



Board Binder Open Session

August 7, 2023

Agenda



**MIDLAND DEVELOPMENT CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS
LOCAL GOVERNMENT CODE**

NOTICE OF PUBLIC MEETING

In accordance with Chapter 551, Texas Government Code, as amended, notice is hereby given to the public that the Board of Directors of the Midland Development Corporation will meet in regular session, open to the public, in the Midland Chamber of Commerce board room, 303 West Wall Street, Suite 200, Midland, Texas, at 10:00 a.m. on August 7, 2023. A quorum of the Board of Directors of the Midland Development Corporation intends to be physically present at the aforementioned location.

Videoconference Information

Join Zoom Webinar

<https://us02web.zoom.us/j/81221479983?pwd=c1c2cWtTb1BQTUdualZkZDgvTVdoUT09>

Passcode: 975543

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 669 444 9171 or +1 669 900 9128 or +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 558 8656 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623

Webinar ID: 812 2147 9983

Passcode: 975543

International numbers available: <https://us02web.zoom.us/j/81221479983?pwd=c1c2cWtTb1BQTUdualZkZDgvTVdoUT09>

At such meeting, the Board of Directors may discuss, consider, and take action on any of the following items:

1. Call meeting to order.
2. Motion approving the minutes of the July 10, 2023, meeting of the Midland Development Corporation.
3. Resolution approving the execution of an economic development agreement between the Midland Development Corporation and Midland College; and authorizing payment therefor.
4. Resolution authorizing the execution of an interlocal agreement with the University of Texas of the Permian Basin to advertise and publicize the City of Midland for the purpose of developing new and expanded business enterprises.
5. Presentation from Kimley-Horn regarding a proposal for the preparation of a master plan for downtown Midland.

6. Motion authorizing the Chairman to negotiate and execute a license agreement regarding the use of an approximate 2.86-acre tract of land out of the East 374.12 acres of Section 33, Block 40, T-1-S, Midland County, Texas, for materials processing for the construction of a wastewater extension.
7. Presentation on the July 2023 monthly expenses and economic development activity report from the Midland Development Corporation Executive Director and staff.
8. Pursuant to Texas Government Code §551.101, the Board of Directors will hold an Executive Session, which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:
 - a. Section 551.087 Deliberation Regarding Economic Development Negotiations
 - i. Discuss business prospects that the Midland Development Corporation seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives, and discuss contract compliance on the part of businesses.

Posted this 3rd day of August 2023.

Marcia Bentley German
City Governance Officer/City Secretary

July 10th Minutes

MIDLAND DEVELOPMENT CORPORATION

MINUTES

July 10, 2023

The Board of Directors of the Midland Development Corporation convened in regular session at the Midland Chamber of Commerce board room, 303 West Wall Street, Suite 200, Midland, Texas, at 10:00 a.m. on June 05, 2023.

Board Members present: Chairman Chase Gardaphe, Director Berry Simpson, Director Lourcey Sams, Director Jill Pennington, Director, Director Brad Bullock, Director Zachary Deck, and Director Lucy Sisniega (joined at 10:24 a.m.)

Board Members absent: None

Staff Members present: Interim City Manager Morris Williams Jr., Assistant City Manager Tina Jauz, City Attorney Nicholas Toulet-Crump, and Deputy City Secretary Vanessa White

Council Member(s) present: Mayor Lori Blong and Council Member Amy Stretcher Burkes

MDC Staff Members present: Executive Director Sara Harris, Business Retention & Expansion Coordinator Sammi Steele, and Marketing & Administrative Coordinator Gabrielle Franks

1. Call meeting to order.

First Vice Chair Simpson called the meeting to order at 10:04 am

2. Motion approving the minutes of the June 05, 2023, meeting of the Midland Development Corporation.

Director Sams moved to approve minutes of the June 05, 2023, meeting of the Midland Development Corporation, seconded by Director Pennington. The motion carried by the following vote: AYE: Gardaphe, Bullock, Simpson, and Deck. NAY: None. ABSTAIN: None. ABSENT: Sisniega.

3. Resolution approving the budget for the Midland Development Corporation's 2023-2024 Fiscal Year.

Director Pennington moved to approve Resolution ED-444 approving the budget for the Midland Development Corporation's 2023-2024 Fiscal Year, seconded by Director Deck. The motion carried by the following vote: AYE: Gardaphe, Bullock, Sams, and Simpson. NAY: None. ABSTAIN: None. ABSENT: Sisniega.

4. Resolution authorizing payment in the amount of \$200,000.00 to the University of Texas of the Permian Basin pursuant to that certain Incubator and Makerspace Grant Agreement between the Midland Development Corporation and the University of Texas of the Permian Basin.

Director Deck moved to approve Resolution ED-445 authorizing payment in the amount of \$200,000.00 to the University of Texas of the Permian Basin pursuant to that certain Incubator and Makerspace Grant Agreement between the Midland Development Corporation and the University of Texas of the Permian Basin, seconded by Director Sams. The motion carried by the following vote: AYE: Gardaphe, Pennington, Deck, and Simpson. NAY: None. ABSTAIN: None. ABSENT: Sisniega.

5. Receive and discuss proposals received by the Midland Development Corporation for services associated with the preparation of a master plan for downtown Midland, Texas.

Sara Harris discussed the proposals received by the Midland Development Corporation from Halff Associates, Parkhill, and Kimley-Horn for a Master Plan for downtown Midland.

6. Presentation on the June 2023 monthly expenses and economic development activity report from the Midland Development Corporation Executive Director and staff.

Sara Harris gave an overview of the month's expenses, and economic development activity. Gabrielle Franks updated the board with the social media stats. Sammi Steele gave an overview of the business retention and expansion program in June.

Board recessed into executive session at 10:34 a.m.

7. Pursuant to Texas Government Code §551.101, the Board of Directors will hold an Executive Session, which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

b. Section 551.072 Deliberation Regarding Real Property

- i. Discuss the sale, exchange, lease or value of real property described as Lots 5 and 6, Block 35, Original Town of Midland, an addition to the City of Midland, Midland County, Texas.
- ii. Discuss the sale, exchange, lease or value of real property described as Lots 1A and 9-12, Block 35, Original Town of Midland, an addition to the City of Midland, Midland County, Texas.

c. Section 551.087 Deliberation Regarding Economic Development Negotiations

- i. Discuss business prospects that the Midland Development Corporation seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives, and discuss contract compliance on the part of businesses.

Board reconvened into open session at 11:31 a.m.

All the business at hand having been completed, First Vice Chair Simpson adjourned the meeting at 11:31 a.m.

Respectfully submitted,

Vanessa Magallanes, Deputy City Secretary

PASSED AND APPROVED the 7th Day of August 2023.

Jill Pennington, Secretary

ATTEST:

JILL PENNINGTON,
Secretary of the Midland
Development Corporation

APPROVED AS TO FORM ONLY:

JOHN OHNEMILLER,
Attorney for the Midland
Development Corporation

Midland College Transportation Training Program

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF
AN ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN THE MIDLAND DEVELOPMENT
CORPORATION AND MIDLAND COLLEGE; AND
AUTHORIZING PAYMENT THEREFOR**

WHEREAS, the Board of Directors finds it to be in the public interest to authorize the execution of an economic development agreement with Midland College;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE MIDLAND DEVELOPMENT CORPORATION:**

SECTION ONE. That the Chairman and Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the Midland Development Corporation, an economic development agreement with Midland College. Said agreement shall be in a form substantially similar to that of Exhibit A, which is attached hereto and incorporated herein for all purposes.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay Midland College in accordance with the terms of said agreement, from funds available in the Midland Development Corporation (235) Economic Development Incentives (53905) budget account upon receipt of proper invoices or statements approved by the Executive Director of the Midland Development Corporation.

SECTION THREE. That said economic development agreement shall not become effective until approved by the Midland City Council.

On motion of Director _____, seconded by Director _____, the above and foregoing resolution was adopted by the Board of Directors of the Midland Development Corporation at a regular meeting on the _____ day of _____, A.D., 2023, by the following vote:

Directors voting “AYE”:

Directors voting “NAY”:

CHASE GARDAPHE,
Chairman of the Midland
Development Corporation

ATTEST:

JILL PENNINGTON,
Secretary of the Midland
Development Corporation

APPROVED AS TO FORM ONLY:

JOHN OHNEMILLER,
Attorney for the Midland
Development Corporation

ECONOMIC DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between the MIDLAND DEVELOPMENT CORPORATION (“MDC”), a Type A corporation pursuant to Chapter 504 of the Texas Local Government Code, as amended, and the MIDLAND COMMUNITY COLLEGE DISTRICT (“College”).

I. Recitals

- A. MDC and College desire to set forth the terms and conditions upon which incentive funds will be provided to College as consideration for College expanding the Program, as defined herein, for the purpose of preparing students to obtain a Class-A Commercial Driver’s License, so as to prepare said students to fill high-demand, skilled positions in local businesses and industry.
- B. MDC finds that the expansion of the Program will promote or develop new or expanded business enterprises in the City of Midland.
- C. MDC finds that the purpose of this Agreement qualifies as a “project,” as defined in Section 501.101 of the Texas Local Government Code, and is therefore eligible for MDC funding.
- D. MDC finds that its contribution of funds to the College for said project is an administrative expense or other such expense necessary or incident to placing a project in operation in accordance with Section 501.152 of the Texas Local Government Code.
- E. MDC finds that the Program is for the creation or retention of “primary jobs,” as defined in Section 501.002 of the Texas Local Government Code, and that the Program is required or suitable for the development, retention, or expansion of a primary job training facility for use by an institution of higher education.
- F. MDC finds that the College is an institution of higher education as defined under Section 61.003 of the Texas Education Code.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MDC and College hereby agree as follows:

II. Definitions

When used in this Agreement, capitalized terms not otherwise defined shall have the meanings set forth below:

Exhibit A

- A. “*Academic Year*” means the period during which College provides classes and training associated with the Program, spanning from August 1, 2024, through July 31, 2025.
- B. “*CDL*” means a Class-A Commercial Driver’s License.
- C. “*DPS*” means the Texas Department of Public Safety.
- D. “*Effective Date*” means July 25, 2023.
- E. “*Program*” means the Midland College Transportation Training Continuing Education.

III. Obligations of MDC

During the term of this Agreement, MDC shall provide to College incentive funds in accordance with the following schedule and subject to the following requirements:

- A. **Equipment Purchase Incentive.** MDC agrees to provide College an amount not to exceed \$216,000.00 within thirty (30) days after College certifies that it has met the Equipment Purchase Obligation set forth in Section IV.A.
- B. **Student Training Incentive.** MDC agrees to provide College an amount not to exceed \$85,000.00 within thirty (30) days after College certifies that it has met the Student Training Obligation set forth in Section IV.B.

The incentives described herein shall be provided on a cost-reimbursement basis subject to College’s obligations as set forth in Section IV.

IV. Obligations of College

- A. **Equipment Purchase Obligation.** College shall expend a maximum of \$216,000.00 for the purchase of one (1) new 2024 Peterbilt standard transmission truck trailer, and modified seat installments for the truck trailer, as described in Exhibit A, which is attached hereto and incorporated herein for all purposes. College shall certify to MDC the expenditures made in accordance with the standards set forth in Section IX.B.1.
- B. **Student Training Obligation.** College shall expend a maximum of \$85,000.00 in providing at least thirty-nine (39) students with scholarships covering at least fifty percent (50%) of said students’ tuition costs to complete College’s Transportation Training Program during the 2024-2025 Academic Year, as described in Exhibit A. College shall certify to MDC the expenditures made in accordance with the standards set forth in Section IX.B.2.

- C. **Graduation and Passage Rate Obligation.** By September 30, 2025, College shall certify to MDC the following: (i) that College has successfully graduated at least one hundred twenty (120) students from the Program during the 2024-2025 Academic Year; and (ii) that at least ninety percent (90%) of said students have gone on to successfully obtain a CDL. College shall provide MDC with reasonable supporting documentation, as may be agreed to by College and MDC.

V.

Repayment Provisions

The following payment and recapture provisions shall apply to this Agreement:

- A. **Recapture; Equipment Purchase Incentive.** If College sells, transfers, conveys, or assigns any portions of the 2024 Peterbilt standard transmission truck trailer and modified seat installments described in Exhibit A without previously notifying MDC in writing and obtaining MDC's written consent, then College shall repay to MDC the funds used to purchase said truck trailer up to \$216,000.00.
- B. **Recapture; Student Training Incentive.** If a certification regarding the Student Training Obligation shows that less than thirty-nine (39) students were provided with scholarships covering at least fifty percent (50%) of the students' costs to complete College's Transportation Training Program during the 2024-2025 Academic Year, College shall repay to MDC an amount equal to the proportion of students that if failed to provide with scholarships. For example, if the amount of Incentive #2 is equal to \$85,000.00 and if a certification shows that only thirty-five students were provided with scholarships during the 2024-2025 Academic Year, then College shall repay \$8,717.95 to MDC.
- C. **Repayment Terms.** Any amount(s) repayable to the MDC hereunder shall be repaid, without interest, within thirty (30) days after the MDC gives written notice to College that College is in default. Notwithstanding anything to the contrary contained anywhere in this Agreement, under no circumstances shall College be obligated to repay MDC an amount in excess of the total dollar amount of the incentive funds actually received by College from MDC under this Agreement.

VI.

Cure Period

In lieu of demanding repayment within thirty (30) days after MDC gives College written notice of its default as set forth in this Agreement, MDC may, in its sole and absolute discretion, elect to allow College a period not to exceed six (6) months to cure any such default. Any such election by MDC to allow College to cure such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained herein, including but not limited to MDC's rights to repayment under this Agreement.

VII. Term

Upon execution by all of the parties, this Agreement becomes effective on the Effective Date and shall terminate on December 31, 2024, or when terminated by mutual agreement of the parties, or when terminated as set forth in Section X.E.

VIII. Law

The parties acknowledge that the funds herein granted shall be utilized solely for purposes authorized under the terms of this Agreement and the Development Corporation Act, Chapter 501 of the Texas Local Government Code.

IX. Special Conditions

- A. **Total Financial Commitment.** Notwithstanding any provision hereof which might be interpreted otherwise, MDC's total financial commitment during the term of this Agreement shall not exceed \$301,000.00 in the aggregate.
- B. **Certifications.** College agrees to the following certification requirements:
1. As to the certifications required in Section IV.A, College shall provide sufficient supporting documentation of the Equipment Purchase Obligation by December 31, 2024.
 2. As to the certifications required in Section IV.B, College shall provide MDC with a written statement or report, together with sufficient supporting documentation in a form reasonably acceptable to MDC, certifying the total costs associated with thirty-nine (39) students' completion of College's Transportation Training Program.
 3. When requested in writing by MDC to do so, College will provide an annual statement in a form acceptable to MDC that, to College's knowledge, College is in compliance with each applicable material term of this Agreement.
 4. College shall allow MDC reasonable access to the facilities associated with the Program for the purposes of determining College's compliance with this Agreement, provided that such access shall be with representatives of College and during normal business hours.
 5. All certifications required under this Agreement shall be signed by College's president, or other appropriate officer, before a notary. E-mail shall not be an acceptable form of certification under this Agreement.

- C. **Payments.** Payments to be made to College shall be made upon a written request from College and completion and submission of all necessary supporting documentation as required pursuant to this Agreement. The payment request and documentation should be directed in accordance with Section X.N.
- D. **Covenants.** College covenants that this Agreement has been duly authorized by College's board of trustees or other governing body, or by an officer of College empowered to execute such agreements and bind College, and is not in contravention of the provisions of College's bylaws, or of any agreement or instrument to which College is a party or by which it may be bound, the breach of which would have a material, adverse effect on College and its operations.
- E. **Interpretation of Terms & Obligations.** The parties agree that any determination with respect to the key terms that govern the obligations of College under this Agreement shall be made in the sole and absolute discretion of MDC. Such determinations shall be final and binding on College.

X. General Terms

- A. **Entire Agreement.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements between the parties relating to matters in this Agreement; and except as otherwise provided herein, this Agreement cannot be modified or amended without a written agreement of the parties.
- B. **Legal Relationships.** The parties are not, and shall not be considered as, joint ventures, partners, or agents of each other and neither shall have the power to bind or obligate the other, except as set forth in this Agreement. The parties agree not to represent to anyone that they are agents of one another or have any authority to act on behalf of one another. It is mutually understood and agreed that nothing in this Agreement is intended or shall be construed as in any way creating or establishing any partnership, joint venture, or agency between MDC and College. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a community of pecuniary interest or an equal right of control that would give rise to vicarious liability.
- C. **No Third-Party Beneficiary.** The parties' approval of the Agreement does not create a third-party beneficiary. There is no third-party beneficiary to this Agreement. No person or entity that is not a party to this Agreement shall have any third-party beneficiary or other rights hereunder.
- D. **Independent Contractor.** It is expressly understood and agreed that College shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that College shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of

respondeat superior shall not apply as between MDC and College, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and College. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. College shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of College's work. College shall assume exclusive responsibility for the work. College is entirely free to do the work in its own way.

- E. **Terminations.** This Agreement may be terminated by mutual agreement of the parties or by either party, upon the failure of the other party to fulfill an obligation as set forth herein if the default is not cured within thirty (30) days after written notice from the other party, or such longer period as may be reasonably necessary so long as such party has commenced the cure within such thirty (30) day period, and thereafter is diligently pursuing such cure.
- F. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- G. **Governing Law & Venue.** This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes or any other action arising from, relating to or concerning in any way this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas. This Agreement shall be governed by, interpreted, enforced and construed under the laws of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All payments under this Agreement are deemed to have taken place in Midland County, Texas.
- H. **Legal Construction.** In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- I. **Law.** This Agreement is subject to all applicable state and federal laws, and College agrees that it will comply in all material respects with all such applicable laws, regulations, orders and rules of the State of Texas and other such governmental agencies.

- J. **Assignment.** This Agreement shall be binding upon the parties hereto and their successors and assigns. This Agreement may not be assigned by College without the prior written consent of MDC.
- K. **Notices.** All notices to either party required under this Agreement shall be sent by certified U.S. mail, postage prepaid, addressed to such party at the addresses shown below. All notices shall be deemed given on the date so deposited in the mail, unless otherwise provided herein. Either party hereto may change the address below by sending written notice of such change to the other in the manner provided herein.

If to MDC:

Midland Development Corp.
Attn: Executive Director
200 N. Loraine St., Suite 610
Midland, Texas 79701

If to College:

Midland College
Attn: President
3600 N. Garfield
Midland, Texas 79705

- L. **Waiver of Attorney Fees.** BY EXECUTING THIS AGREEMENT, THE PARTIES AGREE TO WAIVE AND DO HEREBY WAIVE ANY CLAIM THEY HAVE OR MAY HAVE IN THE FUTURE AGAINST EACH OTHER REGARDING THE AWARD OF ATTORNEY FEES THAT ARE IN ANY WAY RELATED TO THIS AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS AGREEMENT. THE PARTIES AGREE THAT IF A PARTY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED) OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED, THAT SAID PARTY AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY FEES TO WHICH IT MIGHT OTHERWISE BE ENTITLED.

THE PARTIES AGREE THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. THE PARTIES ACKNOWLEDGE THAT THEY UNDERSTAND ALL TERMS AND CONDITIONS OF THE AGREEMENT. THE PARTIES FURTHER ACKNOWLEDGE AND AGREE THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE PARTIES. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

THE PARTIES ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY AGREES IT HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

M. **Amendment.** This Agreement may be amended by written instrument executed by both parties expressly stating the intention to amend this Agreement.

N. **Payments.** All payments to either party required under this Agreement shall be sent by certified U.S. mail, postage prepaid, addressed to such party at the addresses shown below. All payments shall be deemed given on the date so deposited in the mail, unless otherwise provided herein. Either party hereto may change the address below by sending written notice of such change to the other in the manner provided herein.

If to MDC:

Midland Development Corp.
Attn: Executive Director
200 N. Loraine St., Suite 610
Midland, Texas 79701

If to College:

Midland College
Attn: President
3600 N. Garfield
Midland, Texas 79705

O. **Release.** NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, COLLEGE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COLLEGE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR MDC'S NEGLIGENCE.

P. **Consideration.** MDC and College hereby agree and acknowledge that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties.

Q. **Governmental Immunity.** By executing this Agreement, MDC is not waiving its right of governmental immunity. MDC is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.

R. **Governmental Function.** MDC and College hereby acknowledge and agree that the entirety of MDC's performance and obligations under this Agreement are governmental functions. By entering into this Agreement, College releases MDC from any present or future claims asserting MDC's performance and obligations under this Agreement are not governmental functions.

S. **No Disparity of Bargaining Position.** MDC and College agree that there was no disparity of bargaining power between the parties in the negotiation and execution of this

Agreement. MDC and College acknowledge and agree that they were both represented by legal counsel. MDC and College acknowledge and agree that they read and understood the entire Agreement prior to its execution. MDC and College acknowledge and agree that there were numerous compromises and concessions made by the parties resulting in the agreed-upon terms of this Agreement.

- T. **Notice of Alleged Breach; Statutory Prerequisites.** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, College or its legal representative, shall give the MDC Chairman, or any other reasonable official of MDC, notice in writing (consisting of one original and two copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which College will settle, the physical and mailing addresses of College at the time and date the claim was presented and the physical and mailing addresses of College for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom College relies to establish its claim. Failure to so notify the MDC Chairman within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to College that College's notice is insufficient. MDC reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, College's failure to comply with the requirements herein shall perpetually bar College's claim for damages under Chapter 271 of the Texas Local Government Code and Section 311.034 of the Texas Government Code, regardless if MDC has actual or constructive notice or knowledge of said claim or alleged damages. College agrees that the requirements of this section are reasonable.

- U. **Approval Required.** This Agreement shall not become effective until approved by a resolution of the Midland City Council.

[Signature Pages Follow]

IN WITNESS WHEREOF, MDC and College have executed this Agreement as of the Effective Date.

**MIDLAND DEVELOPMENT
CORPORATION**

Chase Gardaphe, Chairman

ATTEST:

Jill Pennington, Secretary

[Signature Page Follows]

**MIDLAND COMMUNITY COLLEGE
DISTRICT**

Name:
Title:

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, _____, a notary public, on this day personally appeared _____, of the MIDLAND COMMUNITY COLLEGE DISTRICT, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said College for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, A.D., 2023.

Notary Public, in and for
the State of Texas

UTPB Interlocal Agreement – Midland Entrepreneurial Challenge

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF
AN INTERLOCAL AGREEMENT WITH THE
UNIVERSITY OF TEXAS OF THE PERMIAN BASIN TO
ADVERTISE AND PUBLICIZE THE CITY OF MIDLAND
FOR THE PURPOSE OF DEVELOPING NEW AND
EXPANDED BUSINESS ENTERPRISES**

WHEREAS, The University of Texas of the Permian Basin (“*UTPB*”) has requested funding from the Midland Development Corporation (“*MDC*”), with said funds to be used for the management and administration of the Midland Entrepreneurial Challenge within the corporate limits of the City of Midland (“*City*”); and

WHEREAS, UTPB has agreed to advertise and publicize the City in conjunction with its management and administration of the Midland Entrepreneurial Challenge for the purpose of developing new and expanded business enterprises within the City; and

WHEREAS, the MDC Board of Directors finds that the Midland Entrepreneurial Challenge, through its development and cultivation of local business ventures and innovations, will greatly enhance and promote economic development within the City; and

WHEREAS, Section 504.105 of the Texas Local Government Code authorizes the MDC to make promotional expenditures that advertise or publicize the City for the purpose of developing new and expanded business enterprises; and

WHEREAS, the MDC Board of Directors finds that the expenditure of promotional funds for the management and administration of the Midland Entrepreneurial Challenge will advertise or publicize the City for the purpose of developing new and expanded business enterprises as authorized by the Act; and

WHEREAS, the MDC Board of Directors finds it to be in the public interest to authorize the execution of an interlocal agreement with UTPB to advertise and publicize the City for the purpose of developing new and expanded business enterprises;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE MIDLAND DEVELOPMENT CORPORATION:**

SECTION ONE. That the Chairman and Secretary are hereby authorized and directed

to execute and attest, respectively, on behalf of the Midland Development Corporation, an interlocal agreement with The University of Texas of the Permian Basin to advertise and publicize the City of Midland for the purpose of developing new and expanded business enterprises. Said agreement shall be in a form substantially similar to Exhibit A, which is attached hereto and incorporated herein for all purposes.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay The University of Texas of the Permian Basin, in accordance with the terms of said agreement, upon receipt of proper invoices or statements approved by the Executive Director of the Midland Development Corporation from funds available in the Midland Development Corporation Promotions Project (800705).

On motion of Director _____, seconded by Director _____, the above and foregoing resolution was adopted by the Board of Directors of the Midland Development Corporation at a regular meeting on the _____ day of _____, A.D., 2023, by the following vote:

Directors voting “AYE”:

Directors voting “NAY”:

CHASE GARDAPHE,
President of the Midland
Development Corporation

ATTEST:

JILL PENNINGTON,
Secretary for the Midland
Development Corporation

APPROVED AS TO FORM ONLY:

JOHN OHNEMILLER,
Attorney for the Midland
Development Corporation

INTERLOCAL AGREEMENT

BETWEEN

THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN AND MIDLAND DEVELOPMENT CORPORATION

This Interlocal Agreement (the “*Agreement*”), is made and entered into this 22nd day of August, 2023, between the University of Texas of the Permian Basin (“*UTPB*”), and the Midland Development Corporation (“*MDC*”), an economic development corporation existing under the authority of Chapter 504 of the Texas Local Government Code, pursuant to Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act, regarding the Midland Entrepreneurial Challenge. UTPB and MDC are sometimes collectively referred to herein as the “*Parties*.”

WITNESSETH:

WHEREAS, MDC is a governmental entity of the state of Texas and is authorized by its governing body to enter into this Agreement; and

WHEREAS, MDC is authorized to expend promotional funds in order to advertise or publicize the City of Midland for the purpose of developing new and expanded business enterprises pursuant to Section 504.105 of the Texas Local Government Code; and

WHEREAS, UTPB is a governmental entity of the state of Texas and is authorized by its governing body to enter into this Agreement; and

WHEREAS, UTPB actively promotes business development and economic growth within the City of Midland and the surrounding region for the purposes of creating jobs and developing new and expanded business enterprises in the same; and

WHEREAS, MDC’s expenditure of promotional funds for the advertising and promotional services described herein will advertise and publicize the City of Midland for the purpose of developing new and expanded business enterprises, and will thereby enhance and promote economic development within the City of Midland; and

WHEREAS, it is the desire of the Parties hereto to combine their efforts for the purpose of developing new and expanded business enterprises within the City of Midland;

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits which will accrue to the Parties, as well as the general citizenry of the City of Midland, the Parties have agreed and do hereby agree as follows:

Exhibit A

I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which UTPB shall perform advertising and promotional services for MDC for the purpose of developing new and expanded business enterprises in the City of Midland and thereby enhance and promote economic development within the City of Midland.

II. OBLIGATIONS OF THE PARTIES

A. MDC Payment. MDC agrees to provide to UTPB funds in an amount not to exceed FIVE HUNDRED THOUSAND and No/00 DOLLARS (\$500,000.00), in consideration for UTPB's services described herein (the "***Service Funds***"). In addition to the Service Funds, MDC agrees to pay UTPB an amount not to exceed SEVENTY-FOUR THOUSAND, FOUR HUNDRED AND FIFTY and No/00 DOLLARS (\$74,450.00) for any marketing and administrative costs associated with the operation and management of the Midland Entrepreneurial Challenge (the "***Administration Funds***"). MDC's payment of the Administration Funds shall not exceed a cumulative amount of SEVENTY-FOUR THOUSAND, FOUR HUNDRED AND FIFTY and No/00 DOLLARS (\$74,450.00) over the term of this Agreement. MDC agrees to provide the Service Funds and Administration Funds (cumulatively referred to as the "***Funds***") subject to all conditions and restrictions contained in this Agreement. The payment of the Funds shall be on a cost-reimbursement basis, and shall be provided by MDC to UTPB upon MDC's receipt of a written request by UTPB. In conjunction with its written request for the Funds, UTPB shall submit invoices or statements demonstrating UTPB's payment of funds in support of UTPB's performance of the services described herein (the "***Supporting Documentation***"). The approval of the Supporting Documentation is subject to the sole and absolute discretion of MDC's Chairman. Notwithstanding any provision of this Agreement to the contrary, the Parties agree that it shall be in the sole and absolute discretion of MDC to reimburse UTPB for the services to be performed described herein depending on the rendered quality of said services and the quality of the Supporting Documentation, as determined by MDC. The Parties agree that this provision, in all of its aspects, is consistent with Texas Government Code § 791.011(e).

B. UTPB Services. UTPB shall use commercially reasonable efforts to provide those promotional services described in **Exhibit A**, which is attached hereto and incorporated herein for all purposes. UTPB shall coordinate with MDC's Executive Director regarding the design, nature, content, and implementation of said services to enable the advertising and promotional activities performed hereunder to be effective and efficient in achieving the purpose of this Agreement. UTPB shall require its vendors to provide detailed outlines for any marketing strategies to include dates, times, media platforms, and proofs. Additionally, UTPB agrees to oversee the operation and management of the Midland Entrepreneurial Challenge. Regarding the Midland Entrepreneurial Challenge, UTPB shall provide those services and duties described in **Exhibit B**, which is attached hereto and incorporated herein for all purposes.

C. UTPB Report. On or before August 31, 2024, UTPB shall provide MDC with a written report containing a detailed summary of 1) UTPB's efforts to promote new and expanded business enterprises within the City of Midland; and 2) the participants, qualifications, evaluation material, and results of the Midland Entrepreneurial Challenge.

III. INDEPENDENT CONTRACTOR

UTPB shall operate hereunder as an independent contractor and not as an officer, agent, servant, or employee of MDC. UTPB shall have exclusive control of, and the exclusive right to control, the details of the work to be performed hereunder and all personnel performing the same, and shall be solely responsible for the acts and omissions of its officers, members, agents, employees or contractors. In no event shall any person participating in or performing any of UTPB's duties or responsibilities hereunder be considered an officer, agent, or employee of MDC. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. UTPB shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of UTPB's work. UTPB shall assume exclusive responsibility for its work.

IV. TERM OF AGREEMENT

Upon execution by the Parties, this Agreement becomes effective August 22, 2023, and shall terminate on September 30, 2024, or when terminated by mutual agreement of the Parties, or when terminated as hereinafter provided.

V. INSURANCE

UTPB shall, at all times during the term of this Agreement, maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

-Personal Injury:	\$1,000,000.00 per person \$1,000,000.00 per occurrence
-Property Damage:	\$100,000.00 per occurrence

Workers' Compensation:	Statutory limits
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Employers' Liability:	\$500,000.00 per accident or occurrence
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The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on a claims-occurred basis. This insurance shall name MDC as an additional insured and waive subrogation in favor of MDC.

The Workers' Compensation coverage provided by UTPB shall inure to the benefit of employees injured during the course and scope of their employment by UTPB pursuant to this Agreement. The Workers' Compensation shall waive all rights of subrogation in favor of MDC.

All insurance required pursuant to this Agreement shall provide for a waiver of subrogation in favor of MDC. All insurance required pursuant to this Agreement, except for Workers' Compensation Insurance, shall name MDC as an additional insured on a claims occurred basis. MDC shall be provided the notice by UTPB's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

UTPB shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Agreement to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of MDC and policies that name MDC as an additional insured on a claims occurred basis (except workers' compensation).

The Parties agree that, prior to the execution of the Agreement, UTPB shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of MDC. The parties also agree that this Agreement shall not become effective until the City Attorney's Office of the City of Midland, Texas, reviews and approves of all certificates of insurance required under this Agreement. MDC shall not be required to provide any insurance whatsoever pursuant to this Agreement.

UTPB certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. UTPB shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of UTPB.

VI. GENERAL TERMS

A. Entire Agreement. This Agreement embodies the complete agreement of the Parties, superseding all oral or written, previous and contemporary agreements between the Parties relating to matters in this Agreement; and except as otherwise provided herein, this Agreement cannot be modified or amended without a written agreement of the Parties.

B. Termination. MDC may terminate this Agreement at will for any or no reason upon giving at least ninety (90) days' written notice to UTPB. The parties to this Agreement understand and agree that it is in MDC's sole and absolute discretion to cancel the Agreement during the term of the Agreement without penalty to MDC. UTPB has no expectation and have received no guarantees that this Agreement will not be terminated before the end of the Agreement term. The Parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original.

D. Payments from Current Revenues. The payment of funds made by MDC for the performance of UTPB's services shall be paid from current revenues available to MDC.

E. Legal Construction. In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

F. Defenses. This Agreement is made pursuant to Chapter 791, Texas Government Code. It is agreed that, in the execution of this Agreement, neither Party waives any immunity or defense that would otherwise be available to it against third parties, or against claims arising from the exercise of governmental powers and function. This Agreement shall not be construed as a waiver regarding the issues of governmental immunity, sovereign immunity or qualified immunity.

G. Third-Party Beneficiary. MDC's approval of this Agreement does not create a third-party beneficiary. There is no third-party beneficiary to this Agreement. No person or entity who is not a Party to this Agreement shall have any third-party beneficiary or other rights hereunder.

H. Assignment. The Parties hereto shall not assign this Agreement, in whole or in part, any such assignment being void.

I. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive, sole and mandatory venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the Parties shall be deemed to have occurred in Midland County, Texas.

J. Release. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, UTPB HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH UTPB HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR MDC'S NEGLIGENCE.

K. Notices. All notices to either Party required under this Agreement shall be sent by certified U.S. mail, postage prepaid, addressed to such Party at its respective address shown below. All notices shall be deemed given on the date so deposited in the mail, unless otherwise provided herein. Either Party hereto may change the address below by sending written notice of such change to the other Party.

If to UTPB:

University of Texas of the
Permian Basin

Attn: Dr. Brian Shedd
4901 E. University Blvd
Odessa, Texas 79762

If to MDC:

Midland Development Corporation
Attn: Executive Director
200 N. Loraine Street, Suite 610
Midland Texas, 79701

[Signature Pages Follow]

The Parties have caused this Agreement to be executed by their duly authorized representatives on this ____ day of _____, 2023.

MIDLAND DEVELOPMENT
CORPORATION

Chase Gardaphe, Chairman

ATTEST:

Jill Pennington, Secretary

UNIVERSITY OF TEXAS OF THE
PERMIAN BASIN

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS

§

§

COUNTY OF _____

§

BEFORE ME, the undersigned authority, on this ____ day of _____, 2023, personally appeared _____ for the University of Texas of the Permian Basin, known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2023.

Notary Public, State of Texas

Promotional Services to be Provided by
The University of Texas Permian Basin

1. Branding the City of Midland for the purpose of developing new and expanded business enterprises in the new Midland Entrepreneurial Challenge website, brochure and media materials.
2. Promoting the Midland Entrepreneurial Challenge on the UTPB website.
3. Adding a link from the Midland Entrepreneurial Challenge website to the Midland Development Corporation's website.
4. Including a description and logo for the Midland Development Corporation in the Midland Entrepreneurial Challenge promotional materials, when feasible.
5. Including a reference to the Midland Entrepreneurial Challenge and the City of Midland's support of this new program in press releases and live or prerecorded media soundbites, when feasible.



MIDLAND
ENTREPRENEURIAL
CHALLENGE

BUILDING A DIVERSE MIDLAND



A Proposal for the Midland Development Corporation



From the UTPB College of Business

and the

UTPB Office of Innovation & Commercialization



THE UNIVERSITY OF TEXAS
PERMIAN BASIN™

COLLEGE OF BUSINESS



UT PERMIAN BASIN™

THE OFFICE OF INNOVATION
& COMMERCIALIZATION

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Introduction to the University of Texas Permian Basin

UT Permian Basin takes great pride in being part of The University of Texas System, known for its exceptional academic success, breakthrough research, and an international reputation for excellence and innovation. It includes 14 educational institutions throughout the state, including nine universities and five health institutions. Home to over 7,000 enrolled students, UT Permian Basin benefits from the vast resources and support of the world-renowned University of Texas System yet is lean enough to foster a connected, tight-knit community while remaining financially accessible to any student. With an unwavering commitment to students, a strategic approach to designing higher education, and the resources to ensure academic success, UTPB is set to nurture the leaders who will go on to shape the future of West Texas and the nation. Each year over 250 teaching faculty deliver a highly educated and savvy workforce back into the communities of the Permian Basin and across the nation. UTPB offers 36 baccalaureate degree programs and 20 master's degree programs in the arts and sciences, business, engineering, education, and health and human performance—and the University continues to grow. Recently added chemical and electrical engineering programs offer unique internship opportunities that are attracting new students. As a regional, comprehensive institution, The University of Texas Permian Basin serves a diverse community of students from the region, the state, and beyond. Through excellence in student-centered teaching, learning, research, and public service, the University cultivates engaged citizens and impacts lives while advancing technology and the public interests of West Texas.

Overview of the UTPB College of Business

The UT Permian Basin College of Business Entrepreneurship programs have fully invested in the future of Entrepreneurship in our community. Over the past three years, the Blackstone Launchpad, a student driven entrepreneurship network funded by the Blackstone Charitable foundation, has provided tools, mentorship, and entrepreneurship opportunities for our students, regardless of their chosen major or college of study. The state-of-the-art Launchpad and Innovation Center to open in the fall of 2023 will include co-working facilities, sound, and audio recording spaces, as well as a fabrication and innovation lab where prototypes can be created. With revamped and reintroduced Entrepreneurship Minor and Certificate options, we are meeting the needs of today's aspiring entrepreneurs, with applicable knowledge-based materials.

Mission

The College of Business at The University of Texas Permian Basin provides responsive and innovative programs enhancing the quality of life for its students, graduates, and the community. We advance business and energy industry research, economic competitiveness and diversification, while connecting students to transformative opportunities. Through excellence in teaching, the college empowers student success and facilitates outstanding

career, personal, and community outcomes, developing next-generation leaders and entrepreneurs.

Overview of the UTPB Office of Innovation & Commercialization

The UTPB Office of Innovation & Commercialization (OIC) was developed in 2021 to unify all of the innovation and commercialization activities at the university to comprehensively support the campus and community. Through the office and its partners, a variety of resources are available to support innovation development at every point along the path to commercialization and broader societal benefit. OIC is housed at the 30,000 square foot Center for Energy and Economic Diversification (CEED) building on the Midland Campus of UTPB, which just recently completed substantial renovations to develop spaces to support innovation and entrepreneurship. Once completed, CEED will contain office space, coworking space, wet lab space, a makerspace, conference/event space, and a café. OIC is also co-located at the CEED with the UTPB Small Business Development Center (SBDC) and two University research labs, the Texas Water and Energy Institute (TWEI) and the Advanced Manufacturing Center (AMC).

Mission

To unify and enrich all of the innovation and commercialization activities at UTPB through its education, research, and entrepreneurship programs and to serve as a focal point for more dynamic engagement with the community and industry.

Principles

Inclusion, Transparency, Accessibility, Value

Activity Sets

Technology Transfer, Industry Collaboration, Startup Support, Product Development

Meet the Midland Entrepreneurial Challenge Team



Dr. Brian Shedd, Executive Director for the Office of Innovation & Commercialization

Prior to coming to UTPB, Brian has worked in university technology transfer roles at the University of Houston (UH), Louisiana State University (LSU) and the University of California, Los Angeles (UCLA). At UH, he was the Director for the Office of Technology Transfer & Innovation housed at the Technology Bridge, a 75-acre research park focused on commercialization of new technologies. At LSU he was the Assistant Director of the Office of Innovation & Technology Commercialization (ITC) and responsible for intellectual property protection and commercialization of all the research that takes place on the LSU campus. At LSU, he served as the lead administrator of LSU's NSF I-Corps Site Program that prepares scientists and engineers to move beyond the lab and into the market. Brian also worked at UCLA in their technology transfer office, the Office of Intellectual Property, which is now known as the Technology Development Group. During his time at UCLA, he served as a Board Member to PortTech Los Angeles, a business incubator focused on developing technologies for the Port of Los Angeles, a Leadership Council Member for the Los Angeles Cleantech Incubator, and as a lecturer in the UCLA Anderson School of Management. He is also responsible for the creation and management of BRUINcubate, the UCLA Entrepreneur Support Network, involving more than 20 different entrepreneurial support organizations located on campus.



CC Serrato, Program Coordinator for the Office of Innovation & Commercialization

CC has served in various roles at UT Permian Basin for the past 10 years and has proven to be a vital part of the mission for the university. Her current role as the Program Coordinator in the new

Office of Innovation & Commercialization will be to assist the department in coordinating entrepreneurship programs with education and research, and to help serve as a point of contact for dynamic engagement with the community and industry.

The newly renovated CEED Building on the Midland campus is where you can find CC working hard to accomplish this vision!



Danna Church, Blackstone LaunchPad Campus Director

Since November 2021, Danna has served as UTPB's Blackstone LaunchPad Campus Director. She is available to assist all students regardless of their major to explore entrepreneurship and to cultivate an entrepreneurial mindset that will prepare them for the modern workforce. To accomplish this, she encourages students to participate in the many entrepreneurship opportunities provided by Blackstone LaunchPad such as workshops, mentoring, and competitions. The Blackstone LaunchPad office is currently located in the Roden Entrepreneurial Center which is now located on the

newly renovated 1st floor of the Dunagan Library.

The Midland Entrepreneurial Challenge

1.0 Introduction

The Midland Entrepreneurial Challenge continues to empower innovative ideas and strategies proven to be both community inspiring and financially lucrative. The value provided by the competition includes a detailed critique from the expertise of our judges, encapsulating the importance of developing the necessary objectives to achieve market strength. Throughout the competition entrepreneurs are forced to think critically about virtually every aspect of their business. Contestants are obligated to assess their level of detail that is often overlooked, while becoming open to new and valuable suggestions that defines both short/long-term outcomes.

1.1 Midland Economic Challenge funding

The Midland Entrepreneurial Challenge (MEC), which will be funded by the Midland Development Corporation (MDC) and partnered with the University of Texas Permian Basin (UTPB), is designed to assist entrepreneurs with expanding an existing business or starting a new one.

1.2 The Purpose

Each participant will gain a better understanding of how to develop and follow a realistic business plan and model to ensure a growing business. This undoubtedly will have a positive economic impact for Midland.

1.3 Orientations

Through several orientation seminars presented by UTPB, entrepreneurs and business owners who are interested in participating, will better understand the requirements of the competition.

1.4 The Benefits

Once qualified, all entrants will have access to business coaching, expertise, and other pertinent resources offered via UTPB. These one-on-one meetings will discuss strategy, assist with building financials, and finalize business plans before they are submitted.

1.5 Award Monies

This fiscal year, the plan includes Five Hundred Thousand Dollars (\$500,000) of total available award money to be distributed with up to One Hundred Fifty Thousand Dollars (\$150,000) to each of the selected winner(s) identified through the deliberation and decision of our judges.

2.0 About the Challenge

2.1 The Objective

The objective of this program is to provide another source of capital funding to business owners and entrepreneurs in Midland who might not be able to obtain the funding otherwise. The value participating in business plan process allows participants to gain a better understanding of how to develop, build and grow strong businesses that will even further strengthen Midland's economic condition and development.

2.2 Partnership

The funding will be provided by the Midland Development Corporation and the program administration, seminars, and business plan consultation will be provided by UTPB College of Business and the Office of Innovation & Commercialization.

2.3 Anticipated Local Economic Benefit

The competition is designed to foster community involvement and innovation by bringing local entrepreneurs and professionals together to continue the economic diversification of the City of Midland. The outcomes contribute to a community's identity that preserves the unique character created by a vibrant small business community. Other benefits are the increased employment while keeping tax dollars close to home and improving the city as a result.

3.0 Eligibility Requirements

These requirements must be met in order for any applicant to participate in the program and receive award money:

- ✓ The business must be headquartered in the City of Midland (within in the city limits).
- ✓ Winning businesses that receive money cannot sell or relocate the business outside of the city limits of Midland for a period of five years after receiving award money without prior approval from Midland Development Corporation or must return award money received through this program.
- ✓ Participants cannot be an immediate relative of administrative officials or judges or engaged in any other business partnerships with an administrative official or judge. All special circumstances will go under the review of the UTPB Lead Coordinator, who will make the final decision.
- ✓ Participants must become a client of the UTPB SBDC by completing the 641 SBA form.
- ✓ Winning businesses must provide UTPB with economic impact data according to the Accountability section and within the deliverable deadlines outlined in the guidelines.

- ✓ Participants must have a credit score of at least 640 to participate. All special circumstances will be reviewed by the UTPB Lead Coordinator, who will make the final decision.
- ✓ Attendance is mandatory for all seminars throughout the competition unless excused by a member of the MEC Entrepreneurial Challenge Team.
- ✓ Previous winners of the challenge cannot reenter the challenge for the same business for five years; however, if the previous winner is in good standing with UTPB according to the Accountability section for a full three years, the winner may enter for a different business with approval from the UTPB Lead Coordinator.
- ✓ Previous participants who were not awarded any monies may reenter the following year.
- ✓ A participant is not allowed to participate in the challenge if he or she was convicted of a felony. UTPB will conduct background checks on all participants, and the cost of the background check will be incorporated into the entry fee.

4.0 Application Process

4.1 Orientation

Businesses interested in applying for the MEC program will be required to attend one of the orientation events as listed in section 6.0 Schedule of Events. Three separate orientation events will be held to ensure the maximum opportunity for participation.

4.2 Registration

After attending at least one orientation, businesses that wish to join the challenge must pay the non-refundable entry fee and return a signed confidentiality agreement through the online registration portal by the date listed in section 6.0 Schedule of Events.

4.3 Participant Limit & Priority Categories

The MEC is limited to the first 50 businesses to register who meet all the eligibility requirements as described in section 3.0. Priority registration will be given to businesses that are in any of the following industry sectors:

- Energy
- Water
- Space/Aerospace

5.0 Seminars

UTPB will provide a series of seminars to all of the admitted participants on a variety of topics essential to entrepreneurs, and designed to increase performance and longevity. Attending these seminars will assist business owners to achieve success by providing new skills and methods of practice. The seminars selected for the MEC will include:

- Developing the Pitch
- Lending
- Business Plan Preparation
- Marketing
- Business Resources in the City of Midland
- Business Structure
- Intellectual Property
- Taxation
- Preparing a Presentation

These seminars are led by other successful business owners, skilled UTPB faculty and staff, and other professionals such as accountants and tax specialists. These educational offerings help small business owners tackle many of the issues associated with early stage startups and prepare them for the rigors of the MEC competition.

6.0 Schedule of Events

Date	Time	Topic
9/12/2023	6 – 7:30 PM	Orientation
9/13/2023	Noon – 1 PM	Orientation
9/14/2023	6 – 7:30 PM	Orientation
9/15/2023		Registration Opens
9/22/2023	9:00 PM	Registration Deadline
9/26/2023	6 – 7:30 PM	SEMINAR: Developing the Pitch (SBDC)
10/1/2023		Target Deadline for Judge Recruitment
10/10/2023	6 – 7:30 PM	SEMINAR: Lender Seminar (Southwest Bank)
10/24/2023	6 – 7:30 PM	SEMINAR: Preparing a Business Plan (SBDC)
10/25/2023	9:00 PM	Deadline for Pitch Sheets
11/7/2023	6 – 7:30 PM	SEMINAR: Marketing (Armic Systems)
11/14/2023	6 – 7:30 PM	SEMINAR: City of Midland Resources (MDC)
11/15/2023		Pitch Score Cards received from Judges
11/17/2023		Advancing Businesses Notified
12/5/2023	6 – 7:30 PM	SEMINAR: Business Structure & Intellectual Property (SBDC & OIC)

12/15/2023	9:00 PM	Business Plans Due
1/9/2024	6 – 7:30 PM	SEMINAR: Taxation (UTPB College of Business)
1/17/2024		Business Plan Score Cards received from Judges
1/19/2024		Final Round Businesses Notified
1/23/2024	6 – 7:30 PM	SEMINAR: Preparing for the Final Presentation
1/30/2024	10 AM – 4 PM	Final Presentation to Judges
1/31/2024		WINNERS NOTIFIED!
TBD	7 – 9 PM	Award Ceremony (Location: Rea Greathouse – WNPAC)

7.0 Judging of the MEC

7.1 Selection of Judges

In an effort to select the best judges for the competition, UTPB seeks individuals that have developed and owned a major business within the Midland community. Judges should be industry-related experts, someone with a specific market niche, a previous winner, someone with a prestigious reputation, or individuals with a high-level of experience.

At a minimum, a judge should possess a background of 10 or more years of experience in business and/or qualifications consisting of the following:

- Business Owner
- Local Bank Lender
- Community Leader

No person shall serve as a judge that has any interrelationships relevant to board members of the Midland Development Corporation and all staff involved in the production of the MEC program.

7.2 Judging Criteria

The process of judging incorporates a distinctive competence to recognize a disruptive or unique business concept. Participants will be required to demonstrate a clear market need and a viable method to supply the demand. Characteristically, participants are evaluated on their ability to develop the company and manage risks. Other assessments include the ability to have a realistic potential to succeed and fully understanding the financial requirements. In addition, employment growth is considered by determining the number of full-time employees (FTEs) within three years to five years. In the business plan, judges



will validate funding, cash requirements, determine cost structures and revenue streams. In the final stage, participants are evaluated on how persuasive and logical their plan is.

Initial Pitch

Category	Points
Viability	15
Team and Partners	15
Financial	15
Growth	15
Strategy	15
Competition	15
Dynamism	10
Total	100

Business Plan

Category	Points
Business	15
Product/Service	15
Marketing	15
Management	15
New Job Creation	15
New Revenue for the City	15
Compelling Narrative	10
Total	100

Final Presentation to Judges

Category	Points
Effective communication of the business plan, validation of funding request, and support for job creation	20
Judges questions answered thoroughly and effectively	20
Knowledge, expertise, and ability of entrepreneur	20
Commercial viability of the venture	20
Overall effectiveness and quality of presentation	20
Total	100

7.3 Participant Pitfalls

These are common mistakes that participants should avoid at all costs!

- ⊗ Marketing activities with no strategic focus (i.e. website – launch and take orders.)
- ⊗ No competitive analysis
- ⊗ Unrealistic sales expectations
- ⊗ Financials that appear to be “pulled out of the air”
- ⊗ Lack of job creation details



7.4 *Structure of the Business Plan*

<u>The Business</u> <ul style="list-style-type: none">• Legal structure and ownership• Industry, niche, or specialization• Key goals• Why does the business exist?• Prior entrepreneurship and management experience	<u>Product/Service</u> <ul style="list-style-type: none">• Description of each product/service• What problem will it solve?• How does it benefit customers?
<u>Marketing</u> <ul style="list-style-type: none">• Target market• Competitive environment• Distribution strategy• Pricing strategy• Promotion strategy• Positioning strategy	<u>Management</u> <ul style="list-style-type: none">• Operation systems and process• Current employees• Job creation• Financials• Utilization of MDC funds

7.5 *Structure of the Final Presentations*

- ✓ Each finalist will receive a 30-minute slot in which to present. Each slot will consist of set up, presentation, question and answer with the judges, and clean up.
- ✓ The presentation order will be determined at random. All the finalists' names will be placed in a random name picker and assigned a time slot.
- ✓ Only the business presenting, the judges, and the UTPB MEC Team are allowed in the room during the pitch.
- ✓ A one-hour break will be given to the judges halfway through the pitch presentations.
- ✓ After all the pitches have been presented, the judges will score each business. The scores will be averaged and ranked by the UTPB MEC Team and provided to the judges.
- ✓ The judges will determine how many of the top average scores will be declared winners and how much of the \$500,000 each winner will receive.
- ✓ Judges will not award more money than is requested by a business, however, less money can be awarded.
- ✓ The winners and losers will be informed of the results the next business day and the winners will be invited to the award ceremony.

8.0 Basics of Receiving the Award Money

8.1 Payment method

In the event you are a recipient of the award money, the total awarded amount will be given in installments that will be distributed shortly after the completion of the challenge by UTPB and be funded by Midland Development Corporation. The winning businesses must submit a W-9 form and UTPB New Vendor form to the program coordinator for funds to be dispersed. Checks will be mailed to the address listed. In addition, winners must:

- ✓ Be able to provide proof that the business headquarters is in the city of Midland to receive money.
- ✓ Show proof of a “business account” to deposit the monies. You must keep all personal purchases in a separate bank account.

8.2 Award Monies

Winners will receive their awarded monies from the challenge in installments. For a winner to receive an installment, they must provide invoices that are consistent with the strategy stated in the business plan. Those invoices will be approved or rejected by the UTPB MEC Program Coordinator. If approved, a check for the total amount of the approved invoices will be distributed by UTPB and mailed to the winner’s address that was submitted on the UTPB New Vendor Form. If the winner changes his or her mailing address after submission of the UTPB New Vendor Form, it is the responsibility of the winner to notify the UTPB MEC Program Coordinator of the change.

After an installment has been issued to a winner, they will not be able to request additional funds until that winner provides receipts for the past approved invoices to be audited by the UTPB MEC Program Coordinator. This process will be repeated until the total award money has been distributed.

8.3 Installments

If a winner receives an installment and does not spend the money in a specific amount of time determined by the UTPB MEC Program Coordinator, they will be required to give the money back to UTPB for holding. If a winner spends the approved installment on anything other than the approved invoices without consent from the UTPB MEC Program Coordinator, that winner will be in violation of the terms and conditions of the challenge and all monies must be paid back to the Midland Development Corporation through UTPB, and the winner will be banned from any future business challenges in which UTPB is involved.

8.4 Financing

A challenge participant is allowed to acquire bank financing or other investor financing before the completion of the competition with the plan to pay off or make payments on those loans with the anticipated award monies from the challenge. These plans need to be addressed in the business plan and/or approved by the UTPB MEC Program Coordinator before the funds are obtained and UTPB must receive a copy of the loan documents to keep on record. University of Texas Permian Basin, Midland Development Corporation, the judges, or any other entity involved with the Midland Entrepreneurial Challenge are not responsible for repaying the loans in the event the business does not receive funds from the challenge.

8.5 Seek Accounting Advice

Award money “IS” counted as taxable income. Please consult a CPA for accounting advice regarding the funds.

9.0 Accountability for the Winners

9.1 Award Monies Expenditures

The award money received from the challenge must only be spent on the items articulated in the business plan. The Midland Development Corporation also wants to track the benefit to the community. In order for this to happen, there are requirements you must follow. For the first 90 days after receiving the first installment of the award monies:

- ✓ Contestants must email income statement and balance statements (and loan payments receipts if applicable) monthly to the MEC Program Coordinator at UTPB. If the business is following the business plan, we will ask for no additional information.
- ✓ If you use the award money for equity in a loan, you must provide a copy of the loan agreement to the MEC Program Coordinator at UTPB along with payment receipts.

9.2 Meeting the Requirements

If you meet all the requirements during the first 90 days, for the remainder of the first year and the entirety of the second year, you are required to:

- ✓ Email P&L and balance statements (and loan payments receipts if applicable) quarterly to the MEC Program Coordinator at UTPB. If the business is following the business plan, we will ask for no additional information.
- ✓ If the business is not meeting goals, UTPB will work to reassess financial projections and adjust. New goals and strategies will be set to get the business back on track. Contestants will require to report in the same manner within the first 90 days.

9.3 Business Audit

If you met all the requirements through the first and second year, for the third year you are required to:

- ✓ Email P&L and balance statements (and loan payments receipts if applicable) biannually to the MEC Program Coordinator at UTPB.

9.4 Business Audit Continuation

If you meet all the requirements through the first three years, for the fourth and fifth year, you are required to:

- ✓ Email P&L and balance statements (and loan payment receipts if applicable) to the MEC Program Coordinator at UTPB at the end of the year.

9.5 Midland Presentation

At any time during the five-year period after receiving award monies from the Midland Entrepreneurial Challenge, the Midland Development Corporation Board of Directors may request a “State of your Business” presentation to the Midland Development Corporation Board of Directors monthly meeting. If a presentation is requested, the business owner(s) is highly encouraged to attend.

9.6 Violation of Terms

If the business fails to adhere to the requirements listed in Guidelines and Accountability, the business will be in violation of the terms of the Midland Entrepreneurial Challenge and all monies received from the competition will have to be paid back to the Midland Development Corporation. UTPB will act as a liaison to recover the funds. If the business does not have the total amount available to reimburse at one time, a payment plan with interest will be arranged for the balance owed. The interest rate will be set at the SBA current loan rate plus prime. The length of the repayment plan will be determined by the Midland City Attorney’s office. In addition to paying back the awarded monies, all past winners that violate the terms and conditions of the competition will not be allowed to participate in any future competitions involving UTPB.

10.0 Marketing for the MEC

Marketing is a key piece of a successful program, which allows UTPB to promote the program broadly and recruit the best business opportunities from the City of Midland. UTPB’s marketing efforts are focused on brand awareness and promotion of our community. The success of the marketing campaigns are influenced by a strong strategy outlining both short & long-term objectives, timelines, and specific channels to jumpstart awareness to increase participation.



10.1 Marketing Mediums

A variety of marketing mediums and platforms will be used including:

- Web via <https://midlandentrepreneurialchallenge.com/>
- Brochures
- Television
- Radio
- Newspaper
- News Releases
- Social Media
- Digital Ad Campaigns

10.2 Past Marketing Effort Engagement

Last year's program had record participation with 186 businesses signing up for an orientation session, resulting in 54 registered participants.

Below are some statistics on the marketing campaign from the previous year to demonstrate the reach that our efforts have yielded:

Social Advertising:

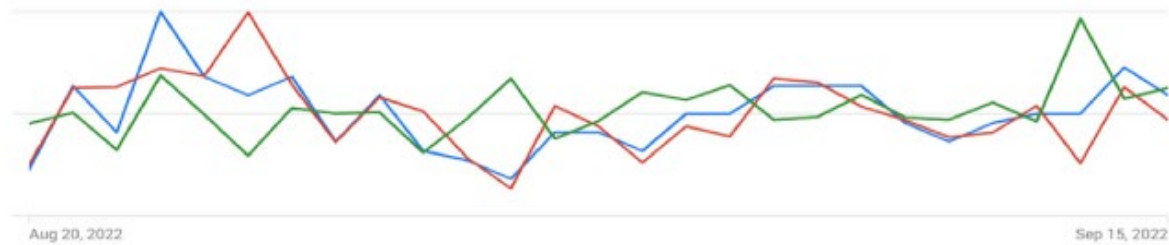
The social campaign targeted Midlanders interested in business planning, startups, small business ownership, and/or entrepreneurship.

- Link Clicks: 6,065
- Impressions: 984,421
- People Reached: 97,679
- Reactions: 256
- Comments: 20
- Shares: 39

Google Ads Search

Targeted people searching for the MEC, tips for starting a business, business funding, small business grants, and entrepreneurship.

- Clicks: 299
- Impressions Delivered: 3,513
- Click-Through Rate: 8.51% (*over 2X the average click through rate of 3.17%*)



A survey was conducted of the businesses that attended the orientation sessions to identify which marketing channels were successful in reaching potential participants, and overwhelmingly the majority of attendees found out about the MEC through internet-based marketing efforts and not TV/radio.

Midland Entrepreneurial Challenge Proposal for 2023-2024

UTPB is very excited for the opportunity to once again partner with the Midland Development Corporation to support our local entrepreneurs and help grow and diversify the economy here in Midland. The community has come to know this event, and it is a time filled with anticipation and excitement. We have had an excellent set of winners each year, and take great pride in watching those business grow and become standouts in the local community. Following this year's proposal below is a summary of the past winners and some pictures from this last year's award ceremony. We are grateful for MDC's support of this very important program and look forward to another successful year.

Budget Overview

Award Money:	\$500,000
Personnel:	\$40,000
Program Operations:	\$14,500
Marketing:	\$19,950
TOTAL:	\$574,450

Note this amount is roughly \$4,000 LESS than last year's budget due to some savings in the marketing campaign, which is explained below. Not shown in this Budget Overview are the registration fees from the participants, which will vary based on the number of participants, but this money goes directly into Program Operations.

Budget Justification

Award Money

The most important category in the budget is the award money which is provided to the winning participants after completing the program and being selected by the judges. The prize purse ensures we have robust interest in the program and maintains competitiveness among the applicants to ensure a high quality of business entrants.

Award Money	\$500,000
TOTAL:	\$500,000

Personnel

The UTPB MEC Team will organize and execute the entire 6-month program and ensure that every aspect of this competition meets the expectations of the Midland Development Corporation. This compensation also covers the additional months of preparation and follow up with the participants for payments. This year's MEC Team: Dr. Brian Shedd, CC Serrato, and Danna Church will provide frequent updates to the board through the Executive Director of the MDC and be available for any questions during the challenge. In addition, the MEC team will be in constant communication with the Small Business Development Center to confirm the contestants are meeting with their staff on a regular basis.

Dr. Brian Shedd	\$15,000
CC Serrato	\$15,000
Danna Church	\$10,000
TOTAL:	\$40,000

Program Operations

The second category of program operations relates to actual program costs associated with delivery of the program. This includes any food/drink, giveaways, and costs associated with the orientation sessions and seminars. This also includes all of the costs associated with the awards ceremony. The awards ceremony is the culmination of the program and is a celebration of all of the hard work put into the program by the award winners, judges, and UTPB MEC Team. The ceremony provides a chance for celebration and reflection of the commitment among our contestants, recognition of the devotion of our community judges and appreciation of the opportunity provided by Midland Development Corporation. This platform allows us to discuss the importance of their business in the community, and the achievement of the person being awarded. Gathering and sharing experiences is a very powerful means of encouragement. This past year, we had 108 attendees, including family and friends of our contestants, MDC board members, city officials, UTPB faculty and staff.

The requested funds for the program operations will cover a wide variety of items, including but not limited to, the cost of the venue, invitations, food, drinks, alcohol, award checks, plaques for the judges, decorations, music, and all other items deemed necessary for a successful program as determined by the UTPB MEC Team.

A rough breakdown of this category is shown below, but please note that funds may be shifted as needed at the discretion of the UTPB MEC Team.



Miscellaneous Program Expenses	\$1,900
Awards Ceremony Event Coordinator	\$4,500
Awards Ceremony Decorations	\$3,000
Awards Ceremony Event Venue	\$2,600
Awards Ceremony Food	\$2,500
TOTAL:	\$14,500

Marketing

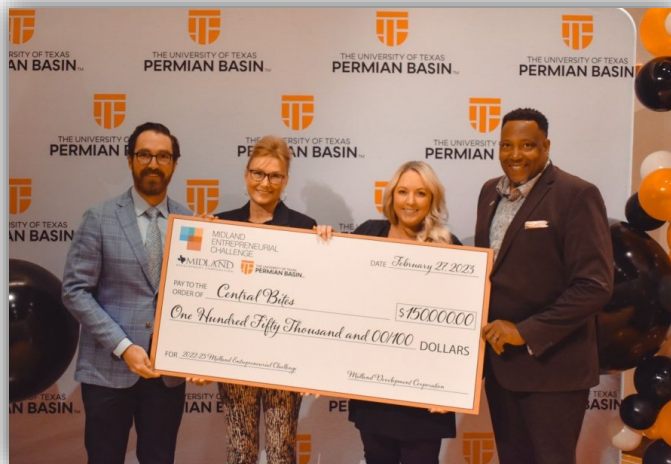
We plan to utilize Armic Systems for the marketing campaign for the 2023-2024 MEC. Armic Systems has been our marketing partner for the MEC for the last 3 years. Based on the past work we have done with Armic Systems to conduct the marketing campaigns, we are realizing significant savings in the website management over last year. We have also reallocated the categories that we are spending our marketing dollars to spend significantly less on TV/radio and more on internet-based advertising. Overall, this has allowed us to reduce our marketing budget for this year and resulted in budget savings for the entire program. The estimate we received for the marketing campaign for this year is as follows:

Website Management	\$1,250
Social Advertising (FB & IG)	\$8,500
Google Ads	\$3,600
Targeted Display Ads	\$1,600
TV Air Time (via Media Works)	\$5,000
TOTAL:	\$19,950



Previous Midland Entrepreneurial Challenge Winners

2022-2023



Central Bites

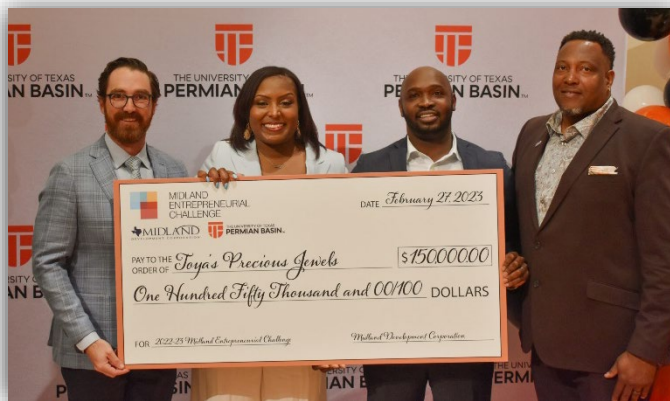


**Midland Athletic
Company**





The Tailgate



Toya's Precious Jewels



2021-2022

- The Birth Center
- Magrym Consulting
- Midland AF
- TyPickle Pickles

2020-2021

No competition held this year

2019-2020

- Thermal Cam USA
- Topline Care Pharmacy
- Nothing Bundt Cakes
- Caprock Products DBA Kid Proof
- Four Hands Dental Academy

2018-2019

- Most Wanted Waste Disposal
- The Oilfield Photographer
- Piano Works Gallery & Clocks
- Tall City Brewing Co.
- Texland Collision

2017-2018

- Norman Elite
- Eccentric Brewery

License Agreement

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (“**Agreement**”) is made and effective this ____ day of _____, 2023, by and between the MIDLAND DEVELOPMENT CORPORATION (“**Licensor**”), an economic development corporation existing under the authority of Chapter 504, Texas Local Government Code, and EDGARDO MADRID & ASSOCIATES, LLC (“**Licensee**”), a Texas limited liability corporation. In this Agreement, Licensor and Licensee are sometimes individually referred to as a “**Party**” and collectively referred to as the “**Parties**.”

I. Recitals

WHEREAS, Licensee acknowledges and agrees that it must obtain permission from Licensor to use certain property owned by Licensor; and

WHEREAS, the Parties desire to set forth the terms and conditions under which Licensor will permit Licensee to use certain property owned by Licensor for the limited purpose set forth herein;

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

II. Property; Use

A. License. Licensor hereby grants to Licensee a license to use an approximate 2.86-acre tract of land out of the East 374.12 acres of Section 33, Block 40, T-1-S, Midland County, Texas, and more specifically depicted on **Exhibit A** attached hereto and incorporated herein for all purposes (the “**Property**”). The Property may be used exclusively for the purpose of processing excavated material (the “**Permitted Use**”) in connection with the work contemplated in that certain _____ agreement/contract for the _____ dated _____, between _____ and the City of Midland, Texas (the “**Construction Contract**”). The Construction Contract is incorporated herein by reference as if fully reproduced below.

This Agreement and the license granted herein is a privilege to go on the Property for a certain, limited purpose, and does not confer on, or vest in the Licensee, any title, interest or estate to the Property. This is a personal, revocable, and (except as provided in Section X.I.) unassignable privilege; not an interest in the Property itself.

B. Access. Licensee, Licensee’s employees, contractors and agents shall at all times during the term of this Agreement have the right of ingress and egress to and from the Property via the access road adjacent to the eastern-most portion of the Property, as shown on **Exhibit A**.

C. Interference. Licensee shall not use the Property in any manner that interferes with Licensor’s use of the Property. Upon notice of such interference from Licensor, Licensee shall immediately cease said interference. In the event said interference does not cease within three (3) days after Licensee’s receipt of such notice, Licensor shall have the right to terminate this

Agreement immediately, at no cost, expense, or penalty to Licensor, by issuing written notice to Licensee. Said termination shall become effective upon Licensee's receipt of said written notice.

D. Acceptance of the Property "AS-IS." LICENSEE COVENANTS AND AGREES THAT LICENSEE ACCEPTS THE PROPERTY "**AS-IS**" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED, BEING MADE BY LICENSOR THAT THE PROPERTY IS FIT FOR A PARTICULAR PURPOSE. LICENSEE ACKNOWLEDGES THAT LICENSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY LICENSOR WITH RESPECT TO THE CONDITION OF THE PROPERTY, BUT IS RELYING UPON LICENSEE'S EXAMINATION OF THE PROPERTY. LICENSOR GIVES NO ASSURANCES, EXPRESS OR IMPLIED, CONCERNING THE CONDITION OF THE PROPERTY.

III. Term & Termination

A. Term. The term of this Agreement shall commence on _____, 2023 (the "**Commencement Date**"), and continue thereafter for a period of _____ (__) months (the "**Term**"), unless terminated sooner as provided herein.

B. Termination. Lessor may terminate this Agreement (i) pursuant to Section II.C, or (ii) at will for no or any reason upon giving at least thirty (30) days' written notice to Lessor. The parties to this Agreement understand and agree that it is in Lessor's sole discretion to cancel the Agreement during the term of the Agreement without penalty to Lessor. Lessee has no expectation and has received no guarantees that this Agreement will not be terminated before the end of the Agreement term. The Parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement.

IV. Consideration

The terms and conditions of this Agreement are supported by good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties named herein.

V. Care & Use of the Property

Licensee shall not use or permit the use of the Property for any unlawful purpose, maintain any nuisance, permit any waste, or use the Property in any way that creates a hazard to persons or property, provided that Licensor acknowledges and agrees that processing excavated material is in the ordinary course of Licensee's business, and in a commercially reasonable manner, is not deemed to create such a hazard. Licensee shall keep the Property in a safe, neat, clean and presentable condition and in good condition and repair. Licensee shall comply with all laws, ordinances, rules, regulations and orders relating to the Licensee's use of the Property.

VI. Liens

Licensee shall not allow any liens to attach to the Property for any services, labor or materials arising from the Licensee's use of the Property. Licensor shall not, and shall not permit any party under its control to, encumber the Permitted Facilities.

VII. Environmental Matters; Indemnity

Licensee shall not engage in any activity at the Property that involves the generation, manufacture, refining, transportation, treatment, storage, handling, or disposal of “*hazardous substances*” or “*hazardous waste*,” as such terms are defined under the Federal Comprehensive Environmental Response, Compensation and Liability Act (“*CERCLA*”), nor shall Licensee cause or permit on its part, the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping from, on, or about the Property of any “*hazardous substances*” or “*hazardous waste*,” nor shall Licensee engage in any activity which would subject Licensee or Licensors to the provisions of CERCLA, the Federal Water Pollution Control Act, or the Clean Water Act of 1977, as amended from time to time, or any other federal, state or local governmental statutes, laws, orders, decrees, permits, ordinances, rules, and regulations. **NOTWITHSTANDING ANY CONTRARY PROVISION CONTAINED HEREIN, LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LESSOR AND ALL OF LESSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY ACT OF COMPANY, ITS EMPLOYEES, AGENTS, OR SUBCONTRACTORS ON THE PROPERTY INVOLVING A “HAZARDOUS SUBSTANCE” OR “HAZARDOUS WASTE,” AND LESSOR SHALL BE REQUIRED TO PAY ANY JUDGMENT, FINE, OR ASSESSMENT, WITH COSTS, WHICH MAY BE OBTAINED AGAINST LESSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.** This section shall survive the expiration or sooner termination of this Agreement.

VIII. CONTRACTOR INSURANCE; COMPLIANCE

A. Contractor's Insurance. Licensee shall contractually require all contractors and subcontractors that perform any work on the Property to keep in force insurance coverage that meets or exceeds the policy requirements and minimum amounts described in Section X.J. Furthermore, Licensee shall contractually require that all such insurance coverage policies provide for a waiver of subrogation in favor of Licensors and name Licensors as an additional insured.

B. Compliance with Codes and Standards. All work performed on the Property shall be performed by qualified, responsible and reputable contractors, subcontractors and suppliers. All work shall be completed in a good and workmanlike manner and in compliance with all applicable laws, ordinances, regulations, and codes.

IX. STANDARD TERMS & CONDITIONS

A. Attorney Fees. BY EXECUTING THIS AGREEMENT, LICENSEE AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY FEES, WHICH ARE IN ANY WAY RELATED TO THIS AGREEMENT, OR THE CONSTRUCTION,

INTERPRETATION OR BREACH OF THIS AGREEMENT. LICENSEE SPECIFICALLY AGREE THAT IF IT BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THAT LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

B. Third-Party Beneficiary. This Agreement does not create a third-party beneficiary. There is no third-party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third-party beneficiary or other rights hereunder.

C. Governmental Immunity. By executing this Agreement Licenser is not waiving its right of governmental immunity. Lessor is not granting consent to be sued by legislative resolution or action. THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.

D. Indemnity. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY AND PAYABLE TO UNAFFILIATED THIRD PARTIES, ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSEE, ITS AGENTS OR EMPLOYEES, OR ANY CONTRACTOR OR SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, LICENSEE'S USE OF, OR ACTIVITIES ON, THE PROPERTY, AND LICENSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES WITH RESPECT TO SUCH INDEMNIFIED CLAIMS, INCLUDING REASONABLE ATTORNEY'S FEES.

E. Notice of Alleged Breach; Statutory Prerequisites. Licensee or its legal representative, shall give Licensor notice in writing of such damages, duly verified, within one hundred eighty (180) days after the same has been discovered. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, and the amount for which Licensee will settle. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Licensee's failure to comply with the requirements herein shall perpetually bar Licensee's claim for damages under Chapter 271 of the

Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Licenser has actual or constructive notice or knowledge of said claim or alleged damages. Licensee agrees that the requirements of this entire Agreement are reasonable.

F. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of Licenser; that Licensee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between Licenser and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licenser and Licensee. No person performing any of the work and services described hereunder by Licensee shall be considered an officer, agent, servant or employee of the Licenser. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a “*Community of Pecuniary Interest*” or “*An Equal Right of Control*” which would give rise to vicarious liability. Licensee shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. Licensee shall assume exclusive responsibility for the work.

G. Governing Law & Venue. This Agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas.

H. (Intentionally Omitted.)

I. Assignment. Licensee shall not, either directly or indirectly, assign all or any part of this Agreement or any interest, right or privilege herein, without the prior written consent of Licenser, provided that upon reasonable written notice to Licenser, Licensee may assign all of its rights and obligations hereunder without such consent to a successor-in-interest in connection with a sale of substantially all of Licensee’s assets or business to which this Agreement relates. The issue of whether or not to grant consent to an assignment shall be in the sole and absolute discretion of Licenser.

J. Insurance. Licensee shall at all times during the term of this Agreement maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

- Personal Injury: \$1,000,000.00 per person
\$1,000,000.00 per occurrence
- Property Damage: \$500,000.00 per occurrence

• General Aggregate:	\$2,000,000.00
<i>Business Automobile Liability:</i>	\$1,000,000.00 combined single limit—Personal Injury and Property Damage
<i>Umbrella Liability:</i>	\$3,000,000.00 per occurrence, aggregate
<i>Workers' Compensation:</i>	Statutory limits

The Commercial General Liability insurance shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis. The Commercial General Liability insurance shall name Licensors as an additional insured and waive all rights of subrogation against Licensors.

The Business Automobile Liability insurance provided by Licensee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and the amount of such policy shall be a minimum of \$1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this Agreement. The Business Automobile Liability insurance shall name Licensors as an additional insured and waive all rights of subrogation against Licensors.

The Workers' Compensation coverage provided by Licensee shall inure to the benefit of employees injured during the course and scope of their employment by Licensee pursuant to this Agreement. The Workers' Compensation insurance shall waive all rights of subrogation against Licensors.

All insurance required pursuant to this Agreement shall provide for a waiver of subrogation in favor of Licensors. All insurance required pursuant to this Agreement, except for Workers' Compensation Insurance, shall name Licensors as an additional insured on a claims occurred basis. Licensors shall be provided the notice by Licensee's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on the Property to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of Licensors and policies that name Licensors as an additional insured on a claims occurred basis (except Workers' Compensation coverage).

Prior to the execution of this Agreement, Licensee shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of Licensors. Licensors shall not be required to provide any insurance whatsoever pursuant to this Agreement.

K. No Waiver of Governmental Immunity; Ch. 271, Tex. Loc. Govt. Code. The Parties agree that this Agreement does not constitute an agreement for providing goods or services to Licensors as described in Subchapter I of Chapter 271 of the Texas Local Government Code, and

Licensor does not waive, to the maximum extent allowed by law, any constitutional, statutory or common law right to sovereign immunity or governmental immunity from liability or suit. Licensor expressly does not consent to be sued or be liable. To the maximum extent allowed by law, nothing in this Agreement constitutes a waiver of Licensor's governmental immunity and the Parties expressly covenant and agree that this Agreement shall not constitute nor be interpreted as a waiver of Licensor's governmental immunity under Subchapter I of Chapter 271 of the Texas Local Government Code, nor shall it constitute nor be interpreted as a waiver of Licensor's governmental immunity for the benefit of any third party lacking privity to the Agreement. Licensee covenants and agrees that any provision in this Agreement that restricts the use of property to a specific purpose shall not require the use of property for that specific purpose. Any such provision shall be deemed to be a covenant against noncomplying use, not a covenant to use. Licensee's use of property in compliance with a restriction shall not constitute a service, and such complying use shall not operate to waive Licensor's governmental immunity.

L. Notices. All notices must be given in writing by certified mail return receipt requested addressed as shown:

If to Licensor:

City Manager
City of Midland, Texas
P.O. Box 1152
Midland, TX 79702

If to Licensee:

M. Entire Agreement. This Agreement constitutes the entire agreement between the Parties governing the matters addressed herein. This Agreement shall supersede and replace all prior agreements or representations, whether verbal or written, between the Parties concerning the subject matter hereof. The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision of the Agreement. The waiver of any breach of any term or condition of this Agreement does not waive any other breach of that term or condition or of any other term or condition. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by persons duly authorized on the day and year first written above.

[Signature Page Follows]

**MIDLAND DEVELOPMENT
CORPORATION**

Chase Gardaphe, Chairman

ATTEST:

Jill Pennington, Secretary

**EDGARDO MADRID & ASSOCIATES,
LLC**

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS

§

§

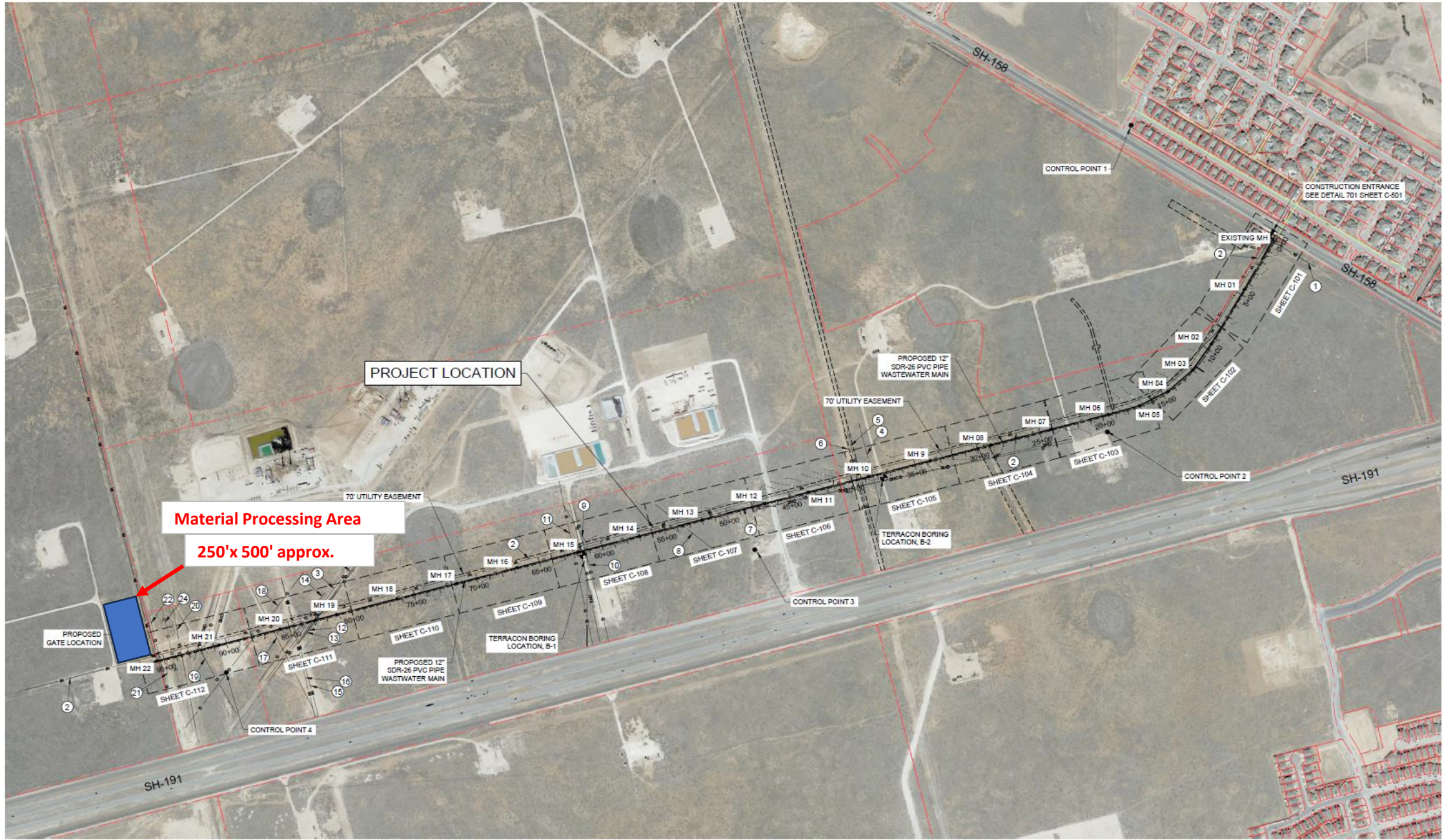
COUNTY OF _____

§

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said company, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2023.

Notary Public, State of Texas



EXISTING UTILITIES LEGEND

- | | |
|----------------------------------|-----------------------------------|
| 1 30" CITY OF MIDLAND WATER MAIN | 13 GPM GAS LINE |
| 2 16" CITY OF MIDLAND WATER MAIN | 14 DCP GAS LINE |
| 3 33" CRMWD WATER MAIN | 15 DIAMONDBACK WATER LINE |
| 4 FRONTIER MIDSTREAM GAS LINE | 16 DIAMONDBACK WATER LINE |
| 5 ONEOK GAS LINE | 17 DCP GAS LINE |
| 6 CONCHO GAS LINE | 18 DCP GAS LINE |
| 7 GAS LINE | 19 ENDEAVOR GAS LINE |
| 8 GAS LINE | 20 PLAINS GAS LINE |
| 9 GAS LINE | 21 GAS LINE |
| 10 GAS LINE | 22 ENLINK PERMIAN GAS LINE |
| 11 DIAMONDBACK GAS LINE | 23 36" CITY OF MIDLAND WATER LINE |
| 12 GPM GAS LINE | 24 ENTERPRISE CRUDE OIL LINE |

SURVEY CONTROL POINTS

POINT	NORTHING	EASTING	ELEVATION	DESCRIPTION
1	10,896,058.88	1,723,932.75	2,858.25	1/2" IRON ROD WITH BLUE PLASTIC CAP "PSC CONTROL"
2	10,893,650.44	1,723,760.59	2,878.76	1/2" IRON ROD WITH BLUE PLASTIC CAP "PSC CONTROL"
3	10,892,780.83	1,721,023.08	2,889.20	1/2" IRON ROD WITH BLUE PLASTIC CAP "PSC CONTROL"
4	10,891,759.89	1,716,937.54	2,892.35	1/2" IRON ROD WITH BLUE PLASTIC CAP "PSC CONTROL"

TEXAS COORDINATE SYSTEM OF 1983 (NAD'83), TC 4203. ELEVATIONS ARE BASED ON NAVD'88

Parkhill



Parkhill.com

City of Midland
SH-191 Wastewater Main Extension



CLIENT
City of Midland
300 N. Loraine
Midland, Texas
79701-4725
(432) 685-7100

PROJECT NO.
6131.22

1 03/17/2023 Bld Set

DATE DESCRIPTION

Project Location
And Controls

G-002

Income Statement

MIDLAND DEVELOPMENT CORPORATION
INCOME STATEMENT FOR THE 10 MONTHS ENDED
July 31, 2023

	Jul-23	YTD	Budgeted Amount
Revenue	\$1,536,283.82	\$13,110,676.98	\$11,976,644.00
40100 - State Sales Tax	\$1,395,392.32	\$11,319,802.81	\$11,000,000.00
40600 - Public ROW Use Fees	\$0.00	\$4,823.00	\$0.00
43000 - Interest	\$13,892.20	\$212,874.02	\$0.00
43010 - Interest - Nonpooled Invest	\$45,612.30	\$348,837.15	\$0.00
46190 - Miscellaneous Rentals	\$81,387.00	\$813,970.00	\$976,644.00
49020 - Sale of Buildings	\$0.00	\$410,370.00	\$0.00
4235150 - Midland Dvlpmnt Corp Revenue	\$1,536,283.82	\$13,110,676.98	\$11,976,644.00

Expense	\$963,982.61	\$8,844,230.72	\$22,392,778.00
51010 - Base Salary	\$24,574.29	\$248,050.96	\$350,096.00
51090 - Fica MDC Portion	\$1,879.95	\$16,779.60	\$28,234.00
51110 - Health Insurance	\$248.83	\$18,242.88	\$28,080.00
51135 - ACCE Profit Sharing	\$1,633.53	\$17,312.48	\$24,507.00
52010 - Office Supplies	\$144.96	\$4,972.67	\$6,000.00
52110 - Motor Vehicle Supplies	\$0.00	\$474.92	\$1,500.00
52115 - Minor Furniture & Fixtures	\$0.00	\$344.71	\$1,000.00
52155 - Minor Computer Hrdwre & Periph	\$0.00	\$3,492.53	\$5,000.00
52160 - Computer Software & Supplies	\$0.00	\$31,704.17	\$30,000.00
52620 - Postage	\$0.00	\$968.80	\$300.00
53010 - Communication	\$961.03	\$14,840.22	\$17,000.00
53030 - Light & Power	\$7.61	\$87.17	\$150.00
53110 - Insurance-External	\$9,271.00	\$12,683.00	\$150,000.00
53212 - Equipment Rental-External	\$669.96	\$3,115.40	\$5,000.00
53220 - Advertising	\$4,521.34	\$196,532.70	\$200,000.00
53370 - Grounds Maintenance	\$7,270.40	\$26,599.64	\$22,000.00
53405 - Software Maintenance	\$1,525.54	\$16,965.51	\$12,000.00
53440 - External Audit Fees	\$0.00	\$33,971.70	\$35,000.00
53450 - Consulting Fees	\$39,875.00	\$244,781.14	\$500,000.00
53510 - Travel & Entertainment	\$31.56	\$9,114.85	\$8,000.00
53520 - Dues & Subscriptions	\$1,306.11	\$10,549.42	\$15,000.00
53530 - Training,Registration Fees,Etc	\$200.00	\$7,303.34	\$10,000.00
53905 - Economic Development Incentive	\$0.00	\$0.00	\$5,129,123.00
53907 - Business Recruitment & Retentn	\$2,073.46	\$59,549.00	\$50,000.00
53909 - Prior Year Committed Incentives	\$185,994.25	\$2,512,736.04	\$9,999,673.00
53920 - Rent	\$5,678.50	\$56,785.00	\$68,142.00
54010 - Building Maintenance	\$4,702.89	\$81,977.64	\$80,000.00
55120 - Maint. - Instruments & Appara.	\$200.00	\$1,283.46	\$1,000.00
56188 - MOTRAN	\$0.00	\$142,500.00	\$142,500.00
56202 - General Fund Services	\$31,651.08	\$316,510.80	\$379,813.00
56410 - Payment of Principal	\$0.00	\$0.00	\$70,605.00
56420 - Interest Expense	\$0.00	\$0.00	\$6,595.00
56910 - Depreciation Expense	\$35,763.05	\$319,784.22	\$416,460.00
56995 - Project Non Capital - Promotions	\$267,903.54	\$1,254,684.00	\$1,100,000.00
57001 - Capital Buildings & Structures	\$335,894.73	\$3,079,532.75	\$3,500,000.00
57002 - Capital Improv Other Than Bldg	\$0.00	\$100,000.00	\$0.00
57070 - Construction in Process	\$0.00	\$0.00	\$0.00
235235 - Midland Development Corp	\$963,982.61	\$8,844,230.72	\$22,392,778.00

July 2023 Net Income: **\$572,301.21**

Year-to-Date Net Income: **\$4,266,446.26**

Balance Sheet

MIDLAND DEVELOPMENT CORPORATION
BALANCE SHEET FOR THE PERIOD ENDED
July 31, 2023
(Used for Internal Purposes Only)

ASSETS

Current Assets

Cash and cash equivalents	19,420,834	
Investments	7,704,935	
Sales tax receivable	-	
Prepaid expenses	-	
Accounts receivable	-	
		27,125,770

Non-Current Assets

Capital Assets, net	30,141,994	
Forgivable Loans		
Made to Primary Government	2,984,110	
Made to Other	6,579	
Total Forgivable Loans	2,990,689	
		33,132,683

Total Assets		\$ 60,258,452
--------------	--	---------------

LIABILITIES AND NET POSITION

Liabilities

Accounts payable	85,335	
Retainage Payable	127,245	
Capital Leases payable	565,054	
Commitments payable		
Due within one year	7,394,063	
Due in more than one year	11,786,656	
Total Commitments Payable	19,180,719	
		19,958,353

Net Position

Net investment in capital assets	30,141,994	
Restricted for Forgivable Loans	2,990,689	
Restricted for Capital Leases	565,054	
Promotions	1,404,057	
Unrestricted	5,198,306	
		40,300,100

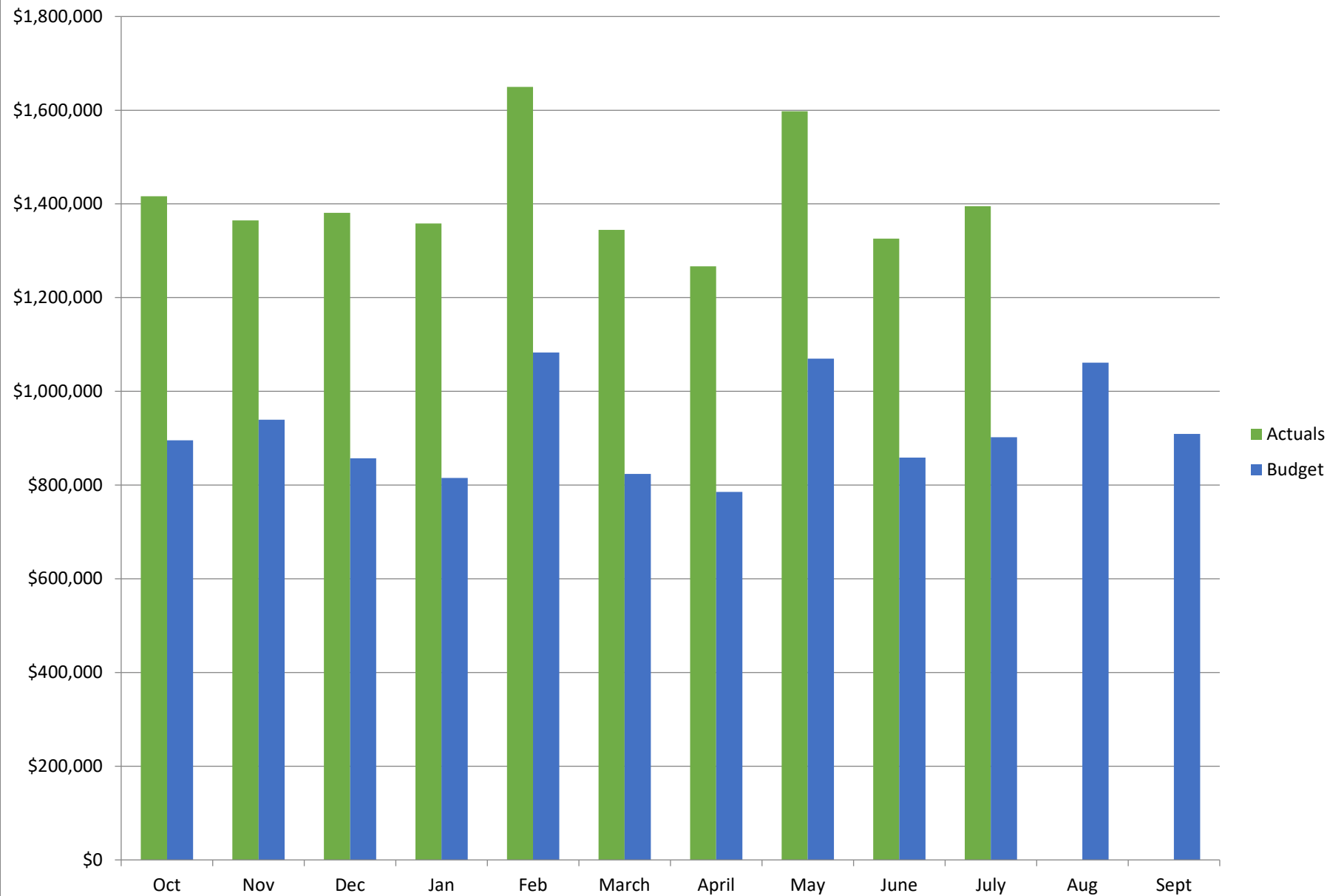
Total Liabilities and Net Position		\$ 60,258,452
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Sales Tax

Sales Tax Variance

	2020-2021	2021-2022	% Change	2021-2022	2022-2023	% Change	YTD Change
October	\$1,203,058.10	\$971,343.63	-19.26%	\$971,343.63	\$1,416,510.48	45.83%	45.83%
November	\$983,259.60	\$1,156,353.89	17.60%	\$1,156,353.89	\$1,364,595.51	18.01%	30.71%
December	\$843,087.27	\$1,013,549.80	20.22%	\$1,013,549.80	\$1,380,834.52	36.24%	32.49%
January	\$752,584.05	\$1,117,874.02	48.54%	\$1,117,874.02	\$1,358,336.22	21.51%	29.61%
February	\$1,224,314.99	\$1,434,528.04	17.17%	\$1,434,528.04	\$1,649,985.00	15.02%	25.93%
March	\$783,914.25	\$983,421.74	25.45%	\$983,421.74	\$1,344,612.50	36.73%	27.52%
April	\$687,198.37	\$1,015,116.31	47.72%	\$1,015,116.31	\$1,266,881.01	24.80%	27.16%
May	\$1,198,336.79	\$1,487,467.44	24.13%	\$1,487,467.44	\$1,597,917.80	7.43%	23.97%
June	\$927,060.71	\$1,218,236.38	31.41%	\$1,218,236.38	\$1,325,843.43	8.83%	22.19%
July	\$909,387.44	\$1,326,275.50	45.84%	\$1,326,275.50	\$1,395,392.32	5.21%	20.27%
August	\$1,176,070.55	\$1,582,536.23	34.56%	\$1,582,536.23			
September	\$978,956.15	\$1,303,011.95	33.10%	\$1,303,011.95			
Annual Total	\$11,667,228.27	\$14,609,714.93	25.22%	\$14,609,714.93	\$14,100,908.79		

Sales Tax Actuals vs Budget Estimates



Activity Report



BUSINESS RETENTION & EXPANSION

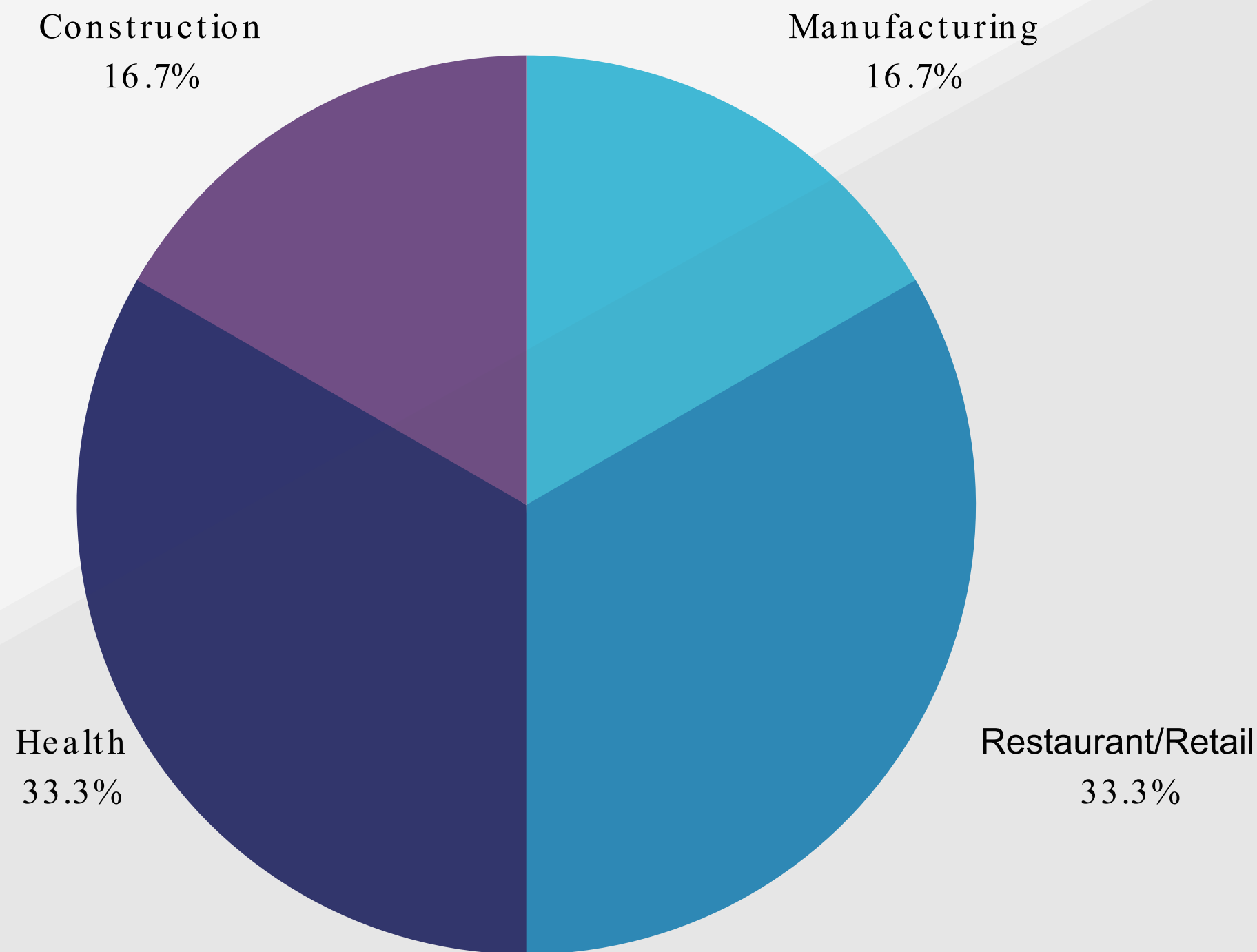
JULY 2023



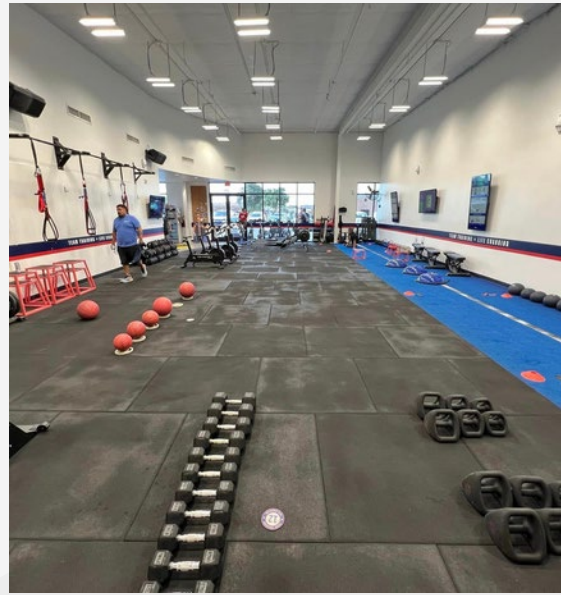
BRE COORDINATOR:
SAMMI STEELE THOMAS



WHAT KIND OF BUSINESSES DID WE VISIT?

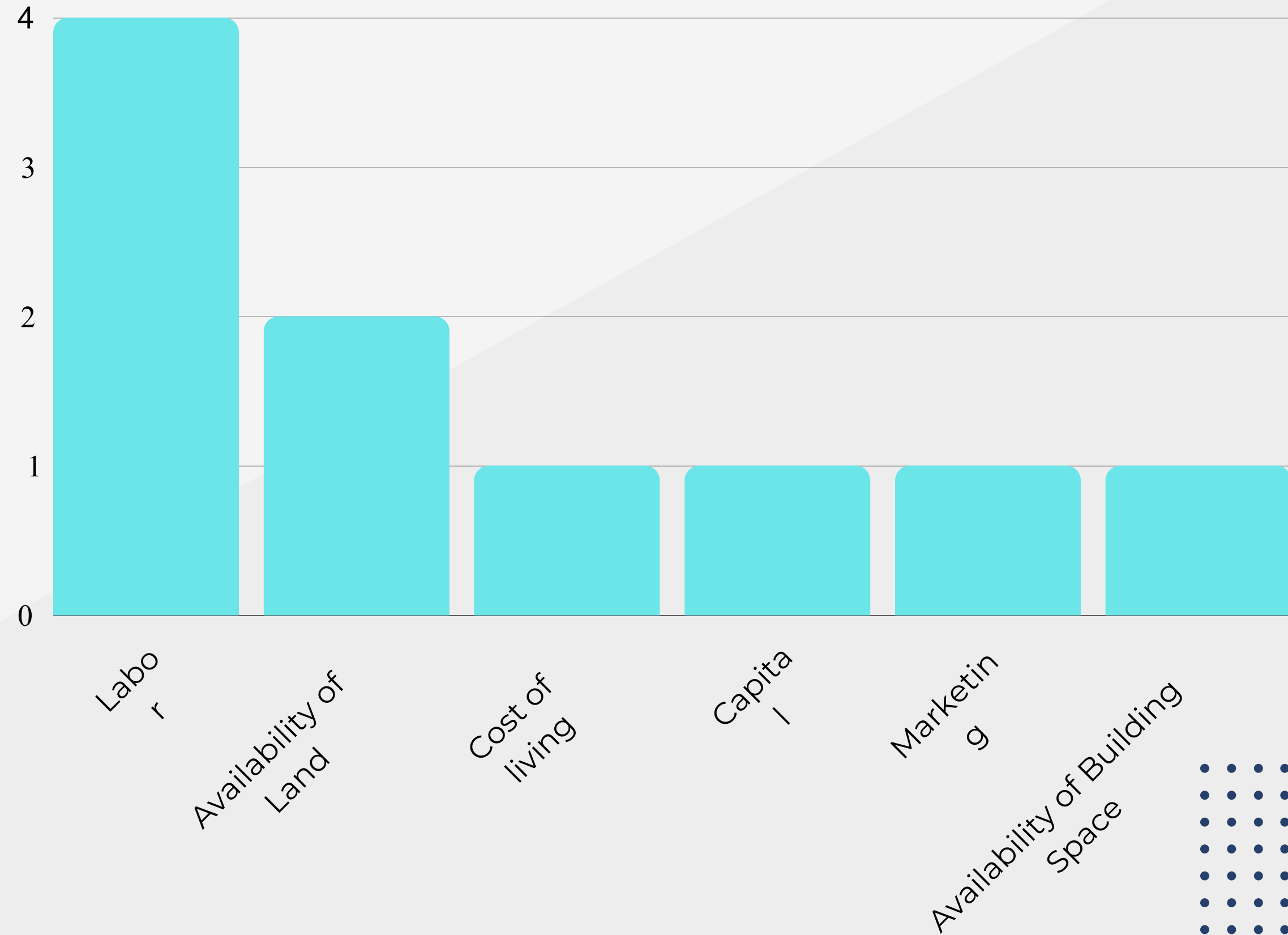


6 BUSINESS VISITS





WHAT FACTORS ARE IMPACTING BUSINESSES?



BIG TAKEAWAYS IN JULY?

RETENTION IS EVERYTHING

It costs a lot of time and money to hire and train new employees. When you have solid staffing, the business can grow more easily. So, for business owners and managers, retention is everything. This month, I heard a few different retention strategies including providing housing (this was for seasonal, labor-intensive jobs) and ensuring employees see a path for growth within the company. It seems if the employer clearly communicates expectations, benefits, and career opportunities to the employee, the better they perform, and the business becomes more productive.

GEN Z

A new generation has entered the workforce and there are bound to be some generational differences. Oftentimes, I hear business owners frustrated with how GenZ operates in contrast to other generations. There's frustration with phones, either being on them too much or being afraid to pick up a phone call. Some other perceptions revolved around GenZ wanting to work remotely and the need to be very delicate sharing any job criticism. At the end of the day hard workers are going to be hard workers, so how or when they do their job doesn't matter if they are getting the job done well. Having younger employees can provide a business with new ideas and opportunities for growth.

HIGH-DEMAND JOBS

This month, I heard the need for more CDL drivers, equipment operators, anesthesiologists and CRNAs (Certified Registered Nurse Anesthetist). When it comes to drivers, safety was a big concern. One business owner mentioned wanting to see TXDOT crackdowns to ensure drivers are meeting certain standards. As for anesthesiologists, getting experienced professionals to remote west Texas is difficult. The ones that are here and work for the hospitals, must sign non-competes. So, for surgery centers, dentist offices, etc., finding anesthesiologists becomes even harder.

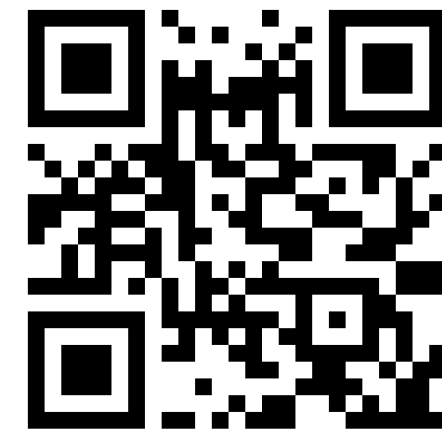
AUGUST FOUNDERS BLEND



Wednesday, August 16th
UTPB CEED Building
8 am - 9 am

Blending Minds & Building Businesses

- PRESENTERS: SIMPLY MIDLAND AND NEW ANGLE CAPITAL
- LOCATION CHANGE: UTPB CEED BUILDING
- DOORS OPEN AT 7:30 AM AND PRESENTATIONS BEGIN AT 8:00 AM
- COFFEE DONOR: HIGHER GROUNDS
- FOOD DONOR: HASHBROWNS AND HIGH HOPES



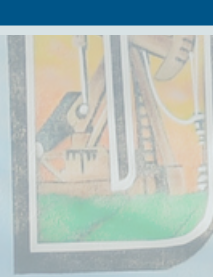
QUESTIONS



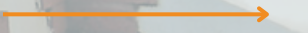
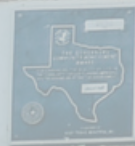
marketing REPORT

MDC BOARD MEETING- 8/7

Greetings
From:



THE TALL CITY





ANNUAL REPORT

FOUNDERS BLEND

FLY INTO FALL

TRADESHOW PLANNING

DRONE COURSE: RADIO COMMUNICATIONS

NEWSLETTER



FLY INTO FALL

SATURDAY, AUGUST 26TH

9 AM-2 PM

MIDLAND AIRPARK

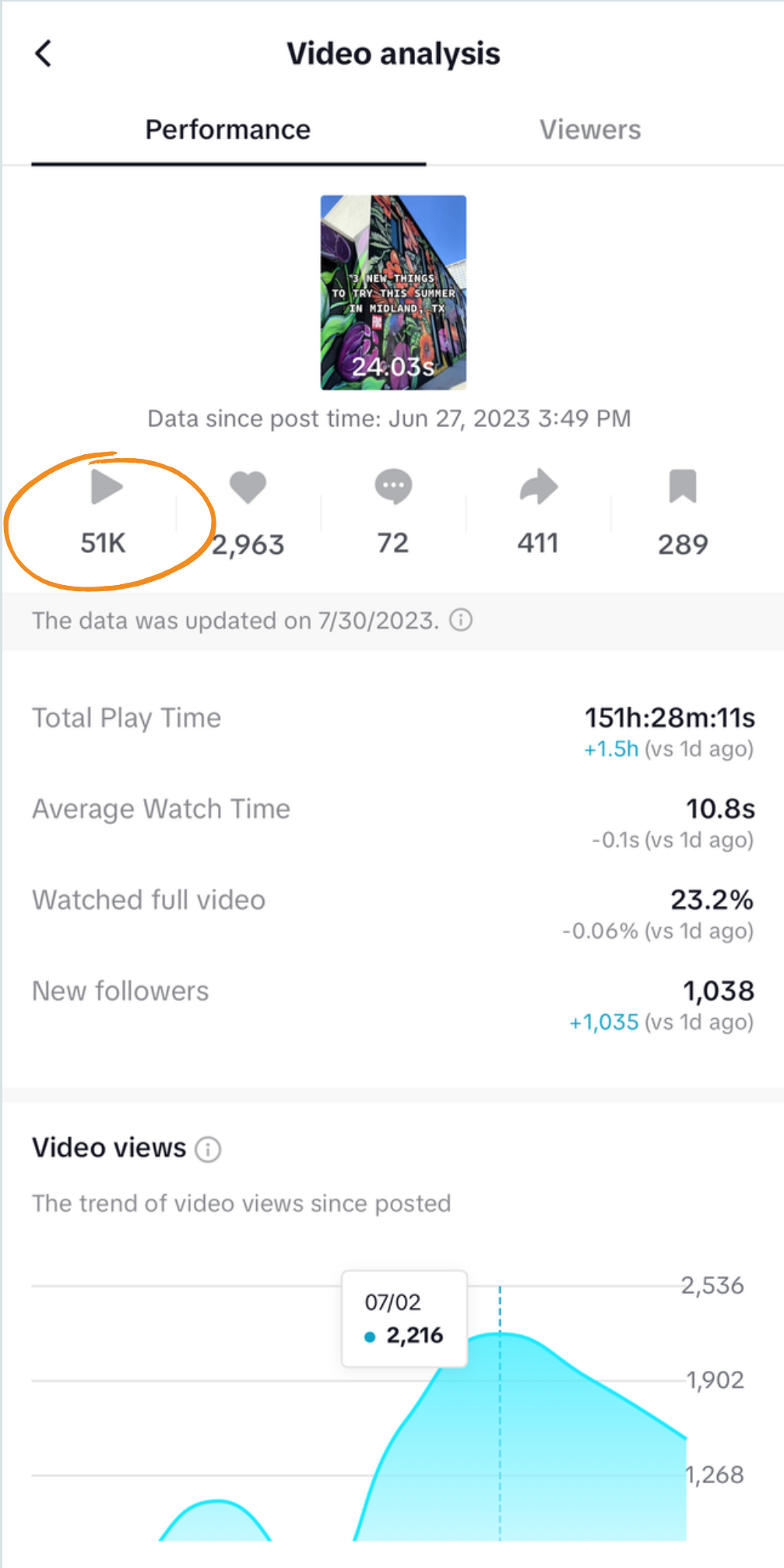
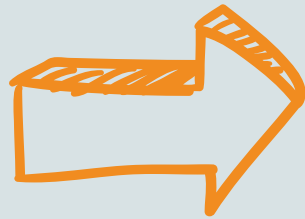
901 VETERANS AIRPARK LN.

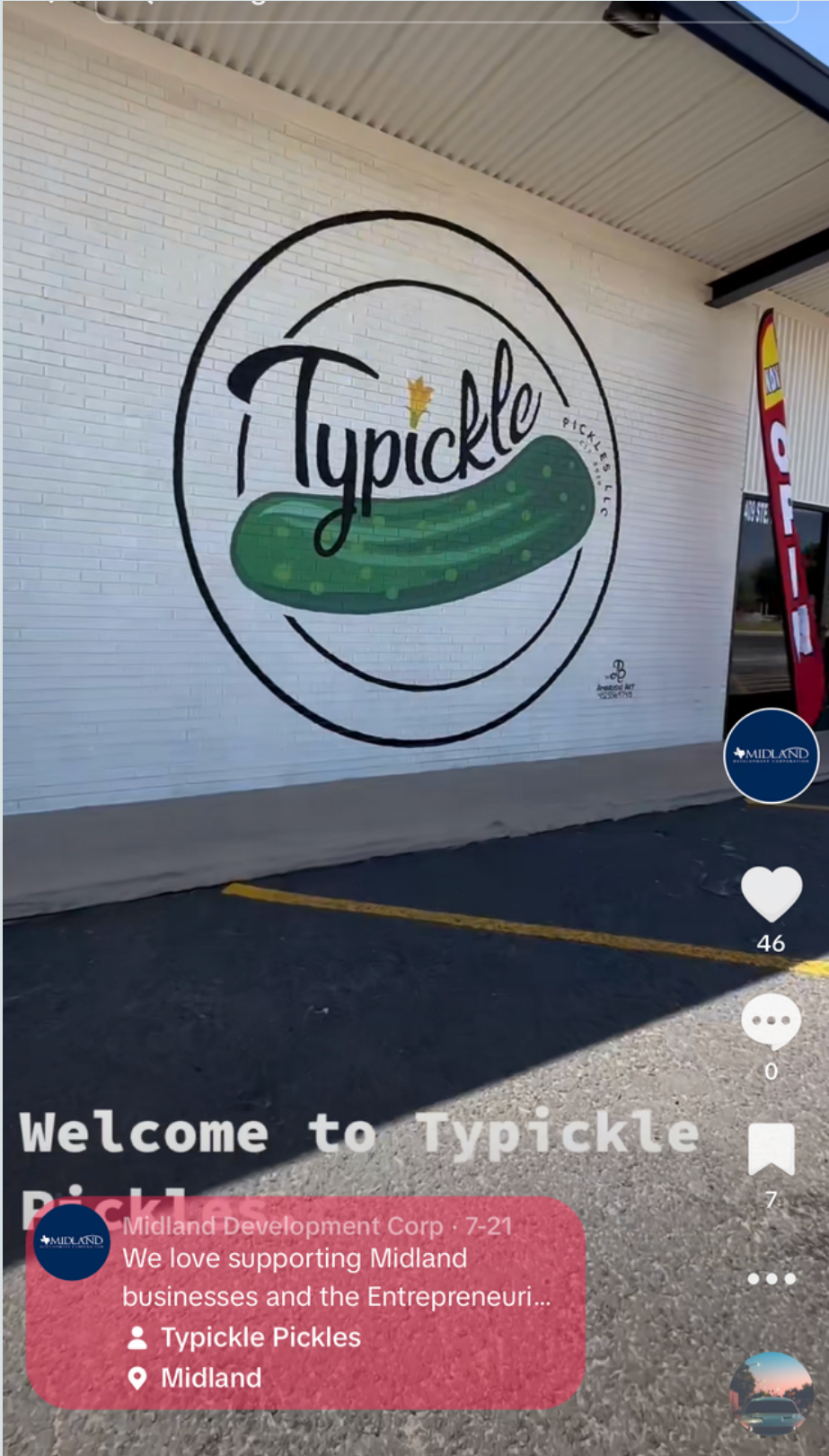
STATIC & INTERACTIVE DISPLAYS, EDUCATIONAL BOOTHS, 5K RACE, FOOD TRUCKS



8:05 AM – RUN THE RUNWAY (5K RACE)

9 AM – 2 PM – FLY INTO FALL EVENT





595 VIEWS
46 LIKES
7 SAVES
1350
FOLLOWERS



Facebook

2,562

FOLLOWERS

31.23K

IMPRESSIONS

TOP POSTS:

- DANNY'S ASPHALT BRE VISIT
- PAGE 27 DESIGNS MADE IN MIDLAND POST
- ARTWORKS MIDLAND MADE IN MIDLAND
- BUSINESS INSIDER ARTICLE



Instagram

2,412

FOLLOWERS

16.51K

IMPRESSIONS

1
REEL

POSTED



TOP POSTS:

- ARTWORKS MIDLAND MADE IN MIDLAND POST
- GREEN ACRES MADE IN MIDLAND POST
- MELTED MADE IN MIDLAND POST
- TEXAS WORKFORCE COMMISSION JUNE EMPLOYMENT NUMBERS



June 2023

Midland MSA Unemployment Rate

Source: Texas Workforce Commission

June 2023

2.6%

June 2022

3.2%

In the month of June, the Midland MSA had the lowest unemployment rate in the state of Texas.

Linked In

1,726

FOLLOWERS

9,692

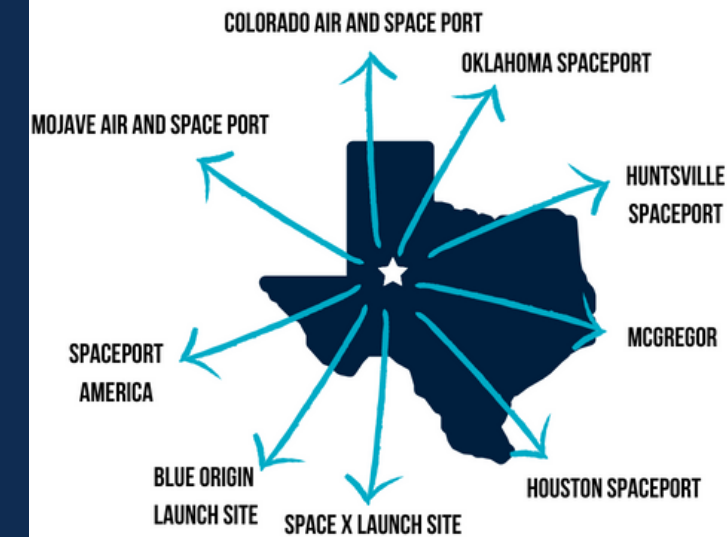
IMPRESSIONS

TOP POSTS:

- MIDLAND INTERNATIONAL AIR & SPACE PORT POST
- ANNUAL REPORT LINK
- COST OF LIVING IN MIDLAND
- MELTED MADE IN MIDLAND POST

MIDLAND, TX

THE HUB OF 9 SPACEPORTS



MIDLAND'S COST OF LIVING:

93.5
OUT OF 100.

WHAT DOES
THIS MEAN?

Midland's cost of living is below the national average. This means Midland has an affordable cost of living.

WHY?

The MDC participates in The Cost of Living Index which measures relative price levels for consumer goods and services in participating areas.

The average for all participating places, both metropolitan and non-metropolitan, equals 100, and each participant's index is read as a percentage of the average for all prices.

Midland has one of the highest personal incomes in the United States making our community an excellent place to start your career and to call home.

WHERE MIDLAND RANKS:

GROCERY
95.9

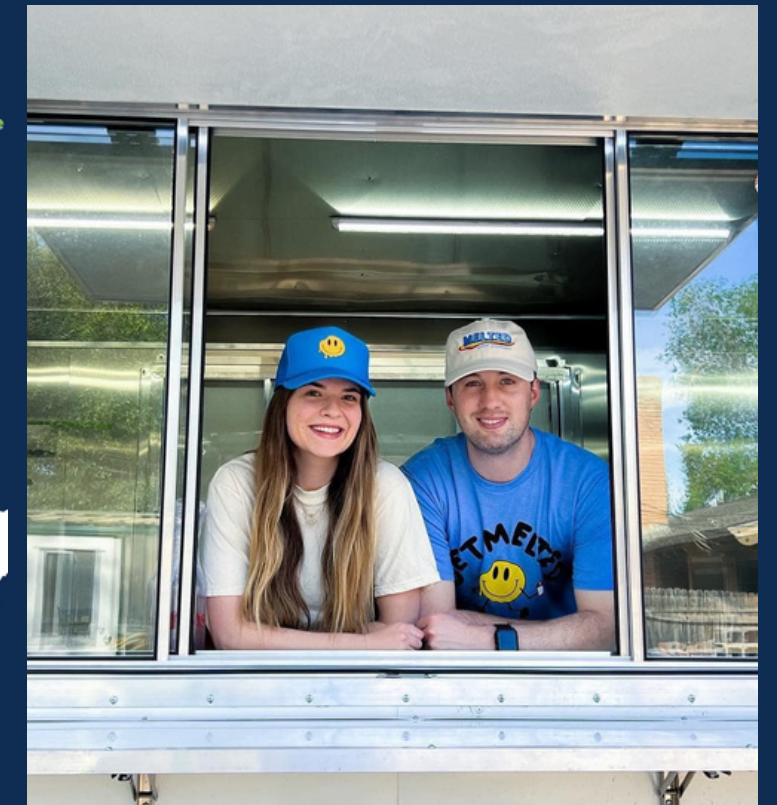
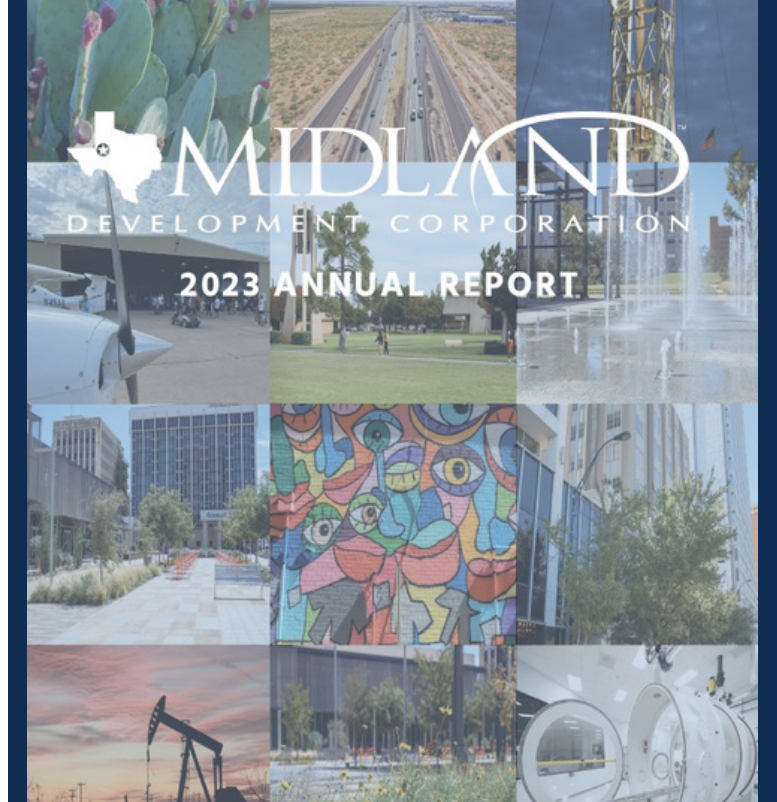
HOUSING
75.0

TRANSPORTATION
96.1

HEALTHCARE
99.2

UTILITIES
102.0

MISC. GOODS & SERVICES
104.1

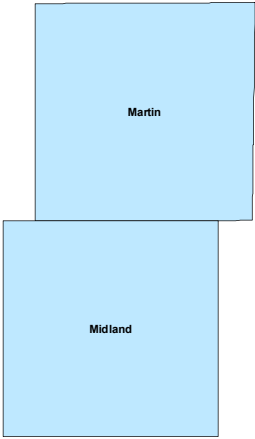
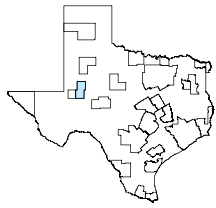


Questions?



Midland MSA

June 2023



MSA Labor Force Statistics

	Jun-23	May-23	Jun-22	Yearly Change
Civilian Labor Force	114,685	113,615	108,282	6,403
Employed	111,714	110,638	104,852	6,862
Unemployed	2,971	2,977	3,430	-459
Unemployment Rate	2.6%	2.6%	3.2%	-0.6%

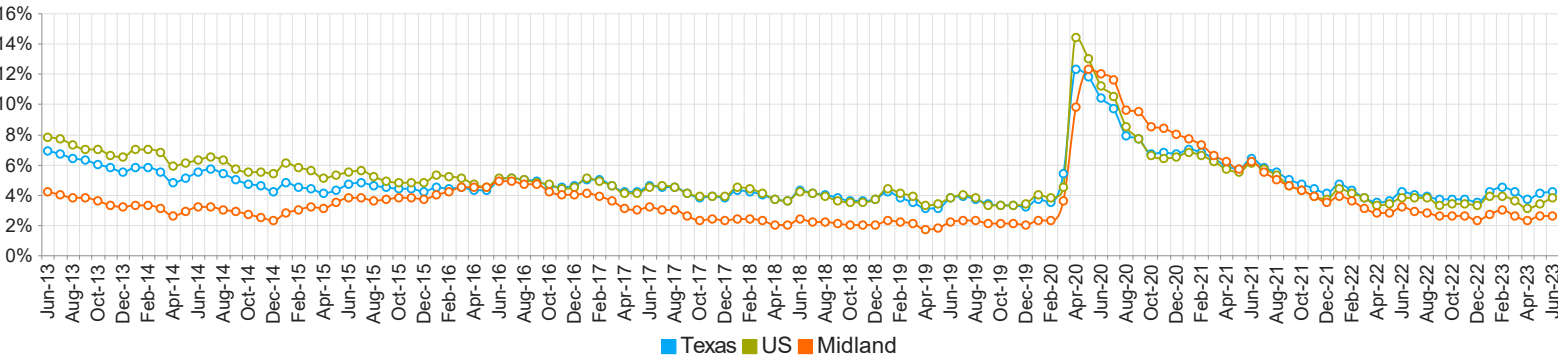
Texas Labor Force Statistics

	Jun-23	May-23	Jun-22	Yearly Change
Civilian Labor Force	15,047,450	14,968,640	14,673,500	373,950
Employed	14,418,774	14,355,155	14,058,566	360,208
Unemployed	628,676	613,485	614,934	13,742
Unemployment Rate	4.2%	4.1%	4.2%	0.0%

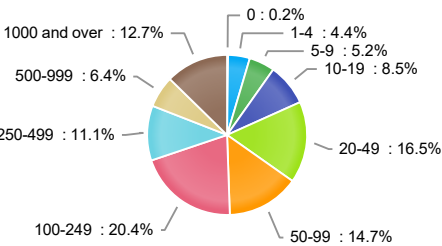
US Labor Force Statistics

	Jun-23	May-23	Jun-22	Yearly Change
Civilian Labor Force	167,910,000	166,702,000	165,012,000	2,898,000
Employed	161,559,000	161,002,000	158,678,000	2,881,000
Unemployed	6,351,000	5,700,000	6,334,000	17,000
Unemployment Rate	3.8%	3.4%	3.8%	0.0%

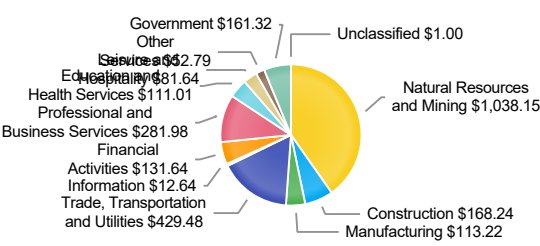
Historical Unemployment Rates



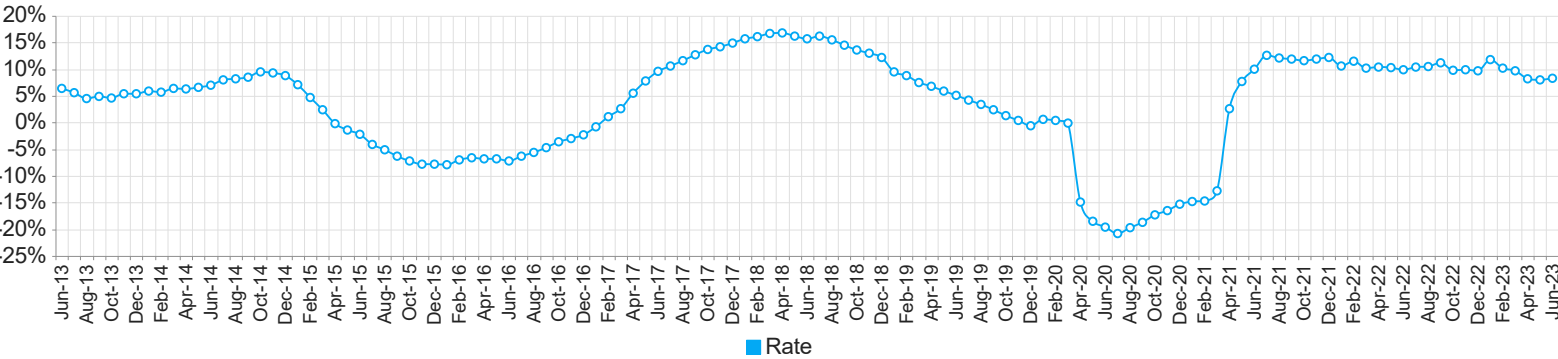
Employment by Size Class (4th Quarter 2022)



Wages by Industry (in millions) (4th Quarter 2022)



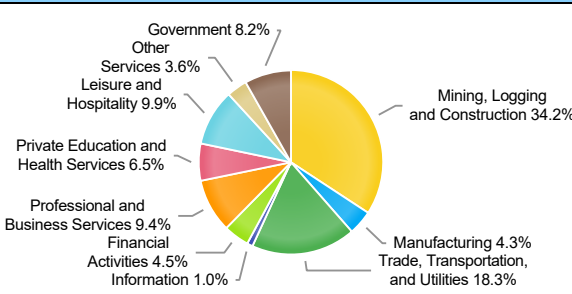
Annual Growth Rate Total Non-agricultural employment



Employment by Industry (June 2023)

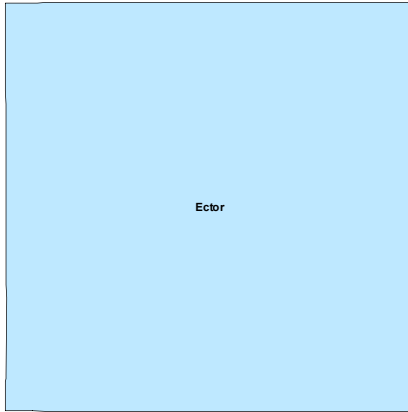
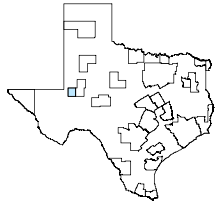
Industry	Current Month Employment	% Monthly Change	% Yearly Change
Total Nonfarm	120,700	0.7%	8.3%
Mining, Logging and Construction	41,300	2.0%	15.4%
Manufacturing	5,200	2.0%	13.0%
Trade, Transportation, and Utilities	22,100	-0.5%	3.3%
Information	1,200	0.0%	20.0%
Financial Activities	5,400	0.0%	8.0%
Professional and Business Services	11,400	0.0%	5.6%
Private Education and Health Services	7,900	-1.2%	5.3%
Leisure and Hospitality	12,000	1.7%	4.3%
Other Services	4,300	0.0%	7.5%
Government	9,900	-1.0%	0.0%

Employment by Industry (June 2023)



Odessa MSA

June 2023



MSA Labor Force Statistics

	Jun-23	May-23	Jun-22	Yearly Change
Civilian Labor Force	86,353	85,896	82,707	3,646
Employed	83,385	82,974	79,258	4,127
Unemployed	2,968	2,922	3,449	-481
Unemployment Rate	3.4%	3.4%	4.2%	-0.8%

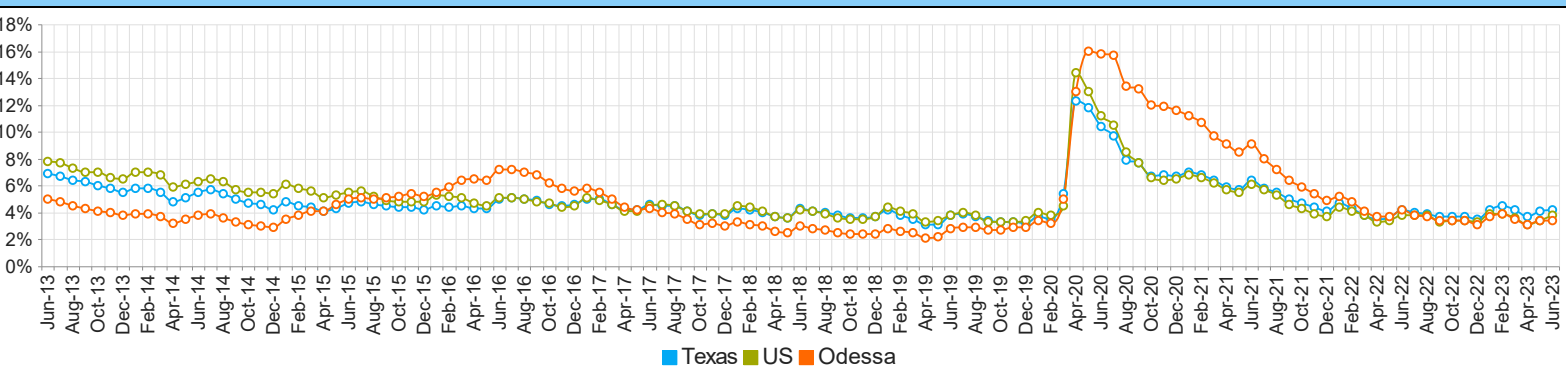
Texas Labor Force Statistics

	Jun-23	May-23	Jun-22	Yearly Change
Civilian Labor Force	15,047,450	14,968,640	14,673,500	373,950
Employed	14,418,774	14,355,155	14,058,566	360,208
Unemployed	628,676	613,485	614,934	13,742
Unemployment Rate	4.2%	4.1%	4.2%	0.0%

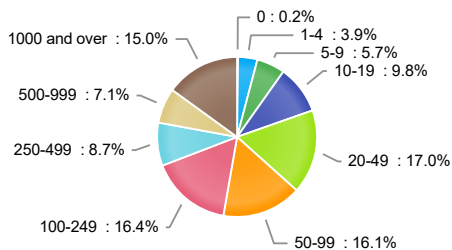
US Labor Force Statistics

	Jun-23	May-23	Jun-22	Yearly Change
Civilian Labor Force	167,910,000	166,702,000	165,012,000	2,898,000
Employed	161,559,000	161,002,000	158,678,000	2,881,000
Unemployed	6,351,000	5,700,000	6,334,000	17,000
Unemployment Rate	3.8%	3.4%	3.8%	0.0%

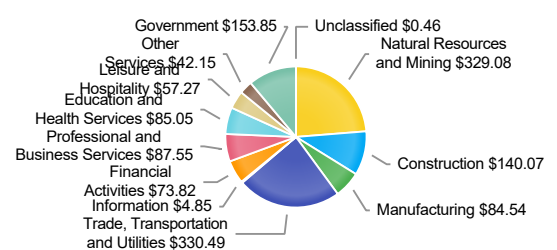
Historical Unemployment Rates



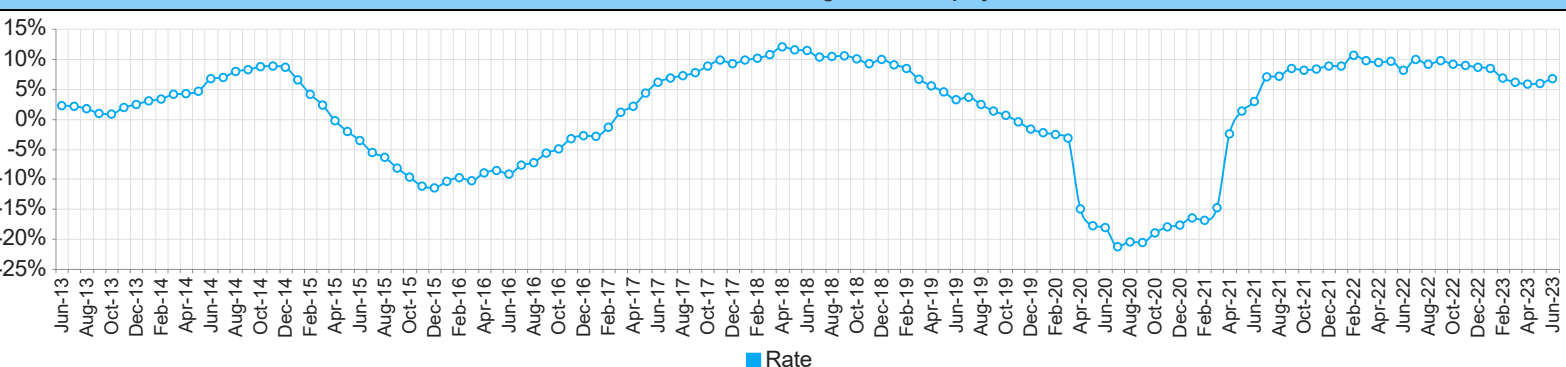
Employment by Size Class (4th Quarter 2022)



Wages by Industry (in millions) (4th Quarter 2022)



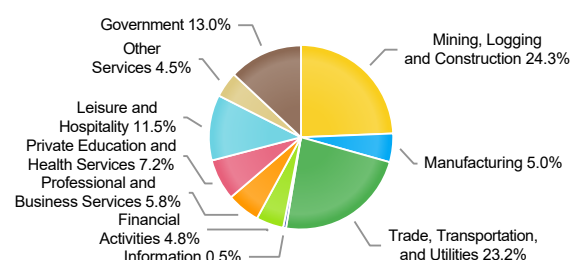
Annual Growth Rate Total Non-agricultural employment



Employment by Industry (June 2023)

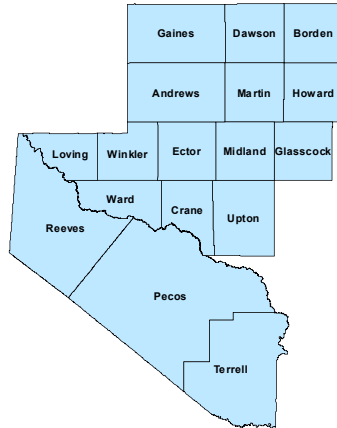
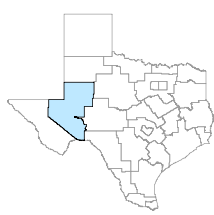
Industry	Current Month Employment	% Monthly Change	% Yearly Change
Total Nonfarm	81,400	0.1%	6.7%
Mining, Logging and Construction	19,800	1.0%	13.1%
Manufacturing	4,100	0.0%	2.5%
Trade, Transportation, and Utilities	18,900	0.0%	4.4%
Information	400	0.0%	0.0%
Financial Activities	3,900	0.0%	8.3%
Professional and Business Services	4,700	0.0%	2.2%
Private Education and Health Services	5,900	0.0%	9.3%
Leisure and Hospitality	9,400	2.2%	3.3%
Other Services	3,700	0.0%	2.8%
Government	10,600	-2.8%	6.0%

Employment by Industry (June 2023)



Permian Basin Workforce Development Area

June 2023



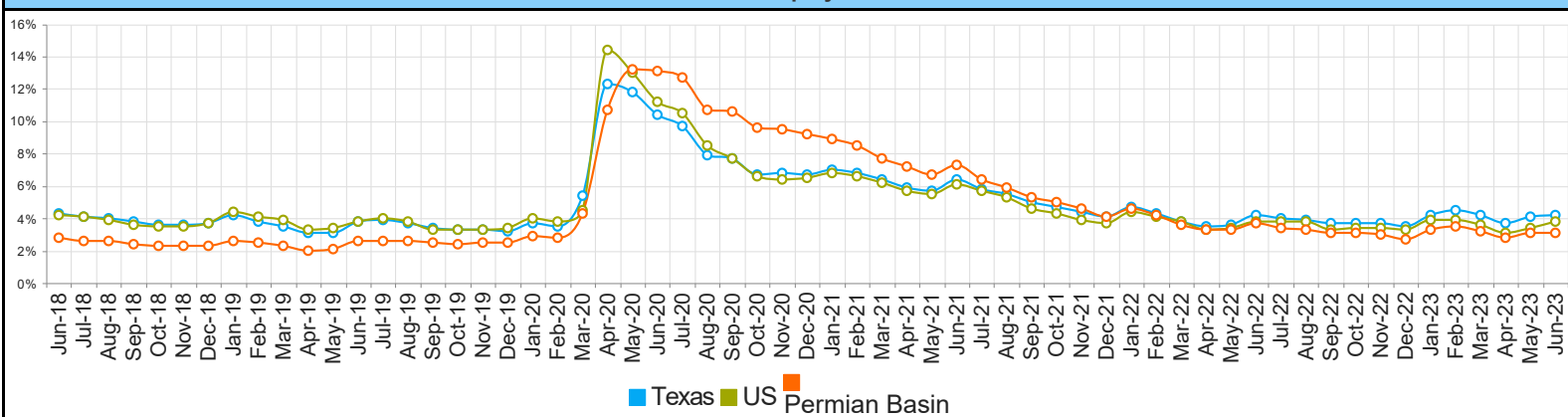
WDA Labor Force Statistics				
	Jun-23	May-23	Jun-22	Yearly Change
Civilian Labor Force	271,475	269,527	260,173	11,302
Employed	262,961	261,157	250,532	12,429
Unemployed	8,514	8,370	9,641	-1,127
Unemployment Rate	3.1%	3.1%	3.7%	-0.6%

Texas Labor Force Statistics				
	Jun-23	May-23	Jun-22	Yearly Change
Civilian Labor Force	15,047,450	14,968,640	14,673,500	373,950
Employed	14,418,774	14,355,155	14,058,566	360,208
Unemployed	628,676	613,485	614,934	13,742
Unemployment Rate	4.2%	4.1%	4.2%	0.0%

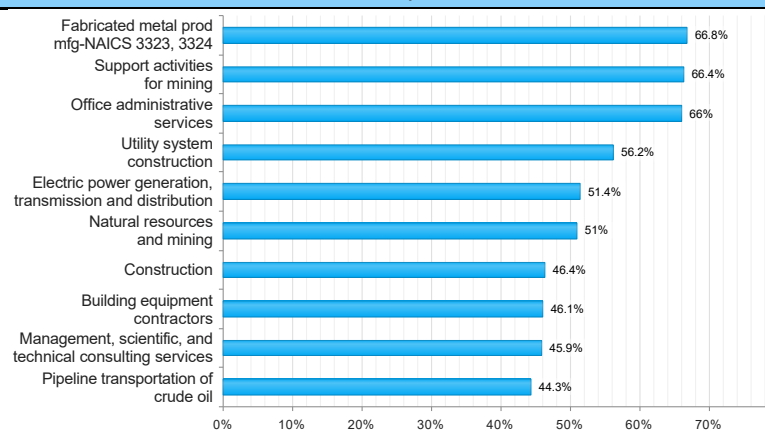
US Labor Force Statistics				
	Jun-23	May-23	Jun-22	Yearly Change
Civilian Labor Force	167,910,000	166,702,000	165,012,000	2,898,000
Employed	161,559,000	161,002,000	158,678,000	2,881,000
Unemployed	6,351,000	5,700,000	6,334,000	17,000
Unemployment Rate	3.8%	3.4%	3.8%	0.0%

Continued Claims for the Week of the 12th				
	Jun-23	May-23	Jun-22	Yearly Change
WDA	1,107	989	937	170
Texas	118,899	106,694	80,742	38,157

Historical Unemployment Rates



Projected Top Ten Fastest Growing Industries in WDA (% Growth 2020-2030)

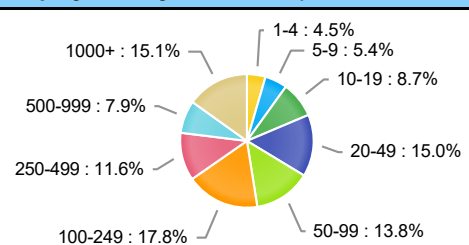


Average Weekly Wage (4th Quarter 2022)					
	Q4 2022	Q3 2022	Q4 2021	Quarterly Change	Yearly Change
WDA	\$1,536	\$1,488	\$1,452	\$48	\$84
Texas	\$1,372	\$1,332	\$1,375	\$40	-\$3
US	\$1,385	\$1,334	\$1,418	\$51	-\$33

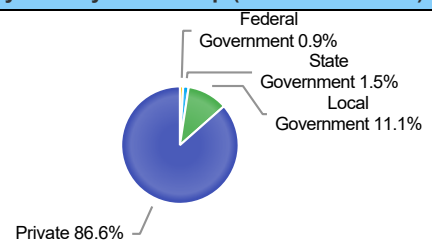
Employment by Industry (4th Quarter 2022, Percent Change)

Industry	Employment	% of Total	% Quarterly Change	% Yearly Change
Natural Resources and Mining	53,889	21.6%	3.0%	18.6%
Construction	21,239	8.5%	3.3%	24.2%
Manufacturing	10,299	4.1%	-0.8%	6.4%
Trade, Transportation and Utilities	53,150	21.3%	2.4%	3.2%
Information	1,900	0.8%	-10.8%	7.2%
Financial Activities	10,918	4.4%	0.4%	7.3%
Professional and Business Services	18,583	7.4%	2.7%	7.7%
Education and Health Services	40,110	16.0%	5.4%	1.4%
Leisure and Hospitality	25,579	10.2%	-1.6%	3.5%
Other Services	7,442	3.0%	1.7%	9.8%
Public Administration	6,953	2.8%	-0.8%	-4.0%

Employment by Size Class (4th Quarter 2022)



Employment by Ownership (4th Quarter 2022)



Employment by Industry (4th Quarter 2022)

