any of the methods provided by this subchapter, the
24 entity shall publish notice of the time and place the bid or
25 proposals or the request for qualifications will be received and
26 opened in any manner prescribed by law.

27 Sec. 271.185. CONTRACTS FOR CIVIL WORKS PROJECTS:

1 DESIGN-BUILD. (a) A local governmental entity may use the
2 design-build method for the construction, rehabilitation,
3 alteration, or repair of a civil works project. In using this method
4 and in entering into a contract for the services of a design-build
5 firm, the contracting local governmental entity and the
6 design-build firm shall follow the procedures provided by this
7 subchapter.

8 (b) A contract for a project under this subchapter may cover
9 only a single integrated project. A local governmental entity may
10 not enter into a contract for aggregated projects at multiple
11 locations. For purposes of this subsection:

12 (1) if a metropolitan transit authority created under
13 Chapter 451, Transportation Code, enters into a contract for a
14 project involving a bus rapid transit system created under Chapter
15 451, Transportation Code, the bus rapid transit system is a single
16 integrated project; and

17 (2) a water treatment plant, including a desalination
18 plant, that includes treatment facilities, well fields, and
19 pipelines is a single integrated project.

20 (c) A local governmental entity shall use the following
21 criteria as a minimum basis for determining the circumstances under
22 which the design-build method is appropriate for a project:

23 (1) the extent to which the entity can adequately
24 define the project requirements;

25 (2) the time constraints for the delivery of the
26 project;

27 (3) the ability to ensure that a competitive

1 procurement can be held; and

2 (4) the capability of the entity to manage and oversee
3 the project, including the availability of experienced personnel or
4 outside consultants who are familiar with the design-build method
5 of project delivery.

6 (d) A local governmental entity shall make a formal finding
7 on the criteria described by Subsection (c) before preparing a
8 request for qualifications under Section 271.189.

9 Sec. 271.186. LIMITATION ON NUMBER OF PROJECTS. (a) During
10 the first four years that this subchapter applies to a local
11 governmental entity under Section 271.182:

12 (1) a local governmental entity with a population of
13 500,000 or more may, under this subchapter, enter into contracts
14 for not more than three projects in any fiscal year;

15 (2) a local governmental entity with a population of
16 100,000 or more but less than 500,000 may, under this subchapter,
17 enter into contracts for not more than two projects in any fiscal
18 year; and

19 (3) a municipally owned water utility with a separate
20 governing board appointed by the governing body of a municipality
21 with a population of 500,000 or more may:

22 (A) independently enter into a contract for not
23 more than one civil works project in any fiscal year; and

24 (B) enter into contracts for additional civil
25 works projects in any fiscal year, but not more than the number of
26 civil works projects prescribed by the limit in Subdivision (1) for
27 the municipality, provided that:

1 (i) the additional contracts for the civil
2 works projects entered into by the utility under this paragraph are
3 allocated to the number of contracts the municipality that appoints
4 the utility's governing board may enter under Subdivision (1); and

5 (ii) the governing body of the municipality
6 must approve the contracts.

7 (b) After the period described by Subsection (a):

8 (1) a local governmental entity with a population of
9 500,000 or more may, under this subchapter, enter into contracts
10 for not more than six projects in any fiscal year;

11 (2) a local governmental entity with a population of
12 100,000 or more but less than 500,000 may, under this subchapter,
13 enter into contracts for not more than four projects in any fiscal
14 year; and

15 (3) a municipally owned water utility with a separate
16 governing board appointed by the governing body of a municipality
17 with a population of 500,000 or more may:

18 (A) independently enter into contracts for not
19 more than two civil works projects in any fiscal year; and

20 (B) enter into contracts for additional civil
21 works projects in any fiscal year, but not more than the number of
22 civil works projects prescribed by the limit in Subdivision (1) for
23 the municipality, provided that:

24 (i) the additional contracts for the civil
25 works projects entered into by the utility under this paragraph are
26 allocated to the number of contracts the municipality that appoints
27 the utility's governing board may enter under Subdivision (1); and

1 (ii) the governing body of the municipality
2 must approve the contracts.

3 (c) For purposes of determining the number of eligible
4 projects under this section, a municipally owned water utility with
5 a separate governing board appointed by the governing body of the
6 municipality is considered part of the municipality.

7 Sec. 271.187. USE OF ENGINEER. (a) The local governmental
8 entity shall select or designate an engineer who is independent of
9 the design-build firm to act as its representative for the
10 procurement process and for the duration of the work on the civil
11 works project. The selected or designated engineer has full
12 responsibility for complying with Chapter 1001, Occupations Code.

13 (b) If the engineer is not a full-time employee of the local
14 governmental entity, the local governmental entity shall select the
15 engineer on the basis of demonstrated competence and qualifications
16 as provided by Section 2254.004, Government Code.

17 Sec. 271.188. USE OF OTHER PROFESSIONAL SERVICES. (a) The
18 local governmental entity shall provide or contract for,
19 independently of the design-build firm, the following services as
20 necessary for the acceptance of the civil works project by the
21 entity:

22 (1) inspection services;

23 (2) construction materials engineering and testing;

24 and

25 (3) verification testing services.

26 (b) The local governmental entity shall select the services
27 for which it contracts under this section in accordance with

1 Section 2254.004, Government Code.

2 Sec. 271.189. REQUEST FOR QUALIFICATIONS. (a) The local
3 governmental entity shall prepare a request for qualifications that
4 includes:

- 5 (1) information on the civil works project site;
- 6 (2) project scope;
- 7 (3) project budget;
- 8 (4) project schedule;
- 9 (5) criteria for selection under Section 271.191 and
10 the weighting of the criteria; and

11 (6) other information that may assist potential
12 design-build firms in submitting proposals for the project.

13 (b) The local governmental entity shall also prepare a
14 design criteria package as described by Section 271.190.

15 Sec. 271.190. CONTENTS OF DESIGN CRITERIA PACKAGE. A
16 design criteria package may include, as appropriate:

- 17 (1) budget or cost estimates;
- 18 (2) information on the site;
- 19 (3) performance criteria;
- 20 (4) special material requirements;
- 21 (5) initial design calculations;
- 22 (6) known utilities;
- 23 (7) capacity requirements;
- 24 (8) quality assurance and quality control
25 requirements;
- 26 (9) the type, size, and location of structures; and
- 27 (10) notice of any ordinances, rules, or goals adopted

1 by the local governmental entity relating to awarding contracts to
2 historically underutilized businesses.

3 Sec. 271.191. EVALUATION OF DESIGN-BUILD FIRMS. (a) The
4 local governmental entity shall receive proposals and shall
5 evaluate each offeror's experience, technical competence,
6 capability to perform, the past performance of the offeror's team
7 and members of the team, and other appropriate factors submitted by
8 the team or firm in response to the request for qualifications,
9 except that cost-related or price-related evaluation factors are
10 not permitted at this stage.

11 (b) Each offeror must:

12 (1) select or designate each engineer that is a member
13 of its team based on demonstrated competence and qualifications, in
14 the manner provided by Section 2254.004, Government Code; and

15 (2) certify to the local governmental entity that each
16 selection or designation was based on demonstrated competence and
17 qualifications, in the manner provided by Section 2254.004,
18 Government Code.

19 (c) The local governmental entity shall qualify offerors to
20 submit additional information and, if the entity chooses, to
21 interview for final selection.

22 Sec. 271.192. SELECTION OF DESIGN-BUILD FIRM. The local
23 governmental entity shall select a design-build firm using a
24 combination of technical and cost proposals as provided by Section
25 271.193.

26 Sec. 271.193. PROCEDURES FOR COMBINATION OF TECHNICAL AND
27 COST PROPOSALS. (a) A local governmental entity shall request

1 proposals from design-build firms identified under Section
2 271.191(c). A firm must submit a proposal not later than the 180th
3 day after the date the local governmental entity makes a public
4 request for the proposals from the selected firms. The request for
5 proposals must include:

6 (1) a design criteria package;

7 (2) if the project site is identified, a geotechnical
8 baseline report or other information that provides the design-build
9 firm minimum geotechnical design parameters to submit a proposal;

10 (3) detailed instructions for preparing the technical
11 proposal and the items to be included, including a description of
12 the form and level of completeness of drawings expected; and

13 (4) the relative weighting of the technical and price
14 proposals and the formula by which the proposals will be evaluated
15 and ranked.

16 (b) The technical proposal is a component of the proposal
17 under this section.

18 (c) Each proposal must include a sealed technical proposal
19 and a separate sealed cost proposal.

20 (d) The technical proposal must address:

21 (1) project approach;

22 (2) anticipated problems;

23 (3) proposed solutions to anticipated problems;

24 (4) ability to meet schedules;

25 (5) conceptual engineering design; and

26 (6) other information requested by the local
27 governmental entity.

1 (e) The local governmental entity shall first open,
2 evaluate, and score each responsive technical proposal submitted on
3 the basis of the criteria described in the request for proposals and
4 assign points on the basis of the weighting specified in the request
5 for proposals. The local governmental entity may reject as
6 nonresponsive any firm that makes a significant change to the
7 composition of its firm as initially submitted. The local
8 governmental entity shall subsequently open, evaluate, and score
9 the cost proposals from firms that submitted a responsive technical
10 proposal and assign points on the basis of the weighting specified
11 in the request for proposals. The local governmental entity shall
12 select the design-build firm in accordance with the formula
13 provided in the request for proposals.

14 Sec. 271.194. NEGOTIATION. After selecting the highest
15 ranked design-build firm under Section 271.193, the local
16 governmental entity shall first attempt to negotiate a contract
17 with the selected firm. If the local governmental entity is unable
18 to negotiate a satisfactory contract with the selected firm, the
19 entity shall, formally and in writing, end all negotiations with
20 that firm and proceed to negotiate with the next firm in the order
21 of the selection ranking until a contract is reached or
22 negotiations with all ranked firms end.

23 Sec. 271.195. ASSUMPTION OF RISKS. The local governmental
24 entity shall assume:

25 (1) all risks and costs associated with:
26 (A) scope changes and modifications, as
27 requested by the local governmental entity;

1 (B) unknown or differing site conditions unless
2 otherwise provided by the local governmental entity in the request
3 for proposals and final contract;

4 (C) regulatory permitting, if the local
5 governmental entity is responsible for those risks and costs by law
6 or contract; and

7 (D) natural disasters and other force majeure
8 events unless otherwise provided by the local governmental entity
9 in the request for proposals and final contract; and

10 (2) all costs associated with property acquisition,
11 excluding costs associated with acquiring a temporary easement or
12 work area associated with staging or construction for the project.

13 Sec. 271.196. STIPEND AMOUNT FOR UNSUCCESSFUL OFFERORS.

14 (a) Unless a stipend is paid under Subsection (c), the
15 design-build firm retains all rights to the work product submitted
16 in a proposal. The local governmental entity may not release or
17 disclose to any person, including the successful offeror, the work
18 product contained in an unsuccessful proposal. The local
19 governmental entity shall return all copies of the proposal and
20 other information submitted to an unsuccessful offeror. The local
21 governmental entity or its agents may not make use of any unique or
22 nonordinary design element, technique, method, or process
23 contained in the unsuccessful proposal that was not also contained
24 in the successful proposal at the time of the original submittal,
25 unless the entity acquires a license from the unsuccessful offeror.

26 (b) A violation of this section voids the contract for the
27 project entered into by the local governmental entity. The local

1 governmental entity is liable to any unsuccessful offeror, or any
2 member of the design-build team or its assignee, for one-half of the
3 cost savings associated with the unauthorized use of the work
4 product of the unsuccessful offeror. Any interested party may
5 bring an action for an injunction, declaratory relief, or damages
6 for a violation of this section. A party who prevails in an action
7 under this subsection is entitled to reasonable attorney's fees as
8 approved by the court.

9 (c) The local governmental entity may offer an unsuccessful
10 design-build firm that submits a response to the entity's request
11 for additional information under Section 271.193 a stipend for
12 preliminary engineering costs associated with the development of
13 the proposal. The stipend must be one-half of one percent of the
14 contract amount and must be specified in the initial request for
15 proposals. If the offer is accepted and paid, the local
16 governmental entity may make use of any work product contained in
17 the proposal, including the techniques, methods, processes, and
18 information contained in the proposal. The use by the local
19 governmental entity of any design element contained in an
20 unsuccessful proposal is at the sole risk and discretion of the
21 entity and does not confer liability on the recipient of the stipend
22 under this subsection.

23 (d) Notwithstanding other law, including Chapter 552,
24 Government Code, work product contained in an unsuccessful proposal
25 submitted and rejected under this subchapter is confidential and
26 may not be released unless a stipend offer has been accepted and
27 paid as provided by Subsection (c).

1 Sec. 271.197. COMPLETION OF DESIGN. (a) Following
2 selection of a design-build firm under this subchapter, the firm's
3 engineers shall submit all design elements for review and
4 determination of scope compliance to the local governmental entity
5 before or concurrently with construction.

6 (b) An appropriately licensed design professional shall
7 sign and seal construction documents before the documents are
8 released for construction.

9 Sec. 271.198. FINAL CONSTRUCTION DOCUMENTS. At the
10 conclusion of construction, the design-build firm shall supply to
11 the local governmental entity a record set of construction
12 documents for the project prepared as provided by Chapter 1001,
13 Occupations Code.

14 Sec. 271.199. PERFORMANCE OR PAYMENT BOND. (a) A payment
15 or performance bond is not required for the portion of a
16 design-build contract under this section that includes design
17 services only.

18 (b) If a fixed contract amount or guaranteed maximum price
19 has not been determined at the time a design-build contract is
20 awarded, the penal sums of the performance and payment bonds
21 delivered to the local governmental entity must each be in an amount
22 equal to the construction budget, if commercially available and
23 practical, as specified in the design criteria package.

24 (c) If the local governmental entity awards a design-build
25 contract under Section 271.193, the design-build firm shall deliver
26 the bonds not later than the 10th day after the date the
27 design-build firm executes the contract unless the design-build

1 firm furnishes a bid bond or other financial security acceptable to
2 the local governmental entity to ensure that the design-build firm
3 will furnish the required performance and payment bonds before the
4 commencement of construction.

5 SECTION 7. Chapter 271.112, Local Government Code, is
6 amended by adding Subsection (g) to read as follows:

7 (g) If the contract for a facility involves the use of state
8 or federal highway funds, the purchasing requirements of the
9 appropriate state or federal funding entity apply, unless otherwise
10 waived by the appropriate state or federal funding entity.

11 SECTION 8. Section 271.904(a), Local Government Code, is
12 amended to read as follows:

13 (a) A covenant or promise in, in connection with, or
14 collateral to a contract for engineering or architectural services
15 to which a governmental agency is a party is void and unenforceable
16 if the covenant or promise provides that a licensed engineer or
17 registered architect whose work product is the subject of the
18 contract must indemnify, ~~[or]~~ hold harmless, or defend the
19 governmental agency against liability for damage, other than
20 liability for damage that is caused by or results from an act of
21 [the] negligence, intentional tort, intellectual property
22 infringement, or failure to pay a subcontractor or supplier
23 committed by [of] the indemnitor or the indemnitor's agent,
24 consultant under contract, or another entity over which the
25 indemnitor exercises control ~~[governmental agency or its agent or~~
26 ~~employee]~~.

27 SECTION 9. Section 44.041(i), Education Code, is amended to

1 read as follows:

2 (i) If a job order contract or an order issued under the
3 contract requires engineering or architectural services that
4 constitute the practice of engineering within the meaning of
5 Chapter 1001, Occupations Code, or the practice of architecture
6 within the meaning of Chapter 1051, Occupations Code, the district
7 shall select or designate an architect or engineer to prepare the
8 construction documents for the facility [~~those services shall be~~
9 ~~provided in accordance with applicable law~~]. If the architect or
10 engineer is not a full-time employee of the district, the district
11 shall select the architect or engineer on the basis of demonstrated
12 competence and qualifications as provided by Section 2254.004,
13 Government Code.

14 SECTION 10. Section 46.008, Education Code, is amended to
15 read as follows:

16 Sec. 46.008. STANDARDS. (a) The commissioner shall
17 establish standards for adequacy of school facilities. The
18 standards must include requirements related to space, educational
19 adequacy, and construction quality. All new facilities constructed
20 after September 1, 1998, must meet the standards to be eligible to
21 be financed with state or local tax funds.

22 (b) Any portable, modular building capable of being
23 relocated that is purchased or leased after September 1, 2007, for
24 use as a school facility, regardless of whether the building is an
25 industrialized building as defined by Section 1202.003,
26 Occupations Code, must be inspected as provided by Subchapter E,
27 Chapter 1202, Occupations Code, to ensure compliance with the

1 mandatory building codes or approved designs, plans, and
2 specifications.

3 SECTION 11. Section 51.784(i), Education Code, is amended
4 to read as follows:

5 (i) If a job order contract or an order issued under the
6 contract requires engineering or architectural services that
7 constitute the practice of engineering within the meaning of
8 Chapter 1001, Occupations Code, or the practice of architecture
9 within the meaning of Chapter 1051, Occupations Code, the board
10 shall select or designate an architect or engineer to prepare the
11 construction documents for the facility [~~those services shall be~~
12 ~~provided in accordance with applicable law~~]. If the architect or
13 engineer is not a full-time employee of the institution, the board
14 shall select the architect or engineer on the basis of demonstrated
15 competence and qualifications as provided by Section 2254.004,
16 Government Code.

17 SECTION 12. Section 791.011, Government Code, is amended by
18 adding Subsection (h) to read as follows:

19 (h) An interlocal contract between a governmental entity
20 and a purchasing cooperative may not be used to purchase
21 engineering or architectural services.

22 SECTION 13. Subchapter A, Chapter 2254, Government Code, is
23 amended by adding Section 2254.007 to read as follows:

24 Sec. 2254.007. DECLARATORY OR INJUNCTIVE RELIEF. (a) This
25 subchapter may be enforced through an action for declaratory or
26 injunctive relief filed not later than the 10th day after the date a
27 contract is awarded.

1 (b) This section does not apply to the enforcement of a
2 contract entered into by a state agency as that term is defined by
3 Section 2151.002. In this subsection, "state agency" includes the
4 Texas Building and Procurement Commission.

5 SECTION 14. Section 2254.003(b), Government Code, is
6 amended to read as follows:

7 (b) The professional fees under the contract[+
8 [~~(1) must be consistent with and not higher than the~~
9 ~~recommended practices and fees published by the applicable~~
10 ~~professional associations; and~~

11 [~~(2)~~] may not exceed any maximum provided by law.

12 SECTION 15. Section 431.101(g), Transportation Code, is
13 amended to read as follows:

14 (g) A local government corporation [~~created by a navigation~~
15 ~~district~~] must comply with all state law related to the design and
16 construction of projects, including the procurement of design and
17 construction services, that applies to the local government
18 [~~navigation district~~] that created the corporation.

19 SECTION 16. Subchapter D, Chapter 431, Transportation Code,
20 is amended by adding Section 431.110 to read as follows:

21 Sec. 431.110. COMPETITIVE BIDDING EXCEPTION FOR CERTAIN
22 IMPROVEMENTS. Any competitive bidding requirement or restriction
23 on a local government that created a local government corporation
24 does not apply to an expenditure by the local government
25 corporation for:

26 (1) an improvement:

27 (A) that is constructed in a reinvestment zone;

1 and

2 (B) the construction of which is managed by a
3 private venture participant; or

4 (2) an improvement constructed by the corporation for
5 which more than 50 percent of the construction is funded by a
6 private entity.

7 SECTION 17. Section 60.452, Water Code, is amended by
8 adding Subsection (c) to read as follows:

9 (c) Subchapter J, Chapter 271, Local Government Code, does
10 not apply to this subchapter.

11 SECTION 18. Section 60.464(i), Water Code, is amended to
12 read as follows:

13 (i) If a job order contract or an order issued under the
14 contract requires engineering or architectural services that
15 constitute the practice of engineering within the meaning of
16 Chapter 1001, Occupations Code, or the practice of architecture
17 within the meaning of Chapter 1051, Occupations Code, the district
18 shall select or designate an architect or engineer to prepare the
19 construction documents for the facility [~~those services shall be~~
20 ~~provided in accordance with applicable law~~]. If the architect or
21 engineer is not a full-time employee of the district, the district
22 shall select the architect or engineer on the basis of demonstrated
23 competence and qualifications as provided by Section 2254.004,
24 Government Code.

25 SECTION 19. The changes in law made by this Act apply only
26 to a contract for which a request for proposals or a request for
27 qualifications is first published or distributed on or after the

1 effective date of this Act. A contract for which a request for
2 proposals or a request for qualifications is first published or
3 distributed before the effective date of this Act is governed by the
4 law in effect at the time the request is published or distributed,
5 and the former law is continued in effect for that purpose.

6 SECTION 20. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 1886 was passed by the House on April 25, 2007, by the following vote: Yeas 138, Nays 2, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1886 on May 25, 2007, by the following vote: Yeas 128, Nays 1, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1886 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor