



December 3, 2024

Notice is hereby given of a Regular Meeting of Nacogdoches City Council to be held on the above date in the City Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, beginning at 5:30 p.m. for the purpose of considering the following agenda items.

Some City Council Members may attend via videoconference but a quorum of the City Council and the Presiding Officer will be present at the above-stated physical location. The meeting will be streamed live at: <https://www.nactx.us/21>. There will be an opportunity for the public to comment on agenda items in person in Council Chambers.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.
2. PLEDGE OF ALLEGIANCE.
3. OPEN FORUM. Open Forum is an opportunity for citizens to address the City Council about items listed on the agenda, as well as on matters that are not specifically listed on the agenda. Alternatively, a citizen may address the City Council about an agenda item when the item comes up for consideration during the meeting. In order to address the City Council, please complete the Public Comment Form and submit it to the City Secretary prior to the start of the meeting. In accordance with the Texas Open Meetings Act, the City Council will not discuss, deliberate, or make any decisions on items not listed on the agenda. Comments are limited to 3 minutes per person.
4. ITEMS TO BE REMOVED FROM CONSENT AGENDA.
5. CONSENT AGENDA: Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
 - A. Consider approval of the purchase of a Front Load Garbage Truck from Bond Equipment Company, utilizing BuyBoard Cooperative Purchasing Contract 723-23, in the amount of \$459,876.00. (Public Works Operations Manager)
 - B. Consider approval of the purchase of two (2) Roll-Off Trucks from Vanguard Truck Center of Houston, utilizing TIPS Cooperative Purchasing Contract 240901, in the amount of \$568,190.00. (Public Works Operations Manager)
 - C. Consider approval of the purchase of a Street Sweeper from Kinloch Equipment & Supply, Inc., utilizing Sourcewell Cooperative Purchasing Contract 093021-ELG, in the amount of \$343,695.00. (Public Works Operations Manager)

- D. Consider approval of a one- (1) year renewal to the general services contract with Opterra Solutions, for herbicide and pesticide services at A.L. Mangham Jr. Regional Airport. (Airport Manager)
 - E. Consider approval of a Fixed Base Operator agreement with Dr. Kyle McMorries for an aviation medical examination business at the A.L. Mangham Jr. Regional Airport. (Airport Manager)
 - F. Consider approval of the purchase of a utility tractor from United Ag & Turf, for use at A.L. Mangham Jr. Regional Airport, utilizing a cooperative purchase contract, in the amount of \$85,355.83. (Airport Manager)
 - G. Consider approval of the purchase of a pickup truck from Tipton Ford for use at A.L. Mangham Jr. Regional Airport, utilizing TIPS Cooperative Purchasing Contract 230204, in the amount of \$57,552.00.
 - H. Consider approval for a general services contract with White Electric Inc., for hay cutting and bailing services at the A.L. Mangham Jr. Regional Airport. (Airport Manager)
 - I. Consider approval of the submission of a Texas Department of Transportation Aviation Division letter of interest to request grant funding programmed from fiscal years 2028 to 2030 for a new terminal building, aircraft apron, taxiway pavements, and associated infrastructure projects at A.L. Mangham Jr. Regional Airport. (Airport Manager)
 - J. Consider approval of minutes for the November 5, 2024, Regular City Council Meeting, and the November 19, 2024, Regular City Council Meeting. (City Secretary)
 - K. Consider approval of a resolution updating the designated authorized signatories regarding Texas Community Development Block Grant Program grant agreement number CDV23-0190. (Jennifer Lewis, GrantWorks).
6. REGULAR AGENDA: City Council will receive staff recommendations and public input on the following items, and may deliberate and take formal action on the item.
- A. Receive a presentation of the TDA Form A1024 CDBG Section 3 Program Goals. Presentation for the TxCDBG Project CDV23-0190. (Jennifer Lewis, Community Development Project Manager - GrantWorks)
 - B. **Public Hearing Continuance:** Proposed Zone Change from R-2, Single Family to R-3, Two Family for approximately 1 acre, on Lot(s) 1&2, of the Larry Wade Subdivision and Lot(s) 6, 7, 8, 9, & 10, City Block 47, generally located on the north side of Powers Street, approximately 350 feet east of the Ritchie Street and Powers Street intersection. Case File ZON2024-04. (Interim City Planner)

- C. **Public Hearing:** Conduct a Public Hearing and consider action regarding Specific Use Permit Case SUP2024-08 to allow for Mini Warehouse in a B-2 General Business District on two (2) parcels of land approximately 1.8 acres ± in size, more particularly described by Nacogdoches Central Appraisal District Parcels 26295 and 26299; and generally located north of the intersection of Douglass and Wankan Road, Nacogdoches, Nacogdoches County, Texas. (Interim City Planner)
 - D. Consider approval of an Indefinite Deliverable Indefinite Quantity contract by and between the City of Nacogdoches and WBI, Inc. for WWTP Digester Sludge Removal Services for a not-to-exceed amount of \$354,900.00 (Director of Public Works).
 - E. Discuss and consider the temporary street closure of North Pecan Street for a private event in March 2025. (Community Services Assistant Director)
7. EXECUTIVE SESSION: Executive Sessions are for City Council to receive information and deliberate on matters specified in Subchapter D of the Texas Open Meetings Act. Council may reconvene in open session to vote on the matter.
- A. Consultation with Attorney - Pursuant to Texas Government Code Section 551.071, conduct a private consultation with its attorney regarding a settlement offer or matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Texas Government Code Chapter 551.

The subject of this Executive Session relates to pending litigation: Cause No. C2338502; *Katorica Henderson, et al. v. Nacogdoches Police Department and Robert Pierce Brice*; 145th Judicial District Court of Nacogdoches County, Texas.

8. ADJOURN.



Rhonda Lewis
City Secretary



This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact Attorney General of Texas at 1-800-252-8011; City Secretary at (936) 559-2506 or visit City of Nacogdoches web site at www.nactx.us.

CERTIFICATION

This meeting will be conducted pursuant to Chapter 551 of the Texas Government Code. The Council reserves the right to adjourn into Executive Session at any time during the meeting to discuss any of the above posted agenda, as authorized by Texas Local Government Code Sections 551.071 [litigation and certain consultation with attorney], 551.072 [acquisition of interest in real property], 551.073 [prospective gift to city], 551.074 [certain personnel

deliberations], 551.076 [deployment/implementation of security personnel or devices], or 551.087 [deliberations regarding economic development negotiations]. The City of Nacogdoches is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications may be provided upon request. Please contact the City Secretary at (936) 559-2506 for information. I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas 75961, on November 27, 2024 by 5:00 p.m. pursuant to Chapter 551 of the Texas Government Code.

Rhonda Lewis, City Secretary



City Council Meeting

Date: December 3, 2024

Agenda Item: 5.A.

PRESENTER: Cary Walker, Public Works Manager

ITEM/SUBJECT: Consider approval of the purchase of a Front Load Garbage Truck from Bond Equipment Company, utilizing BuyBoard Cooperative Purchasing Contract 723-23, in the amount of \$459,876.00. (Public Works Operations Manager)

SUMMARY/BACKGROUND: Staff procured a quote for replacement of a front load garbage truck from Bond Equipment Company in the amount of \$459,876.00. They are under a BuyBoard cooperative purchasing contract (723-23), which is exempt from the competitive bidding process under Texas Local Government Code Section 252.022(a)(12)(D). This is a budgeted item in the FY24-25 budget.

FINANCIAL:

Item is budgeted:

Account No.: 31.40 680.20

Account Name: *Sanitation Collection - Vehicle Capital Expense*

Amount: \$459,876.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Cary Walker, Public Works Operations Manager
walkercl@nactx.us
(936) 559-2582

ATTACHMENTS: 1. Quote - Bond Equipment Company

TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE BUYBOARD

PRODUCT PURCHASING BASED ON CONTRACT

Customer		City of Nacogdoches		10/11/2024
Product Description	LH Drive	Battle Motors	LET2 6X4	Diesel
	Ship to	Heil		
A. Base Price in Bid/Proposal Number		723-23		\$189,356.00
B. Published Options *itemize each item below)				
Double Frame	1594	Disable radio in reverse	134	
X12 380R	15273	2 Way radio wring in dash	120	
Block Heater	384	Air horn	798	
Remote coolant recovery and fill	489	Heated Mirrors	116	
Exhaust Diffuser	292	Spot mirrors 2 per	163	
4500RDS-R	11060	Diff lock controls w buzzer	391	
HMX 460	3342	DCDL Tandem	1118	
D46-170	1350	Batt-Disconnect to switch	185	
80 Gallon fuel tank	291	Battery box 3 950 CCA	310	
Front bumper Front loader	906	LH Sentry seat	476	
Tow pins	143	Adjustable seat shock	168	
Rear tow loops	333	Heil AL	3671	
Black windshield guard	240	Heil FEL Body	218287	
Subtotal column 1	35697	Subtotal column 2	225937	
Published Options added to Base Price (Subtotal of Column1 Column 2)				\$261,634
C. Subtotal of A+ B				\$450,990
D. Unpublished Options (Itemize each item below. Not to exceed + 25% of Unpublished)				
Front 315/80alum wheels	1123	Surcharge	975	
22K Front suspension	215	Payment after delivery	8000	
315/80 Rear Tires	7458	24-X12 MLR discount	-15722	
Orange seat belts	25			
Heated DV2 valve	182			
Alum rear wheels	3795			
Front skid plate	240			
Total Column 1	13038	Total Column 2	-6747	
Unpublished Options added to Base Price (subtotal of Column 1 + 2)				6291
E. Contract Price Adjustment (if any explain)				
F. Total of C +D + E(Not including Buyboard Fee)				\$457,281
G. Quantity Ordered (Units x F)	1 # of Units			457,281
H. Buyboard Fee		400		400
I. Non-Equipment Charges & Credits (ie Ext. Warranty, Trade In, Cost of Factory Trips etc.)				
		*Cummins Ext Warranty	2195	2195
		*Truck Inspection	0	
Subtotal non equipment changes				
J. TOTAL PURCHASE PRICE INCLUDING (G +H +I)				459,876
Bond Equipment Company Inc.		Andy Bond		
2946 Irving Blvd		214-637-0760		
Dallas, TX 75247				

*Cummins Extended warranty per truck \$2195

*Truck inspection per person \$1500



City Council Meeting

Date: December 3, 2024

Agenda Item: 5.B.

PRESENTER: Cary Walker, Public Works Manager

ITEM/SUBJECT: Consider approval of the purchase of two (2) Roll-Off Trucks from Vanguard Truck Center of Houston, utilizing TIPS Cooperative Purchasing Contract 240901, in the amount of \$568,190.00. (Public Works Operations Manager)

SUMMARY/BACKGROUND: Staff procured a quote for the replacement of two (2) roll-off trucks used in Sanitation Collection from Vanguard Truck Center of Houston for the total amount of \$568,190.00. They are under a TIPS (The Interlocal Purchasing System) cooperative purchasing contract (Contract 240901), which is exempt from the competitive bidding process under Texas Local Government Code Section 252.022(a)(12)(D). This is a budgeted item in the FY24-25 budget.

FINANCIAL:

Item is budgeted:

Account No.: 31.40 680.20

Account Name: *Sanitation Collection - Vehicle Capital Expense*

Amount: \$568,190.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Cary Walker, Public Works Operations Manager
walkercl@nactx.us
(936) 559-2582

ATTACHMENTS: 1. Quote - Vanguard Truck Center of Houston



VANGUARD TRUCK CENTER OF HOUSTON
12935 Crosby Fwy
Houston TX 77049
Phone: (281) 677-2200

New Vehicle Purchase Agreement

DE-16902
102445
Lucas DeVilliers

102445

CITY OF NACOGDOCHES
PO BOX 635070
NACOGDOCHES TX 75963-0070
P:(936) 559-2512 | F:

CITY OF NACOGDOCHES
PO BOX 635070
NACOGDOCHES, TX 75963-0070

Stock#:	TBD	New 2026 MACK GRANITE 64BR	Price: \$283,346.92
Stock#: 1221685	1M2GR2GC7TM051150	New 2026 MACK GRANITE 64BR	Price: \$283,346.92
			Total Price \$566,693.84
			Dealer Inventory Tax \$1,496.16
			Total \$568,190.00

TIPS Purchasing Co-Operative to be utilized

TM051150:

- Build date 1/24/25

VIN TBD:

- Build date late Q1 to early Q2

- On order now, will be receiving VIN in coming days

PRICING SUBJECT TO MATERIAL SURCHARGES

VANGUARD TRUCK CENTERS (the "COMPANY") SELLS THIS VEHICLE ON AN "AS IS WHERE IS" BASIS AND MAKES NO WARRANTIES AS TO SAID VEHICLE'S, EXPRESS, IMPLIED, OR IMPLIED BY LAW, AND COMPANY EXPRESSLY DISCLAIMS THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. ANY WARRANTIES OF THE VEHICLE ARE THE MANUFACTURER'S STANDARD VEHICLE WARRANTY, A COPY OF WHICH HAS BEEN DELIVERED TO THE PURCHASER, WHICH IS NOT INCORPORATED HEREIN BY REFERENCE. THE COMPANY SHALL NOT BE LIABLE FOR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF INCOME.

THE TERMS AND CONDITIONS ON THE REVERSE SIDE HEREOF ARE A PART OF THIS AGREEMENT. THE PURCHASER ACKNOWLEDGES HAVING READ THIS AGREEMENT, INCLUDING SUCH TERMS AND CONDITIONS ON THE REVERSE SIDE. NO VEHICLES ARE HELD MORE THAN 5 DAYS WAITING FOR CREDIT APPROVAL.

DATE ACCEPTED: _____ BY: _____

Email-lucas.devilliers@vanguardtrucks.com

Lucas DeVilliers

SALES REPRESENTATIVE

(PRINT NAME OF PURCHASER)

CITY OF NACOGDOCHES

(BUSINESS NAME)

PO BOX 635070

ADDRESS

NACOGDOCHES TX 75963-0070

CITY, STATE, ZIP

(TITLE)

(936) 559-2512

(PHONE)

SALES MANAGER



City Council Meeting

Date: December 3, 2024

Agenda Item: 5.C.

PRESENTER: Cary Walker, Public Works Manager

ITEM/SUBJECT: Consider approval of the purchase of a Street Sweeper from Kinloch Equipment & Supply, Inc., utilizing Sourcewell Cooperative Purchasing Contract 093021-ELG, in the amount of \$343,695.00. (Public Works Operations Manager)

SUMMARY/BACKGROUND: Staff procured a quote for replacement of a Street Sweeper used in Public Works Operations from Kinloch Equipment & Supply, Inc. for the amount of \$343,695.00. They are under a Sourcewell cooperative purchasing contract (093021-ELG), which is exempt from the competitive bidding process under Texas Local Government Code Section 252.022(a)(12)(D). This equipment is purchased as part of the Clean Water Act and, as such, is budgeted in the Utility Fund. This is a budgeted item in the FY24-25 budget.

FINANCIAL:

Item is budgeted:

Account No.: 30.36 680.20

Account Name: *Water Production - Vehicle Capital Expense*

Amount: \$343,695.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Cary Walker, Public Works Operations Manager
walkercl@nactx.us
(936) 559-2582

ATTACHMENTS: 1. Quote - Kinloch Equipment and Supply, Inc.



Presents a Proposal Summary
of the



RegenX

Regen-X Regenerative Air Street Sweeper with 74 HP Auxiliary Engine

For



Sidebrooms/Steering	Dual Sidebroom/Dual Steering
Domicile	Continental USA
Size of Sidebroom	42
Fuel Type	Diesel

Basic Chassis Info

Source	Elgin
Chassis Brand/Model	2025 or Newer M2 Dual Steer 26k
Chassis Mounting Charge	Chassis Mounting Charge

Chassis Equipment

Seating Options	(Standard) Right Hand Air-ride Cloth Hi-Back
Cab Mounted Convex Mirrors	12" Non-Heated Convex Mirrors
Horn Options	Standard Electric

Brooms

Sidebroom Tilt Option Right Hand	Yes
Sidebroom Tilt Option Left Hand	Yes
Variable Speed brooms	Dual

Conveyance & Hopper

6" Drain	Yes
In-Cab Hopper Dump	Yes
Hopper Deluge	Yes
Hopper Coating Systems	LifeLiner™ Hopper System

Dust Control & Flush Systems

Fill Hose Length	16'8"
Additional 100 Gallon Water Capacity	Yes
Front Spray Bar	Yes

Component Protection

Idle Down / No Water	Yes
----------------------	-----

Lighting & Compliance

Work and Flood Lights; Individual Rocker Switches	Dual Rear Flood Lights-LED
Arrowboards / Arrowsticks Only	Rear LED Arrowstick
Miscellaneous Lighting	(2) Alternating Flashing Rear LED Lights

Manuals and Warranty

Sweeper Warranty	1 Year Parts and Labor
Sweeper: Operators Manuals	1
Sweeper: Parts Manuals	1
John Deere Operators Manuals	1
John Deere Parts Manuals	1
Chassis Warranty	5 Years Parts and Labor

Tools/Toolbox

Left Hand Lockable Toolbox	Yes
Right Hand Lockable Toolbox	Yes

Paint & Decal

Paint Sweeper	Standard White
Paint Chassis	Standard White
Elgin Logo	Red Logo

Total Sourcewell Cooperative Contract Price F.O.B. Nacogdoches, TX: \$343,695.00

OPTIONAL EQUIPMENT FOR CONSIDERATION (NOT INCLUDED IN PRICE ABOVE)

- Extended Elgin Sweeper Parts & Labor Warranties:

Term		Price
2 Year Total Warranty	ADD	\$3,370
3 Year Total Warranty	ADD	\$5,125
4 Year Total Warranty	ADD	\$7,820
5 Year Total Warranty	ADD	\$10,660

Payment Terms: Net Due Upon Delivery

Product Model: REGENX

Proposal Date: 9/5/2024

Quote Number: 2024-76097

Price List Date: 9/5/2024

Payment Terms: Net Due Upon Delivery

Proposal Notes:

- 1. Prices quoted herein are valid until 12.15.24.
- 2. Prices quoted herein are in accordance with Sourcewell Cooperative Purchasing Contract # 093021-ELG. City of Nacogdoches Sourcewell Member # 139280.
- 3. Under Texas Transportation Code Chapter 502, street sweepers are exempt from the requirement of titling, registering, and plating in the State of Texas. As such, our proposal has made no such provisions or accommodations to provide these non-mandated services.

SIGNED BY: _____ DATE: _____

LIMITED WARRANTY

ELGIN SWEEPER COMPANY warrants each new machine manufactured by it against defects in material and workmanship provided the machine is used in a normal and reasonable manner. This warranty is extended only to the original user-purchaser for a period of twelve (12) months from the date of delivery to the original user-purchaser.

ELGIN SWEEPER COMPANY will cause to be repaired or replaced, as the Company, may elect, any part or part of such machine which the Company's examination discloses to be defective in material or workmanship.

Repairs or replacements are to be made at the selling Elgin distributor's location or at other locations approved by ELGIN SWEEPER COMPANY.

The ELGIN SWEEPER COMPANY warranty shall not apply to:

1. Major components or trade accessories such as but not limited to, trucks, engines, tires or batteries that have a separate warranty by the original manufacturer.
2. Normal adjustments and maintenance services.
3. Normal wear parts such as but not limited to, broom filters, broom wire, shoe runners and rubber deflectors.
4. Failures resulting from the machine being operated in a manner or for a purpose not recommended by ELGIN SWEEPER COMPANY.
5. Repairs, modifications or alterations without the consent of ELGIN SWEEPER COMPANY which, in the Company's sole judgment, have adversely affected the machine's stability or reliability.
6. Items subjected to misuse, negligence, accident or improper maintenance.

The use in the product of any part other than parts approved by ELGIN SWEEPER COMPANY may invalidate this warranty. ELGIN SWEEPER COMPANY reserves the right to determine, in its sole discretion, if the use of non-approved parts operates to invalidate the warranty.

Nothing contained in this warranty shall make ELGIN SWEEPER COMPANY liable for loss, injury, or damage of any kind to any person or entity resulting from any defect or failure in the machine.

TO THE EXTENT LIMITED BY LAW, THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

This warranty is also in lieu of all other obligations or liabilities on the part of ELGIN SWEEPER COMPANY, including but not limited to, liability for incidental and consequential damages on the part of the Company or the seller.

ELGIN SWEEPER COMPANY makes no representation that the machine has the capacity to perform any functions other than as contained in the Company's written literature, catalogs or specifications accompanying delivery of the machine.

No person or affiliated company representative is authorized to give any other warranties or to assume any other liability on behalf of ELGIN SWEEPER COMPANY in connection with the sale, servicing or repair of any machine manufactured by the Company.

ELGIN SWEEPER COMPANY reserves the right to make design changes or improvements in its products without imposing any obligation upon itself to change or improve previously manufactured products.

Dane Clarke
Tel: 727-729-0255

PRESENTER: Colin Smith, Airport Manager

ITEM/SUBJECT: Consider approval of a one- (1) year renewal to the general services contract with Opterra Solutions, for herbicide and pesticide services at A.L. Mangham Jr. Regional Airport. (Airport Manager)

SUMMARY/BACKGROUND: In the fall of 2023, after a competitive proposal process, the City entered into a one-year general services contract with Opterra Solutions for herbicide and pesticide services at the airport. That contract had two optional one-year contract renewals. City staff is recommending that the City move forward with the first optional one-year renewal term with Opterra Solutions. The contract renewal, and original contract, are attached for reference.

The herbicide services that Opterra provides at the airport are focused on vegetation control along the edges of all pavement, the ditches where mowers can not access, around navigation lights and equipment, and along the fence lines. Pesticide services are focused on ant control near airfield lighting and electrical equipment. These services are budgeted for, and their costs are eligible for 90% reimbursement under the TxDOT Aviation Routine Airport Maintenance Program (RAMP) grant.

FINANCIAL:

Item is budgeted:

Account No.: 14.13.620.05

Account Name: *Grounds Maintenance*

Amount: \$10,850

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Infrastructure

CITY CONTACT: Colin Smith, Airport Manager
smithcm@nactx.us
(936) 560-9567

ATTACHMENTS:

1. First Contract Renewal Agreement 23-10-130 -signed by contractor
2. Contract 23-10-130_Signed with Opterra

**CITY OF NACOGDOCHES
GENERAL SERVICE CONTRACT RENEWAL**

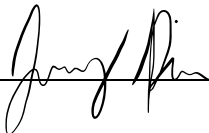
This General Service Contract is by and between the **City of Nacogdoches**, a Texas Home-Rule Municipal Corporation (the “City”), and **Opterra Solutions** (the “Contractor”), for the following work: **Airport Herbicide/Pesticide Services** as described in the Original **Airport Herbicide/Pesticide Services** Contract Scope of Services signed and dated **August 21, 2023**.

This renewal confirms that both parties agree to renew the services stated in the original contract for one additional year per the Original **Airport Herbicide/Pesticide Services** Contract.

No changes or alterations are being made to the original contract and all provisions of the contract still apply.

OPTERRA SOLUTIONS

135 Texas St.
Gladewater, Tx 75647

By: 

Printed Name: Jeremy Pike

Title: Account Manager

Date: 11/22/2024

CITY OF NACOGDOCHES

P.O. Box 635030
Nacogdoches, Texas 75963-5030

By: _____
City Manager

Date: _____

APPROVED AS TO CONTENT:

Department Director

Date: _____

APPROVED AS TO FORM:

City Attorney



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/28/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, LLC 115 Central Island Street Suite 100 Charleston SC 29492	CONTACT NAME: Joy St. Martin PHONE (A/C, No. Ext): 843-972-4721 E-MAIL ADDRESS: joy_st.martin@ajg.com	FAX (A/C, No): 843-577-5062
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: National Union Fire Insurance Company of Pittsburg		19445
INSURER B: Commerce and Industry Insurance Company		19410
INSURER C: SiriusPoint Specialty Insurance Corporation		16820
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES**CERTIFICATE NUMBER:** 1997536062**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☒ LOC OTHER:			5268252	6/30/2024	6/30/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			4489734	6/30/2024	6/30/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 3,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 10,000			BE020407846	6/30/2024	6/30/2025	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 Prod/Co Aggregate \$ 10,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y ☒ N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	015893849	6/30/2024	6/30/2025	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Pollution Liability \$25,000 Deductible			CPLS000295301	6/30/2024	6/30/2025	Each Occurrence \$1,000,000 Policy Limit \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Insured included per forms CG 20 15 12 19, CG2033 12 19 & CG2037 12 19 (GL), 87950 9-14 (Auto).

If Bid is won, the following wording will be provided on COI: Certificate Holder, its officials, employees and volunteers are included as Additional Insureds as respects general liability policy, pursuant to and subject to the policy's terms, definitions, conditions and exclusions. Waiver of Subrogation applies to additional insured, as respects general liability & workers compensation policies, pursuant to and subject to the policy's terms, definitions, conditions and exclusions. 30 day Notice of Cancellation provided with the exception of 10 days due to nonpayment of premium.

CERTIFICATE HOLDER**CANCELLATION**

For Information Only

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

**CITY OF NACOGDOCHES
GENERAL SERVICE CONTRACT**

This General Service Contract is by and between the City of Nacogdoches, a Texas Home-Rule Municipal Corporation (the "City"), and Opterra Solutions (the "Contractor"), for the following work: Airport Herbicide/Pesticide Services as described in the Scope of Services attached as Exhibit "A".

**ARTICLE I
PAYMENT AND TERM**

1.1 Consideration. In consideration for the services performed in the Scope of Services and Contractor's completion of work in conformity with this Contract, the City shall pay the Contractor an amount not to exceed **Ten-Thousand Eight Hundred Fifty and 00/100 Dollars (\$10,850.00)**. In no event shall payment under this contract exceed appropriations made by City Council.

1.2 Payment Application. Within **seven (7)** calendar days of completion of the services the Contractor will submit its payment application to the City.

1.3 City's Payment and Approval. The City will pay the Contractor as shown in **Exhibit "B"** Payment Schedule, for the services performed no later than **thirty (30)** calendar days from the date of the City's receipt of the payment application and the City's approval of the services.

1.4 Term. The initial term of the Contract is for one (1) year with the option to renew for two (2) additional one (1) year terms for a total of three (3) years. Any renewal must be in writing and executed by the parties. If, for any reason, funds are not appropriated to continue the contract, the contract shall become null and void and shall terminate.

1.5 Executed Contract. The "Notice to Proceed" will not be given nor shall any work commence until this Contract is fully executed and all exhibits and other attachments are completely executed and attached to the Contract.

**ARTICLE II
CHANGE ORDERS**

2.1 Changes will not be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid, except upon the prior written order from authorized personnel of the City. The Contractor will not execute change orders on behalf of the City or otherwise alter the financial scope of the services except in the event of a duly authorized change order approved by the City as provided in this Contract.

(a) City Manager Approval. When the original Contract amount plus all change orders is \$50,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the

Contract to more than \$50,000. For such contracts, when a change order results in a total contract amount that exceeds \$50,000, the City Council of the City must approve such change order prior to commencement of the services or work; and

(b) City Council Approval. When the original contract amount plus all change orders is equal to or greater than \$50,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000 and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work.

(c) Increase in Scope. Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in Article II of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.

(d) Dispute. If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

ARTICLE III INDEPENDENT CONTRACTOR AND SUBCONTRACTORS

3.1 Independent Contractor. It is understood and agreed by the parties that the Contractor is an independent contractor retained for the services described in the Scope of Services. The City will not control the manner or the means of the Contractor's performance but shall be entitled to a work product as in the Scope of Services. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture.

3.2 Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with the Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

ARTICLE IV INSURANCE

4.1 The Contractor shall procure and maintain, at its sole cost and expense for the duration of this Contract, insurance against claims for injuries to persons or damages to property that may

arise from or in connection with the performance of the services performed by the Contractor, its officers, agents, volunteers, and employees.

4.2 The Contractor's insurance shall list the City of Nacogdoches, its officers, agents, volunteers, and employees as additional insureds. The Required Limits of Insurance are attached in **Exhibit "C"**. Certificates of insurance evidencing the required insurance policies are attached in **Exhibit "D"**.

ARTICLE V INDEMNIFICATION AND RELEASE

5.1 Indemnification. The Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, volunteers, employees, representatives, contractors, assignees and/or designees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorneys' fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the Contractor under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party.

5.2 Release. The Contractor assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the City, its officers, agents, volunteers, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in connection with the Contractor's work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance and regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City, any other party released hereunder, the Contractor, or any third party.

5.3 Notice of Claims. If a claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Agreement, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and address of the claimant(s); the basis thereof; and the name of each person against whom such claim is asserted.

ARTICLE VI GENERAL TERMS

6.1 Performance. Contractor, its employees, associates, or subcontractors shall perform all the services described in the Scope of Services in a professional manner and be fully

qualified and competent to perform those services. Contractor shall undertake the work and complete it in a timely manner.

6.2 Termination. The City may terminate the Project and this Contract, at any time, for convenience. In the event of such termination the City will notify the Contractor in writing and the Contractor shall cease work immediately. Contractor shall be compensated for the services performed. Should the City terminate this Contract for convenience, the City shall pay Contractor for the services performed and expenses incurred before the date of termination.

6.3 Venue, Claims and Audit. (a) This Contract has been made under and shall be governed by the laws of the State of Texas.

(b) The parties agree that performance and all matters related thereto shall be in Nacogdoches County, Texas.

(c) Venue of any dispute will be in Nacogdoches County, Texas.

(d) The City, or if State funds are used to pay any part of this contract, the State Auditor, may conduct an audit or investigation of any entity receiving funds directly under this contract or indirectly through a subcontract under the contract. Acceptance of funds under the contract or through a subcontract under the contract acts as acceptance of the authority of the City or the State Auditor to conduct an audit or investigation. Contractor agrees to cooperate and must provide the City or State Auditor with access to any information the City or State Auditor considers relevant to the investigation or audit.

6.4 Amendment. This Contract may only be amended by a written instrument approved and executed by the parties.

6.5 Taxes. The City is exempt from payment of state and local sales and use taxes on labor and materials incorporated into the project. If necessary, it is the Contractor's responsibility to obtain a sales tax permit, resale certificate, and exemption certificate that shall enable the Contractor to buy any materials to be incorporated into the project and then resell the aforementioned materials to the City without paying the tax on the materials at the time of purchase.

6.6 Compliance with Laws. The Contractor will comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the following:

(a) Contractor shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations to the City.

(b) The Immigration Reform and Control Act (IRCA). The Contractor may not knowingly obtain the labor or services of an undocumented worker. The Contractor, not the City, must verify eligibility for employment as required by IRCA;

(c) In accordance with Section 2155.4441 of the Texas Government Code, Contractor agrees that during the performance of this contract it shall purchase products and

materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state;

6.7 Contractor Affirmations: If this contract is funded in whole or in part by money from the State of Texas, State law requires the following certifications, representations and/or warranties. By signature hereon affixed, the Contractor hereby certifies that:

6.7.1 Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.

6.7.2 Contractor represents and warrants that it has no actual or potential conflicts of interest in the goods and or services described in the scope of work to this contract.

6.7.1 **Antitrust.** Pursuant to 15 U.S.C. §1, *et seq.* and Tex. Bus. & Comm. Code §15.01, *et seq.* neither the contractor nor the firm, corporation, partnership, or institution represented by the contractor, or anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

6.7.2 **Child Support.** Pursuant to §231.006(d), Texas Family Code, regarding child support, the Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate.

Furthermore, any Contractor subject to §231.006, Gov't Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the bid. This information must be provided prior to award. Enter the Name & Social Security Numbers for each person below:

Name:	Social Security Number:
Name:	Social Security Number:
Name:	Social Security Number:

6.7.3 **Debarment.** Contractor certifies that Contractor and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement. Entities

ineligible for state procurement are listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration. Entities ineligible for federal procurement are listed at <http://www.sam.gov/content/exclusions>.

6.7.4 Convictions. Under Sections 2155.006, 2155.0061 and 2261.053 of the Texas Government Code, Respondent certifies that it is not ineligible to receive the specified contract and may be terminated and payment withheld if this certification is inaccurate. These sections prohibit contracts that include proposed financial participation by an individual or business entity who has been convicted in the past five years of (a) violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Gov't Code, occurring after September 24, 2005; and (b) of any offense related to the direct support or promotion of human trafficking.

6.7.5 COVID Vaccinations. Respondent certifies that it does not require its customers to provide any documentation certifying the Customer's COVID-19 vaccination or post-transmission recovery on entry to, or to receive service from the Respondent's business.

6.7.6 Boycott. (a) To the extent this Contract is considered a Contract for goods or services subject to § 2270.002 Texas Government Code, Contractor verifies that it: i) does not boycott Israel; and ii) will not boycott Israel during the term of this Contract.

(b) To the extent this Contract has a value of \$100,000 or more and Respondent is an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit that employs 10 or more full time employees, Respondent certifies that it: (i) does not and will not boycott energy companies during the term of the contract (*See Texas Government Code 2274.002, et seq.*); and (ii) does not and will not discriminate against a firearm entity or firearm trade association (*See Texas Government Code 2274.002, et seq.*).

6.8 Waiver of Terms. No waiver or deferral by either party of any term or condition of this Contract shall be deemed or construed to be a waiver or deferral of any other term or condition or subsequent waiver or deferral of the same term or condition.

6.9 Assignment. This Contract and the rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of City.

6.10 Invalid Provisions. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

6.11 Entire Agreement. This Contract represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

6.12 Agree to Terms. The parties state that they have read the terms and conditions of this Contract and agree to the terms and conditions contained in this Contract.

6.13 Effective Date. This Contract will be effective when it is signed by the last party making it fully executed.

6.14 Notice. Any official notice under this Contract will be sent to the following addresses:

City of Nacogdoches
Attn: Purchasing and Contract Specialist
PO BOX 635030
202 East Pilar Street
Nacogdoches, TX 75961

Opterra Solutions
Attn: Kacie Egan
135 Texas St
Gladewater, TX 75647
kacie.egan@opterrasolutions.com

6.15 Severability. In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and in lieu of each provision that is invalid, illegal or unenforceable, there shall be added a new provision to this Contract as similar in terms to such invalid, illegal, or unenforceable provision as may be possible and yet be valid, legal and enforceable, by means of good faith negotiation by the Parties to this Contract or by reform by a court of competent jurisdiction.

6.16 Duplicate Originals. The parties may execute this Contract in duplicate originals, each of equal dignity.

6.17 Exhibits. All exhibits to this Contract are incorporated and made part of this Agreement for all purposes.

List of Exhibits

- A. Scope of Services
- B. Payment Schedule
- C. Insurance Requirements
- D. Certificates of Insurance

OPTERRA SOLUTIONS

By: Kacie Egan

Printed Name: Kacie Egan

Title: Account Manager

Date: 8/18/23

CITY OF NACOGDOCHES

By: 

City Manager

Date: 8/21/23

APPROVED AS TO FORM:



City Attorney

Date: 8/21/2023

EXHIBIT A SCOPE OF SERVICES

The terms and conditions of this Contract shall take precedence and control over any term or provision of the Scope of Services that in any way conflicts with, differs from, or attempts to alter the terms of this Contract.

At least two applications of herbicide and one application of ant bait/poison shall be accomplished annually such that control is obtained for the contract period September 1.2023 to August 30. 2026.

Upon award of job, the obligation to provide services under the agreement may be terminated by either party upon ninety days' written notice with or without cause by the other party.

TASK A: HERBICIDE APPLICATION - At least two applications, with an additional application as requested by the City, to obtain year-round control of vegetation at the A.L. Mangham Jr. Regional Airport. Application will include:

1. Vegetation control for a width of two (2) feet along all runway lights, signs and edges of Runway 18-36, taxiways and ramp pavement.
2. Spot treatment of abandoned Runway 15-33.
3. Vegetation control for a width of two (2) feet along the perimeter around individual aircraft hangars, tractor barn and fuel containment area. Non-corrosive herbicide chemical agents shall be used around the hangars.
4. Vegetation control for a width of five (5) to ten (10) feet along creeks and drainage ditches, which cannot be mowed with a tractor along Runway 18-36 and on both the north end (FM225) and south end (Hwy 7 W) of the airport. Application technique and chemical herbicide agent used shall focus on vines and woody vegetation with preservation of native grasses for erosion control.

The estimated area for herbicide application is 235,965 square feet. Site map provided upon request by the City of Nacogdoches Engineering Department.

TASK B: HERBICIDE APPLICATION - At least two applications, with an additional application as requested by the City, to obtain year-round control of vegetation at the A.L. Mangham Jr. Regional Airport. Application will include:

I. Vegetation control for a width of five (5) feet along the airport boundary fence lines, which include FM225, State Highway 7 West and Terry Crawford Drive.

- a. Five (5) foot application swatch shall be centered on the fence line (half on each side of the fence), applied entirely from the airport side of the fence using non-corrosive herbicidal agents.

The estimated area for herbicide application is 305,669 square feet. Site map provided upon request by the City of Nacogdoches Engineering Department

TASK C: FIRE ANT BAIT/POISON APPLICATION - At least one application, with an additional application as requested by the City, to obtain **year-round** control of fire ant infestation at the A.L. Mangham Jr. Regional Airport. Application will include:

- I. Broadcast fire ant bait for a width of fifty (50) feet along edges of all runways, taxiways and ramp.
2. Treatment of all visible infestations within five (5) feet of all runways, taxiways and ramp area.
3. A liquid form of pesticide will be sprayed along t-hangars. Granule ant bait may NOT be broadcast directly on the taxiway.

The estimated area for insecticide application is 80,976 square feet. Site map provided upon request by the City of Nacogdoches Engineering Department.

EXHIBIT B
PAYMENT SCHEDULE

The Contractor must submit invoices to the City at the completion of each task, in accordance with the payment structure listed below, coinciding with the quote received from the vendor. Invoices must be accompanied by an explanation of charges, fees, services, and expenses. The City will pay such invoices in compliance with the Texas Prompt Payment Act.

COST OF TASK A	COST OF TASK B	COST OF TASK C
FIRST APPLICATION: \$1,750	FIRST APPLICATION: \$1,400	FIRST APPLICATION: \$700
SECOND APPLICATION: \$1,750	SECOND APPLICATION: \$1,400	ADDITIONAL APPLICATION: \$700
ADDITIONAL APPLICATION: \$1,750	ADDITIONAL APPLICATION: \$1,400	

**ANY AND ALL ADDITIONAL APPLICATIONS MUST BE APPROVED BY THE AIRPORT MANAGER
PRIOR TO APPLICATION.**

EXHIBIT C

INSURANCE REQUIREMENTS

Throughout the term of this Agreement the Contractor must comply with the following:

I. Standard Insurance Policies Required:

- A. Commercial General Liability
- B. Business Automobile Liability
- C. Workers' Compensation

II. General Requirements Applicable to All Policies:

- A. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
- B. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- C. "Claims Made" policies are not accepted.
- D. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of Nacogdoches.
- E. Upon request, certified copies of all insurance policies shall be furnished to the City of Nacogdoches.
- F. The City of Nacogdoches, its officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General, Umbrella and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.
- G. Waiver of subrogation in a form at least as broad as ISO form 2404 shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement.

III. Commercial General Liability

- A. General Liability insurance shall be written by a carrier rated "A:VIII" or better under the current A. M. Best Key Rating Guide.
- B. Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain
- C. Limits of liability must be equal to or greater than \$1,000,000 per occurrence for

bodily injury and property damage, with an annual aggregate limit of \$2,000,000. Limits shall be endorsed to be per project.

- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted for the City's review and acceptance
- E. The coverage shall include, but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, and Personal & Advertising Liability.

IV. Business Automobile Liability

- A. Business Automobile Liability insurance shall be written by a carrier rated "A:VIII" or better rating under the current A. M. Best Key Rating Guide.
- B. Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain
- C. Combined Single Limit of Liability not less than \$1,000,000 per occurrence for bodily injury and property damage.
- D. The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page
- E. The coverage shall include any autos, owned autos, leased or rented autos, non-owned autos, and hired autos.

V. Workers' Compensation Insurance

- A. Workers compensation insurance shall include the following terms:
 - 1. Employer's Liability minimum limits of liability not less than \$500,000 for each accident/each disease/each employee are required
 - 2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy
 - 3. TEXAS must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: "All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY"

EXHIBIT D CERTIFICATES OF INSURANCE

ACORD®		CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 7/3/2023	
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.					
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).					
PRODUCER Arthur J. Gallagher Risk Management Services, LLC 115 Central Island Street Suite 100 Charleston SC 29492		CONTACT NAME: Joy St. Martin PHONE: 843-972-4721 FAX: 843-677-6062 E-MAIL: joy_st.martin@ajg.com ADDRESS: joy_st.martin@ajg.com		INSURER(S) AFFORDING COVERAGE	
INSURED Opterra Solutions, Inc. fka NaturChem, Inc. 270 Bruner Rd. Lexington, SC 29072		INSURER A: National Union Fire Insurance Company of Pittsburgh		NAIC # 19445	
		INSURER B: Commerce and Industry Insurance Company		19410	
		INSURER C: SiriusPoint Specialty Insurance Corporation		19820	
		INSURER D:			
		INSURER E:			
INSURER F:					
COVERAGES		CERTIFICATE NUMBER: 663683438		REVISION NUMBER:	
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
REF. LTR	TYPE OF INSURANCE	ADDRESS (INS. WVD)	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXPI. DATE (MM/DD/YYYY)
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER ☐ POLICY ☒ PRO. SECT ☒ LOC ☐ OTHER		5268252	6/30/2023	6/30/2024
					EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (EA OCCUR) \$300,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY ☒ AUTOS ONLY		4488734	6/30/2023	6/30/2024
					COMBINED SINGLE LIMIT (EA OCCUR) \$3,000,000 BODILY INJURY (Per person) \$
					BODILY INJURY (Per accident) \$
					PROPERTY DAMAGE (Per accident) \$
					\$
D	☒ UMBRELLA LIAB ☒ EXCESS LIAB ☐ DED ☒ RETENTION \$1,000,000		BE058206201	6/30/2023	6/30/2024
					EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 Prod/CO Aggregate \$10,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NJ) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N/A	015953849	6/30/2023	6/30/2024
					E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	Public Liability		CPL500020530	6/30/2023	6/30/2024
					Ea Occurrence \$1,000,000 Policy Limit \$2,000,000 Deductible Incident \$25,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)					
CERTIFICATE HOLDER			CANCELLATION		
For Information Only			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.		
			AUTHORIZED REPRESENTATIVE <i>Larry L. Smith</i>		
© 1988-2015 ACORD CORPORATION. All rights reserved.					
ACORD 25 (2016/03)		The ACORD name and logo are registered marks of ACORD			

PRESENTER: Colin Smith, Airport Manager

ITEM/SUBJECT: Consider approval of a Fixed Base Operator agreement with Dr. Kyle McMorries for an aviation medical examination business at the A.L. Mangham Jr. Regional Airport. (Airport Manager)

SUMMARY/BACKGROUND: By City Ordinance, anyone who operates a commercial business at the airport is designated as a Fixed Based Operator (FBO). A FBO must operate under a formal written FBO Agreement with the City, and those agreements typically have a 5-year term. Dr. Kyle McMorries is seeking to operate as a part-time aviation medical examination business at the airport under ordinance FBO Category L – Specialized Commercial Services. The proposed FBO Agreement for Dr. Kyle McMorries is attached for reference.

Dr. Kyle McMorries is an FAA authorized Aviation Medical Examiner (AME). Pilots are required to have periodic medical exams by an AME in order to retain their pilot's license. Dr. Kyle McMorries is seeking to offer this service at the airport, from his hangar, for pilot convenience. He has a finished out and conditioned office room inside his hangar.

The Airport Advisory Board reviewed the proposed FBO agreement at their October 16 meeting. The Board had no objection to the agreement and granted conditional variances related to the City's Aviation Ordinance regarding required parking, building square footage, and full-time business status.

FINANCIAL:

Item is budgeted:

Account No.: 32.13.526.02

Account Name: *FBO Misc Sales (Revenue)*

Amount: \$500

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Economic Development

CITY CONTACT: Colin Smith, Airport Manager
smithcm@nactx.us
(936) 560-9567

ATTACHMENTS: 1. McMorries AME FBO Agreement v2024-11-17

FIXED BASE OPERATOR AGREEMENT
A.L. MANGHAM, JR. REGIONAL AIRPORT
NACOGDOCHES, TEXAS

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF NACOGDOCHES

This Airport Fixed Base Operator Agreement (AGREEMENT) is reached on this ____ day of _____, 2024, by and between the CITY OF NACOGDOCHES, a municipal corporation, hereinafter referred to as CITY, and **Dr. Kyle McMorries**, a Senior Federal Aviation Administration (FAA) Aviation Medical Examiner (AME), hereinafter referred to as OPERATOR.

For and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

I. Recitals

It is the desire of the OPERATOR to establish and operate an aviation medical examination business (the BUSINESS) at the A. L. Mangham Jr. Regional Airport (the AIRPORT).

It is the desire of OPERATOR to act as a Fixed Base Operator (FBO) at A.L. Mangham, Jr. Regional Airport (AIRPORT) and to perform all necessary functions and services as such in conformity to Minimum Standards for Fixed Base Operators as amended and as may be amended from time to time (the Minimum Standards) in Chapter 10, Section 10-3, of the Code of Ordinances, as adopted by the CITY, with the exception of requirement 1 under Category L where the OPERATOR is requesting two variances, and with the exception of requirement (g) where the OPERATOR is requesting one variance, as addressed in Section V. Item 4. of this agreement, for the full term of this agreement. It is the desire of the CITY for OPERATOR to act as a Fixed Base Operator (FBO) at the AIRPORT under the Minimum Standards and the terms of this AGREEMENT.

OPERATOR will conduct business under the following fixed-base operator categories:

Category L - Specialized Commercial Services.

II. Term

1. The respective duties and obligations of the parties hereto shall be for a period of five (5) years commencing on the date of this AGREEMENT and terminating at the end of five years from such date unless sooner terminated.

2 In addition, at the discretion of the CITY, the fees chargeable for the privilege of operating as a FBO may be changed periodically by the City Council of the City of Nacogdoches.

III. Appointment as Fixed Base Operator

The CITY hereby designates and appoints **Dr. Kyle McMorries, FAA AME** as a FBO at the AIRPORT and grants OPERATOR the authority to operate under Categories L in conformity with the Minimum Standards as adopted by the CITY as amended and as may be amended from time to time, which are hereby incorporated in its entirety and made a part of this AGREEMENT, as if printed in full, and with the exception of the variances described in Section V. Item 4. of this agreement.

IV. Duties and responsibilities of CITY

CITY shall regulate and enforce all provisions of this AGREEMENT through the office of the City Manager or his/her designee.

V. Duties and Responsibilities of OPERATOR

The OPERATOR shall be responsible for the performance of the following duties and responsibilities:

1. OPERATOR shall maintain all functions, which fulfill the airport minimum standards under Category L – Specialized Commercial Services. OPERATOR shall receive all the proceeds, rebates and all other compensations paid for such services, and is responsible for the bookkeeping and accounting for such. The rates or charges for any and all activities and services shall be determined by the OPERATOR, and all such rates or charges shall be reasonable and be equally and fairly applied to all users of the services.

2. The OPERATOR shall carry comprehensive general liability insurance with limits of not less than \$300,000.00 per person, \$500,000.00 for each occurrence for personal injury, and \$200,000.00 property damage to cover damages caused in or any cause of action arising from carrying out any of its acts and duties hereunder. The CITY shall be included as an additional insured on the above policies and said policies shall be endorsed to waive subrogation and to be primary and noncontributory. Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of Nacogdoches, and only insurance carriers licensed and authorized to do business in the State of Texas will be accepted. “Claims made” policies will not be accepted.

3. The OPERATOR shall pay the CITY the following fees for operations in

CATEGORY L:

- **Pre-paid fee of \$500.00 for a block of 50 patient appointments annually (“Annual FBO Fee”).**
- **A Fee of \$250.00 for each additional block of 25 patient appointments beyond the initial block of 50 patient appointments annually (“Additional FBO Fee”).**

OPERATOR will pre-pay the Annual FBO Fee no later than the anniversary date of the initial date of this AGREEMENT, commencing the first day of this AGREEMENT and continuing for the life of this AGREEMENT. The initial block of patient appointments is defined as patient appointments 0-50 of the year, and the first additional block of appointments is defined as patient appointments 51-75 of the year, and the second additional block of appointments is defined as patient appointments 76-100 of the year, and so on. On the first day of each year of the AGREEMENT, and the final day of the AGREEMENT term, the OPERATOR shall disclose in writing the exact number of patient appointments for the preceding year to determine the Additional FBO Fee due at that time, if any, and shall provide more detailed accounting such as appointment dates, times, etc. to the CITY upon request.

4. In accordance with the provisions set forth in Chapter 10 of the Code of Ordinances, City of Nacogdoches, Texas, on October 16, 2024, the OPERATOR requested and was granted by the Airport Board of Adjustment a variance to Ordinance Chapter 10-3 requirement 1. under Category L releasing OPERATOR from the requirement of leasing of ground for parking for the entire term of this agreement as long as the Airport Manager determines parking and egress to and from hangar Y-112 for AME services is conducted safely, without interruption of airport activities, and that the OPERATOR, their employees, visitors, sub-contractors, and patients adhere to the following during the term of this AGREEMENT:

- Park their automobiles in dedicated striped and paved public parking locations as designated by the CITY, or inside hangar Y-112, or in the grass/gravel directly adjacent to hangar Y-112 outside of the taxiway, and NOT in the grass or other paved areas of the airport. If parking beside hangar Y-112 causes damage to the ground (rutting, vegetation loss, etc.), or is causing tracking of mud/debris onto the taxiway pavements, the OPERATOR shall apply gravel, rock, or pavement to those areas sufficient to prevent such damage or tracking.
- Park their aircraft in dedicated striped and paved aircraft parking locations as designated by the CITY, or completely inside of hangar Y-112.

The OPERATOR also requested and was granted by the Airport Board of Adjustment, on the date referenced above, a variance to Ordinance Chapter 10-3 requirement 1. under Category L releasing OPERATOR from the requirement of a minimum 1000 square foot appropriate office space as long as the OPERATOR has and maintains a minimum 600 square foot appropriate office space.

The OPERATOR also requested and was granted by the Airport Board of Adjustment, on the date referenced above, a variance to Ordinance Chapter 10-3 requirement (g) releasing

OPERATOR from the requirement of being a full-time business as long as patient needs are met by the OPERATOR'S part-time hours of operation.

5. OPERATOR agrees and understands that OPERATOR'S status as an FBO is now and will remain non-exclusive.

6. The OPERATOR assures that it will undertake an affirmative action program as required by 14 CFR part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, notional origin or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The OPERATOR assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this part. The OPERATOR assures that it will require that its covered sub organizations provide assurance to the CITY that it similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

7. OPERATOR shall comply with all local, State, and Federal regulatory statutes, codes, rules, regulations, etc. for all business activities and services conducted at the airport. The OPERATOR, and the OPERATOR'S employees, services, and patients shall not interfere with or disrupt the operations of the airport, or those that use the airport, negatively.

8. The OPERATOR is limited to 250 patient appointments per year under this AGREEMENT.

9. The OPERATOR is limited to the services of aviation medical examinations sanctioned by the FAA and Federal Aviation Regulations only under this agreement. No other medical, related, or unrelated services are permitted to be conducted under this AGREEMENT.

10. The OPERATOR shall be, and/or have at their employ, a current valid FAA designated Aviation Medical Examiner who also has a current valid medical license as a MD or DO (with no restrictions or limitations) issued by the State of Texas under this AGREEMENT.

11. The OPERATOR is limited to conducting business and performing services from hangar Y-112 under this agreement. The OPERATOR shall abide by and meet all provisions and requirements set forth in the ground lease between the hangar owner and the CITY. Temporary use of alternate airport facilities may be granted by the Airport Manager upon OPERATOR'S request, but the request and permission must be in writing prior to use.

12. Indemnity. The OPERATOR agrees to indemnify, defend, and hold harmless the CITY, its officers, agents, employees, and volunteers (separately and collectively referred to in this paragraph as "Indemnatee"), from and against any and all claims, losses, damages, causes of action, suits, judgments, settlements, and for liability of every kind, including all expenses of litigation, court costs, reasonable attorney's fees, and other reasonable costs for damage to

or loss of use of any property, for injuries, to, or sickness or death of any person to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a sub-operator or supplier committed by the OPERATOR or the OPERATOR's agent, sub-operator under contract, or another entity over which the OPERATOR exercises control.

10. Release. The OPERATOR releases, relinquishes, and discharges the CITY, its officers, agents, employees, and volunteers from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the OPERATOR or its employees and any loss of or damage to any property of the OPERATOR or its employees that is caused by or alleged to be caused by, arises out of, or is directly related to the OPERATOR's activities. Both the CITY and the OPERATOR expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance, and in the event of injury, sickness, death, loss, or damage suffered by the OPERATOR or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the CITY, any other party released hereunder, the OPERATOR, or any third party.

VI. Termination Provisions

This AGREEMENT shall be terminable by the CITY upon occurrence of any default under its terms. Default shall include:

- A. material breach of any provision of this AGREEMENT, including without limitation the failure to timely pay the fees set forth in this AGREEMENT;
- B. breach of Airport Rules and Regulations of A.L. Mangham, Jr. Regional Airport as amended or as may be amended from time to time that is not remedied by the following sub-paragraphs;
- C. material breach of Federal Aviation Regulations (FARs) (14 CFR Ch 1, et seq) promulgated by the Federal Aviation Administration (FAA) or other governmental agencies, which is not cured within a reasonable time;
- D. breach of laws, regulations, ordinances, directives, orders or the like of the United States, State of Texas, County of Nacogdoches or City of Nacogdoches reasonably related to operations at A.L. Mangham, Jr. Regional Airport or as an FBO;
- E. abandonment of FBO operations by failing to provide such services for a period over one hundred eighty (180) consecutive days;
- F. operating in an FBO category as such presently exists or as may be created, modified or amended in the future by the CITY for which OPERATOR has not entered into an FBO Agreement with the CITY;

- G. insolvency or other financial failure, which prevents OPERATOR from paying its obligations as those come due;
- H. loss, suspension, revocation or absence of any license, permit, certification, registration, or other authorization from, through or under the FAA, its rules, regulations or orders which is reasonably necessary to the operations of OPERATOR in the FBO Category at the AIRPORT;
- I. loss, suspension, or revocation of OPERATOR's medical license or the loss of the employment of a licensed MD or DO, as provided herein, which would preclude OPERATOR from continuing to operate as a FAA designated Aviation Medical Examiner.
- J. aiding or abetting persons in the violation of the Minimum Standards or Airport Rules and Regulations or misrepresenting the status of such persons as employees of the OPERATOR or donors of services without compensation.
- K. material breach of the ground lease associated with hangar Y-112 where OPERATOR'S services are conducted as set forth therein

Prior to declaring the OPERATOR in default, the CITY shall give thirty (30) days' written notice and opportunity to cure such default if and only if such proposed default:

- 1. does not pose any significant immediate safety or health hazard,
- 2. is not the same or similar to any other proposed default committed or allowed by OPERATOR in the preceding 12 months, and
- 3. provided OPERATOR has not committed or allowed over two other proposed defaults of any kind or character under this AGREEMENT within the preceding 12 months.

If notice of and time to cure a proposed default is not required under the preceding paragraph the CITY may, in its sole and uncontrolled discretion, immediately declare the default, terminate the AGREEMENT, and require OPERATOR to cease all FBO activities at the AIRPORT.

The Obligation to provide further services under this AGREEMENT may be terminated by either party upon ninety (90) days' written notice, with or without cause, by the other party.

VII. Miscellaneous Provisions

- 1. The AIRPORT is under the authority of the Airport Manager or others as directed by the City Manager.
- 2. The Airport Manager maintains the right as granted by City Ordinance to grant temporary FBO permits and operate out of the AIRPORT Ramp or other areas as needed. FBO will be granted non-exclusive use of the AIRPORT Ramp area as needed for FBO operations.

3. It is clearly understood by the OPERATOR that no right or privilege has been granted to OPERATOR which would prevent any person, firm, or corporation operating aircraft on the AIRPORT, from performing any service on its own aircraft with its own regular employee which is qualified by federal, state and or local regulations including aircraft maintenance and repair that it may choose to perform.

4. OPERATOR shall have the right to assign this AGREEMENT to another company for the remaining term of the AGREEMENT provided that **Dr. Kyle McMorries** is seeking to terminate services at the A.L. Mangham Jr. Regional Airport. This assignment would be subject to the approval of the City Manager in his/her sole discretion.

5. Under severe weather conditions the FBO may temporarily suspend operations with the approval of the Airport Manager or person as directed by the City Manager.

6. If the OPERATOR suffers financial hardship by airport closures, in part or in whole and which is caused by CITY actions, OPERATOR understands and agrees that the CITY is not liable to OPERATOR for any damages or losses resulting from closure. OPERATOR has the right to request a reduction in FBO fee's during the time affected. However, OPERATOR understands and agrees that the CITY has no obligation to grant the request for reduction.

7. The CITY reserves the right to take any action it considers necessary to protect the aerial approaches of the AIRPORT against obstruction, together with the right to prevent the OPERATOR from erecting, or permitting to be erected any building or other structure on or adjacent to the AIRPORT which would limit the usefulness of the AIRPORT or constitute a hazard to aircraft.

8. It is specifically understood and agreed that nothing herein contained shall be construed as granting or authorizing the granting of an exclusive right within the meaning of 49 USC § 40103.

9. This AGREEMENT shall be subordinate to and subject to the provisions of present and future agreements between the CITY and the United States, the Federal Aviation Administration or other state or federal agencies. This AGREEMENT shall further be subordinate to and subject to any present or future Federal, State or local law, rule, regulation, ordinance or order. OPERATOR agrees to assist the CITY in compliance with all such matters and to do nothing to jeopardize the CITY or place the CITY in default or breach of such matters.

10. Notwithstanding any provision of this AGREEMENT, CITY expressly reserves its governmental and proprietary rights, whatever they may be, to impose reasonable regulations, which might have the effect of limiting OPERATOR'S operations during the term of this AGREEMENT, provided such regulations are imposed for the purpose of promoting the safety and welfare of the citizens of the City of Nacogdoches and the flying community. OPERATOR

understands and agrees that the CITY is not liable to OPERATOR for any damages or losses resulting from the imposition of such regulations.

11. In case any one or more of the provisions contained in this AGREEMENT shall for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the AGREEMENT, and this AGREEMENT shall be construed as if the invalid, illegal or unenforceable provision had never been included in the AGREEMENT.

12. This AGREEMENT shall be construed and governed according to the laws of the State of Texas, without giving effect to its conflict of laws provisions. Nacogdoches County, Texas shall be the sole and exclusive venue for any litigation or other proceeding between the parties that may be brought in connection with or that arises out of this AGREEMENT.

13. Waiver by either party of a breach, default, or violation of any provision of this AGREEMENT shall not operate as, or be construed to be, a waiver of any prior, concurrent, or subsequent breach or default. None of the provisions of this AGREEMENT shall be considered waived by either party except when such waiver is given in writing.

14. This AGREEMENT constitutes the entire FBO agreement between the parties. No agreements, representations or warranties related to FBO privileges exist other than those specifically set forth in this AGREEMENT shall be binding on any of the parties unless set forth in writing and signed by both parties.

Dr. Kyle McMorries

City of Nacogdoches, TX

By:  _____

By: _____

Richard B. Beverlin, III City Manager

Date: November 17, 2024

Date: _____

APPROVED AS TO CONTENT: _____

Colin Smith, Airport Manager



City Council Meeting

Date: December 3, 2024

Agenda Item: 5.F.

PRESENTER: Colin Smith, Airport Manager

ITEM/SUBJECT: Consider approval of the purchase of a utility tractor from United Ag & Turf, for use at A.L. Mangham Jr. Regional Airport, utilizing a cooperative purchase contract, in the amount of \$85,355.83. (Airport Manager)

SUMMARY/BACKGROUND: The Airport has budgeted to replace its 2002 model utility tractor with a new utility tractor. The new tractor will be very similar to the tractors acquired by other City departments over the past five years and will include a closed cab, four-wheel drive, a front loader/grapple, and adequate horsepower for utilization of the existing large grass and brush mower/cutter attachment. The purchase will be made at United Ag and Turf in Nacogdoches through a cooperative fleet purchase contract (quote attached).

FINANCIAL:

Item is budgeted:

Account No.: 14.13.680.25

Account Name: *Equipment & Machinery*

Amount: \$100,000.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Colin Smith, Airport Manager
smithcm@nactx.us
(936) 560-9567

ATTACHMENTS: 1. City of Nacogdoches Airport Tractor - Final Quote

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

United Ag & Turf
3927 NW Stallings Drive
Nacogdoches, TX 75964
US

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

United Ag & Turf
3927 Nw Stallings Drive
Nacogdoches, TX 75964
936-564-7303
NacogdochesJD@unitedagt.com

Quote Summary**Prepared For:**

Colin Smith
CITY OF NACOGDOCHES
Colin Smith
202 E PILAR ST
NACOGDOCHES, TX 75961
Business: 936-560-9567
Mobile: 936-552-9331
SMITHCM@NACTX.US

Delivering Dealer:

United Ag & Turf
Nash Eddings
3927 Nw Stallings Drive
Nacogdoches, TX 75964
Phone: 936-564-7303
nasheddings@unitedagt.com

Sourcewell Member# 139280**Make PO To:**

United Ag & Turf
7736 Central Park Dr.
Waco, TX 76712

Quote ID: 31955257**Created On:** 08 November 2024**Last Modified On:** 19 November 2024**Expiration Date:** 06 December 2024**Equipment Summary****Selling Price****Qty****Extended**

JOHN DEERE 5100E Cab Tractor -
1P05100ETR6080903

\$ 74,487.31 X

1 =

\$ 74,487.31

Contract: Sourcewell Ag 082923-DAC (PG BA CG 76)**Price Effective Date:** November 7, 2024

Frontier AV56G - 72" Root Rake
Grapple - 1XFAV56GLR0000110

\$ 3,330.84 X

1 =

\$ 3,330.84

Contract: Sourcewell Ag 082923-DAC (PG BA CG 76)**Price Effective Date:** November 7, 2024

2024 JOHN DEERE 540M Loader -
1P0540MXCRD069221

\$ 7,537.68 X

1 =

\$ 7,537.68

Contract: Sourcewell Ag 082923-DAC (PG BA CG 76)**Price Effective Date:****Equipment Total****\$ 85,355.83**

* Includes Fees and Non-contract items

Quote Summary

Equipment Total

\$ 85,355.83

Trade In

Salesperson : X _____

Accepted By : X _____



JOHN DEERE

**ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):**

United Ag & Turf
3927 NW Stallings Drive
Nacogdoches, TX 75964
US

**ALL PURCHASE ORDERS MUST BE SENT
TO DELIVERING DEALER:**

United Ag & Turf
3927 Nw Stallings Drive
Nacogdoches, TX 75964
936-564-7303
NacogdochesJD@unitedagt.com

SubTotal	\$ 85,355.83
Total	\$ 85,355.83
Down Payment	(0.00)
Rental Applied	(0.00)
Balance Due	\$ 85,355.83

Salesperson : X _____

Accepted By : X _____

Selling Equipment

Quote Id: 31955257 Customer Name: CITY OF NACOGDOCHES

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

United Ag & Turf
3927 NW Stallings Drive
Nacogdoches, TX 75964
US

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

United Ag & Turf
3927 Nw Stallings Drive
Nacogdoches, TX 75964
936-564-7303
NacogdochesJD@unitedagt.com

JOHN DEERE 5100E Cab Tractor - 1P05100ETR6080903

Hours:

Stock Number: 4343794

Contract: Sourcewell Ag 082923-DAC (PG BA CG 76)

Selling Price *

Price Effective Date: November 7, 2024

\$ 74,487.31

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
697RP	5100E Cab Tractor	1	\$ 79,564.00	19.00	\$ 15,117.16	\$ 64,446.84	\$ 64,446.84
Standard Options - Per Unit							
182A	Less AutoTrac™/ Less ISOBUS	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
183N	JDLink™ Modem	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
0202	United States	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
0409	English Operator's Manual	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
0500	Less Package	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
1383	24F x 12R PowrReverser™ Hi-Lo Transmission	1	\$ 1,882.00	19.00	\$ 357.58	\$ 1,524.42	\$ 1,524.42
1725	Loader Prep Package	1	\$ 2,127.00	19.00	\$ 404.13	\$ 1,722.87	\$ 1,722.87
1950	Less Application	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
2060	Premium Cab	1	\$ 3,219.00	19.00	\$ 611.61	\$ 2,607.39	\$ 2,607.39
2120	Air Suspension Seat	1	\$ 906.00	19.00	\$ 172.14	\$ 733.86	\$ 733.86
3025	Deluxe Corner Post Exhaust	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
3330	Triple Stackable Rear Valve with Lever Controls	1	\$ 1,090.00	19.00	\$ 207.10	\$ 882.90	\$ 882.90
3430	Triple Stackable Mid Valve with Mechanical Joystick Control	1	\$ 2,623.00	19.00	\$ 498.37	\$ 2,124.63	\$ 2,124.63
3820	Two Speed PTO - 540/540E rpm	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
5112	18.4-30 In. 8PR R1 Bias	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
6040	MFWD (Mechanical Front Wheel Drive) Front Axle	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
6118	12.4-24 In. 8PR R1 Bias	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
Standard Options Total			\$ 11,847.00		\$ 2,250.93	\$ 9,596.07	\$ 9,596.07
Technology Options/Non-Contract/Open Market							
1900	Less Display	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00

Selling Equipment

Quote Id: 31955257 **Customer Name:** CITY OF NACOGDOCHES

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

United Ag & Turf
3927 NW Stallings Drive
Nacogdoches, TX 75964
US

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

United Ag & Turf
3927 Nw Stallings Drive
Nacogdoches, TX 75964
936-564-7303
NacogdochesJD@unitedagt.com

1880	Less Receiver	1	\$ 0.00	19.00	\$ 0.00	\$ 0.00	\$ 0.00
Technology Options Total			\$ 0.00		\$ 0.00	\$ 0.00	\$ 0.00
Dealer Attachments/Non-Contract/Open Market							
AL80127	Mirror rh telescopic/ field	1	\$ 222.20	0.00	\$ 0.00	\$ 222.20	\$ 222.20
AL80126	Mirror lh telescopic assy/ field	1	\$ 222.20	0.00	\$ 0.00	\$ 222.20	\$ 222.20
Dealer Attachments Total			\$ 444.40		\$ 0.00	\$ 444.40	\$ 444.40
Value Added Services Total			\$ 0.00			\$ 0.00	\$ 0.00
Total Selling Price			\$ 91,855.40		\$ 17,368.09	\$ 74,487.31	\$ 74,487.31

Frontier AV56G - 72" Root Rake Grapple - 1XFAV56GLR0000110

Equipment Notes:

Hours:

Stock Number: 4362582

Selling Price *

Contract: Sourcewell Ag 082923-DAC (PG BA CG 76)

\$ 3,330.84

Price Effective Date: November 7, 2024

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
24D1XF	AV56G - 72" Root Rake Grapple	1	\$ 4,062.00	18.00	\$ 731.16	\$ 3,330.84	\$ 3,330.84
Standard Options - Per Unit							
0202	UNITED STATES	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
0409	English	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
Standard Options Total			\$ 0.00		\$ 0.00	\$ 0.00	\$ 0.00
Total Selling Price			\$ 4,062.00		\$ 731.16	\$ 3,330.84	\$ 3,330.84

2024 JOHN DEERE 540M Loader - 1P0540MXCRD069221

Selling Equipment

Quote Id: 31955257 **Customer Name:** CITY OF NACOGDOCHES

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

United Ag & Turf
3927 NW Stallings Drive
Nacogdoches, TX 75964
US

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

United Ag & Turf
3927 Nw Stallings Drive
Nacogdoches, TX 75964
936-564-7303
NacogdochesJD@unitedagt.com

Equipment Notes:

Hours: 0

Stock Number: 4360812

Selling Price *

Contract: Sourcewell Ag 082923-DAC (PG BA CG 76)

\$ 7,537.68

Price Effective Date:

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
14C0P	JOHN DEERE 540M STD FARM LOADER 6105E 3F LDRY	1	\$ 11,754.00	24.00	\$ 2,820.96	\$ 8,933.04	\$ 8,933.04
Standard Options - Per Unit							
0202	UNITED STATES	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
0409	ENGLISH NA OM	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
0500	LESS PACKAGE	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
1995	LESS MOUNTING FRAME	1	\$ -1,756.00	24.00	\$ -421.44	\$ -1,334.56	\$ -1,334.56
2521	540M NSL 3 FUNCTIONS	1	\$ 486.00	24.00	\$ 116.64	\$ 369.36	\$ 369.36
3555	HOSES & PARTS	1	\$ 279.00	24.00	\$ 66.96	\$ 212.04	\$ 212.04
4995	LESS HYDRAULIC CONNECTION	1	\$ -336.00	24.00	\$ -80.64	\$ -255.36	\$ -255.36
5995	LESS HOOD GUARD	1	\$ -509.00	24.00	\$ -122.16	\$ -386.84	\$ -386.84
6995	LESS BALLAST BOX	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
7610	GLOBAL CARRIER	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
8215	GLOBAL HEAVY DUTY BUCKET	1	\$ 0.00	24.00	\$ 0.00	\$ 0.00	\$ 0.00
Standard Options Total			\$ -1,836.00		\$ -440.64	\$ -1,395.36	\$ -1,395.36
Total Selling Price			\$ 9,918.00		\$ 2,380.32	\$ 7,537.68	\$ 7,537.68



City Council Meeting

Date: December 3, 2024

Agenda Item: 5.G.

PRESENTER: Colin Smith, Airport Manager

ITEM/SUBJECT: Consider approval of the purchase of a pickup truck from Tipton Ford for use at A.L. Mangham Jr. Regional Airport, utilizing TIPS Cooperative Purchasing Contract 230204, in the amount of \$57,552.00.

SUMMARY/BACKGROUND: The Airport has budgeted to replace its 2008 model pickup truck with a new pickup truck. The new truck will be very similar to the trucks acquired by other City departments over the past few years and will include a four-door cab, four-wheel drive, modern safety features, and adequate horsepower and suspension for towing and hauling. The purchase will be made at Tipton Ford in Nacogdoches through a cooperative fleet purchase contract (quote attached).

FINANCIAL:

Item is budgeted:

Account No.: 32.13.680.20

Account Name: *Vehicle Capital Expense*

Amount: \$60,000.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Not Applicable

CITY CONTACT: Colin Smith, Airport Manager
smithcm@nactx.us
(936) 560-9567

ATTACHMENTS: 1. Ford Truck Quote -Airport 11-08-24

TIPTON FORD
1115 NORTH STREET, NACOGDOCHES, TX 75961

Purchaser: CITY OF NACOGDOCHES

Contact: COLIN SMITH

Phone/Email: 936-560-9567 smithcm@nactx.us

Product Description: 2025 F-250 CREWCAB XLT 4x4 Standard wheelbase

Tipton Rep: PAUL SMITH

Phone: 936.553.3175

Date: 11/08/2024

Email: paulsmith@tiptonford.com

A. A. MSRP Price \$62,890

B. Published Options [Itemize each below]

Code	Options	MSRP Price	Code	Options	MSRP Price
	360-DEGREE CAMERA	\$1,150		BACKGLASS DEFROST	\$60
	250 AMP ALTERNATOR	\$85		CARPET DELETE	-\$50
	REAR PARKING SENSORS	\$0		WHEEL WELL LINERS REAR	\$180
	DARK SLATE CLOTH SEATS/ CONSOLE	\$300		POWERSCOPE MIRRORS	\$280
	BED SPRAY LINER	\$595		CLEARANCE LIGHTS	\$95
	7.3L V8 GAS ENGINE	\$1,000		BLIND SPOT INFO SYSTEM	\$0
	REMOTE START	\$250		LED BOX LIGHTING	\$60
	LT275/65R18E BSW ALL TERRAIN TIRES	\$265			
	3.73 electronic locking axle	\$430			
	10000# GVWR PKG	\$0		Manufacturer Destination/ Delivery Fee	\$1,995
	FX4 OFF ROAD PKG	\$495		MSRP	\$63,755
TOTAL PURCHASE PRICE					\$57,545

C. UPFITTERS

Options	Price	Options	Price
Total of C. Upfitters			

D. Registration, Inspection, Paperwork, Postage cost, Courthouse time, & Runner time:	\$ 7.00
E. UPFITTERS:	
***TIPS CONTRACT #230204	
G. Additional Delivery Charges <u>0</u> miles	\$ -
H. MSRP Subtotal:	\$ 57,552.00
I. Quantity Ordered <u>1</u>	1
K. TOTAL PURCHASE PRICE FOR CITY OF NACOGDOCHES	\$ 57,552.00

PRESENTER: Colin Smith, Airport Manager

ITEM/SUBJECT: Consider approval for a general services contract with White Electric Inc., for hay cutting and baling services at the A.L. Mangham Jr. Regional Airport. (Airport Manager)

SUMMARY/BACKGROUND: The City of Nacogdoches has been utilizing a hay cutting and baling service contractor, under a general services contract, to control vegetation for a majority of the open fields at the A. L. Mangham Jr. Regional Airport. That general services contract has expired, and the City is seeking a new contract. Since the airport department is not adequately staffed to address vegetation control in these fields, nor has it budgeted for outside mowing services, this hay service is important for the upkeep of the airport grounds. Allowing the vegetation to be harvested for feeding livestock is also more beneficial than mowing it over. Numerous safety and procedural protocols have been put in place for safe and non-disruptive hay cutting and baling activities at the airport.

Requests for airport hay cutting and baling service proposals were recently solicited publicly, and the lone proposal received was from White Electric Inc of Nacogdoches, Texas. Their proposal is to pay the City \$1500 per year for exclusive rights to cut and bail hay at the airport in the designated hay activity areas. City staff is recommending that the City enter a three-year general services agreement, with two optional one year renewals after the first three-year term, with White Electric Inc. for airport hay cutting and baling services. The proposed general services agreement is attached for reference.

FINANCIAL:

Item is budgeted:

Account No.: 32.13.526.02

Account Name: *FBO Misc Sales (Revenue)*

Amount: \$1500.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Infrastructure

CITY CONTACT: Colin Smith, Airport Manager
smithcm@nactx.us
(936) 560-9567

ATTACHMENTS: 1. Contract 25-10-107 - Airport Hay Cutting and Baling Services (White Electric)

CITY OF NACOGDOCHES

GENERAL SERVICE CONTRACT 25-10-107

AIRPORT HAY CUTTING AND BALING SERVICES

This General Service Contract is by and between the City of Nacogdoches, a Texas Home-Rule Municipal Corporation (the “City”), and White Electric Inc (the “Contractor”), for the following work: Airport Hay Cutting and Baling Services as described in the Scope of Services attached as Exhibit “A”.

ARTICLE I

PAYMENT AND TERM

1.1 Consideration. In consideration for the services performed in the Scope of Services and Contractor’s completion of work in conformity with this Contract, the Contractor shall pay the City an amount of **One Thousand Five Hundred and 00/100 dollars (\$1,500.00) per year within 30 calendar days of the beginning of each term of this contract.**

1.2 Term. The initial term of the Contract is for three (3) years with the option to renew for two (2) additional one (1) year terms for a total of five (5) years. Any renewal must be in writing and executed by the parties.

1.3 Executed Contract. The “Notice to Proceed” will not be given nor shall any work commence until this Contract is fully executed and all exhibits and other attachments are completely executed and attached to the Contract.

ARTICLE II

CHANGE ORDERS

2.1 Changes will not be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized, except upon the prior written order from authorized personnel of the City. The Contractor will not execute change orders on behalf of the City or otherwise alter the financial scope of the services except in the event of a duly authorized change order approved by the City as provided in this Contract.

If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute, until the dispute is resolved or the Contract is terminated.

ARTICLE III

INDEPENDENT CONTRACTOR AND SUBCONTRACTORS

3.1 Independent Contractor. It is understood and agreed by the parties that the Contractor is an independent contractor retained for the services described in the Scope of Services. The City will not control the manner or the means of the Contractor's performance but shall be entitled to a work product as in the Scope of Services. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture.

3.2 Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with the Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

ARTICLE IV

INSURANCE

4.1 The Contractor shall procure and maintain, at its sole cost and expense for the duration of this Contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services performed by the Contractor, its officers, agents, volunteers, and employees.

4.2 The Contractor's insurance shall list the City of Nacogdoches, its officers, agents, volunteers, and employees as additional insureds. The Required Limits of Insurance are attached in **Exhibit "C"**. Certificates of insurance evidencing the required insurance policies are attached in **Exhibit "D"**.

ARTICLE V

INDEMNIFICATION AND RELEASE

5.1 Indemnification. The Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, volunteers, employees, representatives, contractors, assignees and/or designees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorneys' fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the Contractor under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party.

5.2 Release. The Contractor assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the City, its officers, agents, volunteers, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in connection with the Contractor's work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance and regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City, any other party released hereunder, the Contractor, or any third party.

5.3 Notice of Claims. If a claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Agreement, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and address of the claimant(s); the basis thereof; and the name of each person against whom such claim is asserted.

ARTICLE VI

GENERAL TERMS

6.1 Performance. Contractor, its employees, associates, or subcontractors shall perform all the services described in the Scope of Services in a professional manner and be fully qualified and competent to perform those services. Contractor shall undertake the work and complete it in a timely manner.

6.2 Termination. The City may terminate the Project and this Contract, at any time, for convenience. In the event of such termination the City will notify the Contractor in writing and the Contractor shall cease work immediately.

6.3 Venue, Claims and Audit. (a) This Contract has been made under and shall be governed by the laws of the State of Texas.

(b) The parties agree that performance and all matters related thereto shall be in Nacogdoches County, Texas.

(c) Venue of any dispute will be in Nacogdoches County, Texas.

(d) The City, or if State funds are used to pay any part of this contract, the State Auditor, may conduct an audit or investigation of any entity receiving funds directly under this contract or indirectly through a subcontract under the contract. Acceptance of funds under the contract or through a subcontract under the contract acts as acceptance of the authority of the City or the State Auditor to conduct an audit or investigation. Contractor agrees to cooperate and must

provide the City or State Auditor with access to any information the City or State Auditor considers relevant to the investigation or audit.

6.4 Amendment. This Contract may only be amended by a written instrument approved and executed by the parties.

6.5 Taxes. The City is exempt from payment of state and local sales and use taxes on labor and materials incorporated into the project. If necessary, it is the Contractor's responsibility to obtain a sales tax permit, resale certificate, and exemption certificate that shall enable the Contractor to buy any materials to be incorporated into the project and then resell the aforementioned materials to the City without paying the tax on the materials at the time of purchase.

6.6 Compliance with Laws. The Contractor will comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the following:

(a) Contractor shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations to the City.

(b) The Immigration Reform and Control Act (IRCA). The Contractor may not knowingly obtain the labor or services of an undocumented worker. The Contractor, not the City, must verify eligibility for employment as required by IRCA;

(c) In accordance with Section 2155.4441 of the Texas Government Code, Contractor agrees that during the performance of this contract it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state;

6.7 Contractor Affirmations: If this contract is funded in whole or in part by money from the State of Texas, State law requires the following certifications, representations and/or warranties. By signature hereon affixed, the Contractor hereby certifies that:

6.7.1 Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.

6.7.2 Contractor represents and warrants that it has no actual or potential conflicts of interest in the goods and or services described in the scope of work to this contract.

6.7.3 **Antitrust.** Pursuant to 15 U.S.C. §1, *et seq.* and Tex. Bus. & Comm. Code §15.01, *et seq.* neither the contractor nor the firm, corporation, partnership, or institution represented by the contractor, or anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

6.7.4 **Child Support.** Pursuant to §231.006(d), Texas Family Code, regarding child support, the Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate.

Furthermore, any Contractor subject to §231.006, Gov't Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the bid. This information must be provided prior to award. Enter the Name & Social Security Numbers for each person below:

Name:	Social Security Number:
Name:	Social Security Number:
Name:	Social Security Number:

6.7.5 **Debarment.** Contractor certifies that Contractor and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement. Entities ineligible for state procurement are listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration. Entities ineligible for federal procurement are listed at <http://www.sam.gov/content/exclusions> .

6.7.6 **Convictions.** Under Sections 2155.006, 2155.0061 and 2261.053 of the Texas Government Code, Respondent certifies that it is not ineligible to receive the specified contract and may be terminated and payment withheld if this certification is inaccurate. These sections prohibit contracts that include proposed financial participation by an individual or business entity who has been convicted in the past five years of (a) violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Gov't Code, occurring after September 24, 2005; and (b) of any offense related to the direct support or promotion of human trafficking.

6.7.7 COVID Vaccinations. Respondent certifies that it does not require its customers to provide any documentation certifying the Customer's COVID-19 vaccination or post-transmission recovery on entry to, or to receive service from the Respondent's business.

6.7.8 Boycott. (a) To the extent this Contract is considered a Contract for goods or services subject to § 2270.002 Texas Government Code, Contractor verifies that it: i) does not boycott Israel; and ii) will not boycott Israel during the term of this Contract.

(b) To the extent this Contract has a value of \$100,000 or more and Respondent is an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit that employs 10 or more full time employees, Respondent certifies that it: (i) does not and will not boycott energy companies during the term of the contract (*See Texas Government Code 2274.002, et seq.*); and (ii) does not and will not discriminate against a firearm entity or firearm trade association (*See Texas Government Code 2274.002, et seq.*).

6.8 Waiver of Terms. No waiver or deferral by either party of any term or condition of this Contract shall be deemed or construed to be a waiver or deferral of any other term or condition or subsequent waiver or deferral of the same term or condition.

6.9 Assignment. This Contract and the rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of City.

6.10 Invalid Provisions. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

6.11 Entire Agreement. This Contract represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

6.12 Agree to Terms. The parties state that they have read the terms and conditions of this Contract and agree to the terms and conditions contained in this Contract.

6.13 Effective Date. This Contract will be effective when it is signed by the last party making it fully executed.

6.14 Notice. Any official notice under this Contract will be sent to the following addresses:

City of Nacogdoches
Attn: Purchasing and Contract Specialist
PO BOX 635030
202 East Pilar Street
Nacogdoches, TX 75961

White Electric Inc
Dennis White
1106 SE Stallings Dr.
Nacogdoches, TX 75964
936-564-5180

6.15 Severability. In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and in lieu of each provision that is invalid, illegal or unenforceable, there shall be added a new provision to this Contract as similar in terms to such invalid, illegal, or unenforceable provision as may be possible and yet be valid, legal and enforceable, by means of good faith negotiation by the Parties to this Contract or by reform by a court of competent jurisdiction.

6.16 Duplicate Originals. The parties may execute this Contract in duplicate originals, each of equal dignity.

6.17 Exhibits. All exhibits to this Contract are incorporated and made part of this Agreement for all purposes.

List of Standard Form Agreement Exhibits

- A.** Scope of Services
- B.** Payment Schedule
- C.** Insurance Requirements
- D.** Certificates of Insurance
- E.** Maps
- F.** Proposal

WHITE ELECTRIC INC

CITY OF NACOGDOCHES

By:_____

By:_____

City Manager

Printed Name:_____

Date:_____

Title:_____

APPROVED AS TO FORM:

Date:_____

City Attorney

Date:_____

EXHIBIT A

Scope of Services

The terms and conditions of this Contract shall take precedence and control over any term or provision of the Scope of Services that in any way conflicts with, differs from, or attempts to alter the terms of this Contract.

The Scope of Service is as listed in RFP No. 25-10-107 - Hay Cutting and Baling Services in areas as designated in the Airport Hay Maps in “Exhibit E”.

An excerpt of the scope of services from the RFP is below:

The scope of work, as may be modified through negotiations and/or by written addenda, shall include, but not be limited to, the following:

1. The Firm shall cut and bale vegetation in the general areas of the airport as shown and designated in “Exhibit E Airport Hay Maps” (the “Project”). The City reserves the right to mow or alter areas within the designated hay areas for events and other activities at any time. The City reserves the right to remove areas from the designated hay areas as needed for construction, maintenance, or other events and activities. Any Firm requested alterations to the designated hay areas must be reviewed by the City, and if approved becomes effective only when issued in writing by the City.
2. The Firm shall coordinate with and receive approval from the Airport Manager at least 48 hours prior to any planned activity performed under the hay cutting and baling service contract.
3. The Firm must follow all Airport site specific operational and safety protocols. The Firm shall not, under any circumstances, interfere with daily facility and aircraft operations, and hay activities must take place during normal business hours of Monday- Saturday from 8:00am to 5:00pm unless specified for each occurrence in writing by the Airport Manager.
4. The application of fertilizers, herbicides, and pesticides to promote hay growth and control weeds is permitted and expected provided that the chemicals are applied strictly in accordance with the manufacturer’s published instructions, under the proper license and permits required by the State of Texas and the United States of America, and in a manner to which they do not drain or find their way into any adjacent streams or creeks. Any application of fertilizer, herbicides or pesticides shall be under the exclusive charge and control of the Firm and all risk in connection with the application of any chemicals or elements shall be borne by the Firm. (See additional fertilization requirements and restrictions below in Item 12)
5. The Firm shall be responsible for all operational and overhead costs including but not limited to all equipment, manpower, labor, fuel, oil, grease, etc., necessary to accomplish the hay cutting and baling operations. The Firm shall be responsible for obtaining all applicable and required licenses and permits, if any, needed to perform all aspects of the hay cutting and baling operation.
6. Firm shall provide City a beginning of season report in March, and an end of season report in October, that includes projected or final harvest results, fertilization schedules, herbicide/pesticide schedules, activities schedules, key personnel designations, and additional data or information as requested for purposes of ongoing evaluation and management of the City’s hay cutting and baling services contract.

7. Firm shall remove all baled hay from the field where it was cut, and either haul off site or stack it in the Airport Manager designated and approved temporary staging location, within 5 days of bailing, weather permitting. All baled hay in the temporary staging area must be removed from the Airport within 30 days of bailing. To avoid penalties by other governmental agencies inspecting City sites, hay bales not removed within 30 days will become property of the City of Nacogdoches and will be disposed of.
8. The Firm shall use the Airport property identified and designated on the Hay Maps strictly for hay production only, and shall not drill, dig, trench, excavate or otherwise alter the topography or subsurface of said properties. No other use of the property is permitted or allowed.
9. **The primary goal of this contract for the City is vegetation control, so cutting (or mowing) of all of the vegetation within the highlighted areas of the Hay Maps at least two (2) times between May and September is required of the Firm, even if baling activities are not performed.** The cuttings shall be spread over the growing season to provide the City optimal vegetation control, and the cutting schedule must be pre-approved by, and meet the needs of, the Airport Manager. If mowed, the vegetation must be cut to a height of 3" or less.
10. All Airport operations by the Firm must be performed in conformance to all safety and operational standards and restrictions as specified by the Airport Manager, TxDOT Aviation, and the FAA. No activities under this contract shall be performed on the runway, crossing the runway, within 50' of the sides of the runway, and within 200' of the ends of the runway. All Firm operations shall yield to any aircraft, on ground or in the air, at all times. The Firm may not operate within 100' of the runway in low visibility weather conditions, before official sunrise, or after official sunset.
11. Each truck, tractor, and other equipment operating on, within 100' of, or crossing any paved aircraft movement areas or flight paths must have an operable aviation frequency radio in their possession monitoring the local aviation frequency at all times. Each operator must receive radio monitoring training, and additional Airport safety training, from the Airport Manager before they will be allowed to operate near taxiways and/or the runway.
12. Commercially produced granular or liquid fertilizer shall be used for all fertilization, amending, or improving soil and/or grasses. **No litter, manure, urine, or animal waste/parts shall be used** for fertilization, amending, or improving the soil and/or grass under this contract. All soil fertilization, amending, or improving methods and means must be pre-approved by the Airport manager in writing prior to the start of such activities.
13. The Airport Manager shall dictate whether ground conditions are acceptable for all operations performed under this contract. The Firm must repair to the existing state before damage any areas of ground, equipment, structures, fixtures, or pavements damaged or deformed by the Firm's activities immediately or as soon as conditions allow.

EXHIBIT B
Payment Schedule

Payment in the amount listed in Article I of this Contract. This amount shall be payable to the City pursuant to the schedule listed in Article I of this Contract

EXHIBIT C

Insurance Requirements

Throughout the term of this Agreement the Contractor must comply with the following:

I. Standard Insurance Policies Required:

- A.** Commercial General Liability
- B.** Business Automobile Liability
- C.** Workers' Compensation
- D.**

II. General Requirements Applicable to All Policies:

- A.** Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent
- B.** Certificates of Insurance and endorsements shall be furnished on the most current State of Texas Department of Insurance-approved forms to the City's Representative at the time of execution of this Agreement; shall be attached to this Agreement as Exhibit D; and shall be approved by the City before work begins
- C.** Contractor shall be responsible for all deductibles on any policies obtained in compliance with this Agreement. Deductibles shall be listed on the Certificate of Insurance and are acceptable on a per-occurrence basis only
- D.** The City will accept only Insurance Carriers licensed and authorized to do business in the State of Texas
- E.** The City will not accept "claims made" policies
- F.** Coverage shall not be suspended, canceled, non-renewed or reduced in limits of liability before thirty (30) days written notice has been given to the City

III. Commercial General Liability

- A.** General Liability insurance shall be written by a carrier rated "A:VIII" or better under the current A. M. Best Key Rating Guide.
- B.** Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain
- C.** Limits of liability must be equal to or greater than \$1,000,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$2,000,000. Limits shall be endorsed to be per project.
- D.** No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted for the City's review and acceptance
- E.** The coverage shall include, but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, and Personal & Advertising Liability.

IV. Business Automobile Liability

- A.** Business Automobile Liability insurance shall be written by a carrier rated “A:VIII” or better rating under the current A. M. Best Key Rating Guide.
- B.** Policies shall contain an endorsement naming the City as Additional Insured and further providing “primary and non-contributory” language with regard to self-insurance or any insurance the City may have or obtain
- C.** Combined Single Limit of Liability not less than \$1,000,000 per occurrence for bodily injury and property damage.
- D.** The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page
- E.** The coverage shall include any autos, owned autos, leased or rented autos, non-owned autos, and hired autos.

V. Workers’ Compensation Insurance

- A.** Workers compensation insurance shall include the following terms:
 - 1.** Employer’s Liability minimum limits of liability not less than \$500,000 for each accident/each disease/each employee are required
 - 2.** “Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04” shall be included in this policy
 - 3.** TEXAS must appear in Item 3A of the Workers’ Compensation coverage or Item 3C must contain the following: “All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY”

EXHIBIT D
Certificates of Insurance

EXHIBIT E

Hay Maps and Information

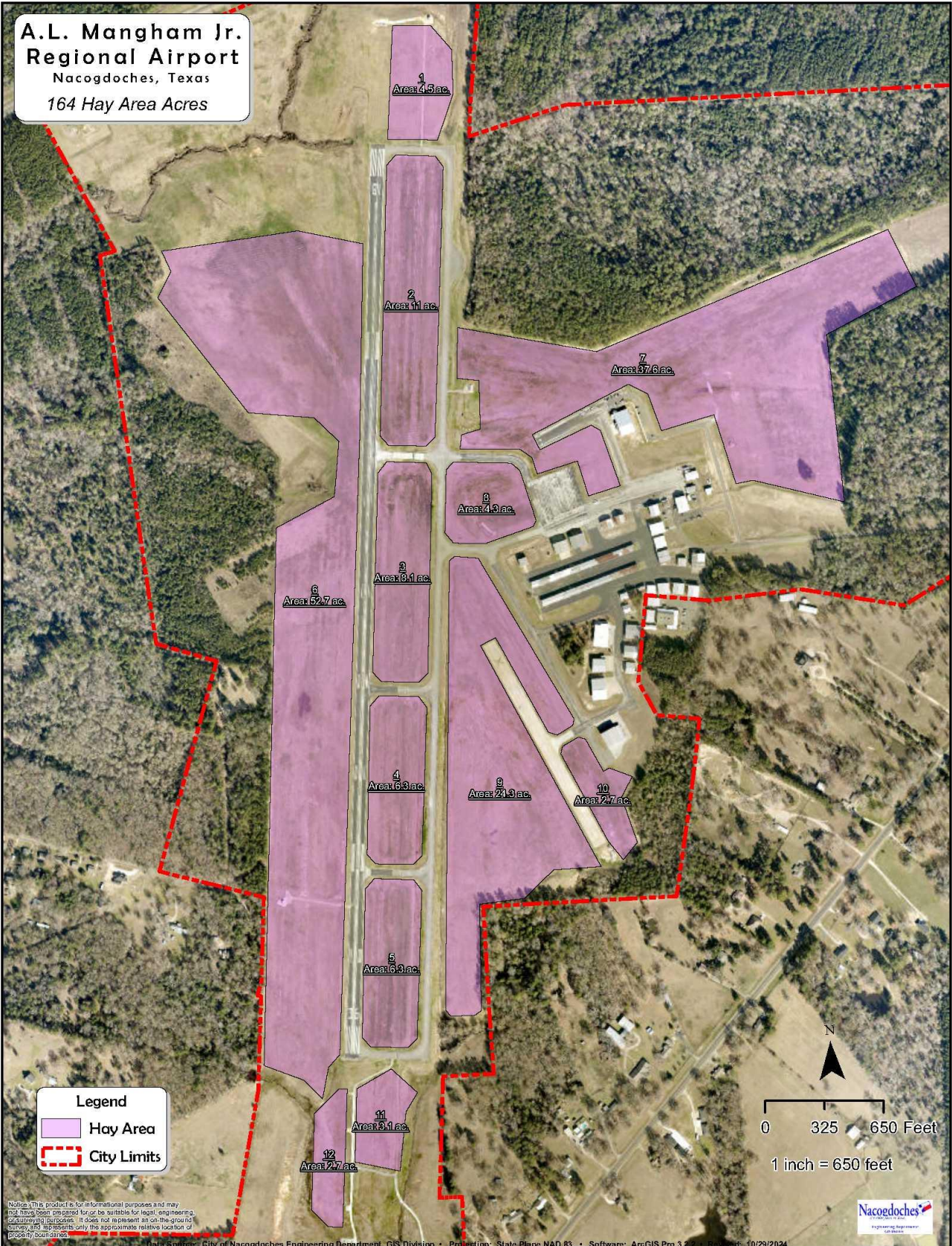


EXHIBIT F
Proposal

Proposal

White Electric Inc

1106 S.E. STALLINGS DR.
NACOGDOCHES, TEXAS 75964

Proposal Date:

11/25/2024

21

Dennis White
License #8415

9365645180

Fax: 9365691597

PROPOSAL SUBMITTED TO		JOB LOCATION:	
City Of Nacogdoches P.O. Box 635070 Nacogdoches, TX 75963		A.L. Mangham Airport RFP 25-10-107	
Contact		Phone	(936) 564-5046

Per RFP Requirement

Experience - Hay Baling:

- Joe Cefalu, Robin Pontalio (936) 585-3660
- Complete Ag Services (936) 556-0116
- Mark Stephens (936) 569-4854
- Mike Lee Farms (936) 569-4771

Equipment/ Resource:

- 6310 JD, 6530 JD, 5520 JD, 5525 JD Tractor
- (2) 15' Rhino bat wing mowers
- (2) 17' Kuhn Cutter
- (1) 568 Baler
- (1) 568 Baler
- (2) 40' Hay Trailers
- (1) International Haul Truck

Use- Feed personal cattle, sell the remainder if not needed for feed

Insurance - Per requirements currently have insurance certificate with City of Nacogdoches

Ranch Manager: Christopher Hillis (936) 221-6915

Staff: Jaxon Anderson, Tony Ward

Improvements - Implement as needed herbicide control and mowing as needed for weed and nondesirable vegetation management. We have our own herbicide license / applications license.

Schedule - Cut and bale atleast (2) times / year as specified, more often if weather and grass growth allows.

Authorized Signature: _____

ACCEPTANCE OF PROPOSAL-The above prices, specifications and conditions are satisfactory and are hereby accepted.
You are authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature: _____

Signature _____

Date of Acceptance: _____

Signature _____

Proposal

White Electric Inc

1106 S.E. STALLINGS DR.
NACOGDOCHES, TEXAS 75964

Proposal Date:

11/28/2024

21

Dennis White

License #8415

9365645180

Fax: 9365691597

PROPOSAL SUBMITTED TO		JOB LOCATION:	
City Of Nacogdoches P.O. Box 635070 Nacogdoches, TX 75963		A.L. Mangham Airport RFP 25-10-107	
Contact		Phone	(936) 564-5046

Compensation:

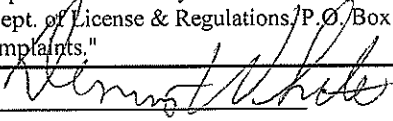
Proposal #1 - Pay to the City a flat fee of \$1500.00 per year for the designated hay bailing area(s). City staff to mow and maintain all non baling areas.

Proposal #2 - Pay the City a flat fee of \$100.00 / year for hay bailing areas and White Electric will mow or bale the non bailing areas atleast once per year at no cost.

We Propose Hereby To Furnish Material & Labor-Complete In Accordance With above accordance with above specifications for the sum of:

Payment to be made as follows: PER STAGES OF COMPLETION. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance. Note: This proposal may be withdrawn by us if not accepted within 30 days.

"Regulated by the Texas Dept. of License & Regulations/P.O. Box 12157 Austin, Tx 78711 1-800-803-9202, 512-463-6599.
www.license.state.tx.us/complaints."

Authorized Signature: 

**ACCEPTANCE OF PROPOSAL-The above prices, specifications and conditions are satisfactory and are hereby accepted.
You are authorized to do the work as specified. Payment will be made as outlined above.**

Authorized Signature:

Signature _____

Date of Acceptance: _____

Signature _____

IX. CERTIFICATION and ACKNOWLEDGEMENT

The undersigned, as an authorized agent of the proposer, hereby certifies:

- (✓) The Proposer is in receipt of 0 addenda.
- (✓) The Proposer is familiar with all instructions, terms and conditions, and specifications stated in this RFP, including the following:
 - (✓) The Proposer has reviewed the City's Professional Services Agreement released with this RFP (Attachment D), which Agreement will form the basis of any contract for the performance of the work. **Any request for modifications are included in the proposal by way of response included as Attachment E.**
- (✓) The Proposer is qualified to perform the work and services outlined in this RFP.
- (✓) The proposal has been arrived at independently and submitted without collusion with any other Proposer, City staff or City contractor, and the contents of the proposal have not been communicated by the Proposer or, to the Proposer's best knowledge and belief, by any one of its employees or agents to any person not an employee or agent of the Proposer, and will not be communicated to any person prior to the City's final action on this RFP by City Council. Nothing in this paragraph shall be construed to prevent or preclude two or more companies or persons from joining together to submit a proposal for the work.
- (✓) The offers, terms and conditions of the proposal will remain valid and effective and may be relied upon by the City for a period of ninety (90) days following the Proposal Closing Date and Time as identified in this RFP or addenda.
- (✓) The Proposer certifies that it: i) does not boycott Israel; and ii) will not boycott Israel during the term of the Agreement subject to § 2270.002 Texas Government Code.

Signed By: Dennis White Title: President

Typed Name: Dennis White Company Name: White Electron, Inc

Phone No.: 936 564 5180 Fax No.: 936-569-1547

Email: dennis@whiteelectron.com

Bid Address: 202 E. Pillar Nac Tx 75963
P.O. Box or Street City State Zip

Order Address: A. L Mangham Airport Nac Tx 75964
P.O. Box or Street City State Zip

Remit Address: 1106 SE Stallings Dr Nac Tx 75964
P.O. Box or Street City State Zip

Federal Tax ID No.: 75-2575365

DUNS No.: _____

Date: 11/2/24

PRESENTER: Colin Smith, Airport Manager

ITEM/SUBJECT: Consider approval of the submission of a Texas Department of Transportation Aviation Division letter of interest to request grant funding programmed from fiscal years 2028 to 2030 for a new terminal building, aircraft apron, taxiway pavements, and associated infrastructure projects at A.L. Mangham Jr. Regional Airport. (Airport Manager)

SUMMARY/BACKGROUND: As a grant block state, the Texas Department of Transportation (TxDOT) Aviation Division administers allocations of both state and federal funds for airport projects in Texas. Through the end of this December, TxDOT Aviation is accepting letters of interest from airport sponsors for programming their fiscal year 2028 and beyond Capital Improvement Projects. These letters are the official first step to requesting an airport capital improvement project with grant funding support from TxDOT Aviation.

*** The letter of interest is not a firm and final commitment to a project, nor are the requested projects guaranteed to be accepted and programmed by TxDOT. ***

Project Descriptions:

With City Council approval, the City of Nacogdoches will send a letter of interest to request project funding related to constructing a new terminal building and associated infrastructure at the A.L. Mangham Jr. Regional Airport (see this letter attached). The Airport Advisory Board expressed their support for these projects and letter of interest at their October 16 meeting. The new larger and more modern terminal building is expected to be constructed closer to the runway and replace the smaller existing terminal buildings originally constructed over 50 years ago. The projects are anticipated to include a new entrance from Highway 7, general driveways and parking lot pavements, sidewalks, fencing, gates, fuel storage and dispensing equipment, fuel truck storage building, airport maintenance vehicle/equipment storage building, aircraft parking pavements, aircraft taxiway pavements and necessary utility and drainage improvements.

Project Timelines:

The schematic planning for the layout and location of the terminal building and associated infrastructure will be accomplished in the upcoming Airport Layout Plan update project due to start this December 2024 and conclude next September 2025. The City is requesting detailed engineering/architectural design for the terminal projects to start and finish in fiscal year 2028 (the soonest TxDOT is programming new projects). The City is requesting construction of the terminal projects to span fiscal years 2029 through 2030. Except for tie-ins to existing infrastructure, it is anticipated that these projects will have minimal disruptions to airport operations during their construction due to them being in a currently undeveloped area of the airport.

Proposed Project Funding:

Funding for the terminal related projects is anticipated to come from many sources. Preliminary project cost estimates and breakdown of the anticipated funding is as follows:

New Terminal Building and Associated Landside Infrastructure Project

- Estimated project cost \$9M
- Sponsor as agent project, with anticipated TxDOT grant reimbursements of \$500K for the terminal building and \$100K for parking/sidewalk/driveway pavements
- Sponsor cost participation of \$6.1M from bond sales (bond referendum passed Nov. 2023)
- Sponsor to seek all available funding sources to complete the funding gap including: BIL FAA ATP grant program, direct appropriations, and local private donations

New Terminal Airside Aircraft Apron and Taxiway Pavements Project

- Estimated project cost \$6M
- TxDOT as agent project with 10% Sponsor and 90% State/Federal cost participation
- Sponsor cost participation of \$600K from bond sales (bond referendum passed Nov. 2023)

Remaining Bond-Funded Projects:

The funding projections above earmark \$6.7M of voter-approved \$7.3M in airport designated bond proceeds for the terminal projects. The remaining airport bond proceeds were previously earmarked as follows:

- Airport Layout Plan w/Narrative Project (Dec. 2024 – Sept. 2025) - Estimated project cost \$400K. TxDOT as agent project with 10% Sponsor and 90% State/Federal cost participation. Sponsor cost participation of \$40K from bond sales (bond referendum passed Nov. 2023).
- Runway 18/36 Rehabilitation (Jan. 2025 – Sept. 2026) - Estimated project cost \$5M. TxDOT as agent project with 10% Sponsor and 90% State/Federal cost participation. Sponsor cost participation of \$500K from bond sales (bond referendum passed Nov. 2023).

Funding Summary:

As described in Resolution 1351-09-23, Council's support for the issuance of \$7.3M in general obligation bonds for airport improvements was conditioned upon receiving a dollar-for-dollar match from funding sources external to the City. The total committed and proposed project amounts should satisfy this condition.

Total projects: \$20.4M

--- Approved: \$5.4M (City \$0.54M; State/Fed \$4.86M)

--- Proposed: \$15M (City \$6.7M; State/Fed \$6M)

Total City: \$7.24M (Bonds)

Total State/Fed: \$10.86M (Grants)

Funding gap: \$2.3M

FINANCIAL:

No financial impact associated with this item

**COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE
FOLLOWING CITY COUNCIL PRIORITIES**

Infrastructure

CITY CONTACT: Colin Smith, Airport Manager
smithcm@nactx.us
(936) 560-9567

ATTACHMENTS: 1. TxDOT letter of interest
2. Pre-design concept (2021)



November 20, 2024

Mrs. Stephanie Kleiber
Director of Planning and Programming
TxDOT Aviation Division
6230 E. Stassney Ln
Austin, Texas 78744

Re: Letter of Interest for FY28-FY30 Capital Improvement Projects

The City of Nacogdoches is interested in undertaking the following airport improvement projects at A.L. Mangham Jr. Regional Airport (KOCH):

New Terminal Building and Associated Infrastructure Project

- To include terminal building in new location, driveways/sidewalks/parking lot pavements, fuel farm, fuel truck building, equipment building, fencing/gates, utilities, etc.
- Estimated project cost \$9M
- Sponsor as agent project, with anticipated TxDOT grant reimbursements of \$500K for the terminal building and \$100K for parking/sidewalk/driveway pavements
- Sponsor cost participation of \$6.1M from bond sales (bond referendum passed Nov. 2023)
- Sponsor to seek all available funding sources to complete the funding gap including: BIL FAA ATP grant program, direct appropriations, and local private donations
- Engineering/Design FY28, Construction FY29-FY30

New Terminal Aircraft Apron and Taxiway Pavements Project

- To include new terminal airside apron and taxiway pavements and associated earthwork, utilities, drainage, signage, etc.
- Estimated project cost \$6M
- TxDOT as agent project with 10% Sponsor and 90% State/Federal cost participation
- Sponsor cost participation of \$600K from bond sales (bond referendum passed Nov. 2023)
- Engineering/Design FY28, Construction FY29-FY30

As sponsor of the A.L. Mangham Jr. Regional Airport, the City of Nacogdoches is dedicated to airport safety, functionality, improvement, and growth. Evidence of this is the recent passage of a 2023 bond referendum by Nacogdoches citizens directing significant funding to the airport. We are addressing safety with our commitment and investment in the runway rehabilitation project, and we will be planning the terminal relocation and associated pavements in our Airport Layout Plan currently under development. We look forward to working with TxDOT Aviation on the projects listed above and many more in the coming years. Please do not hesitate to contact me should you have any questions.

Respectfully,

Richard B. Beverlin, III
City Manager
City of Nacogdoches, Texas

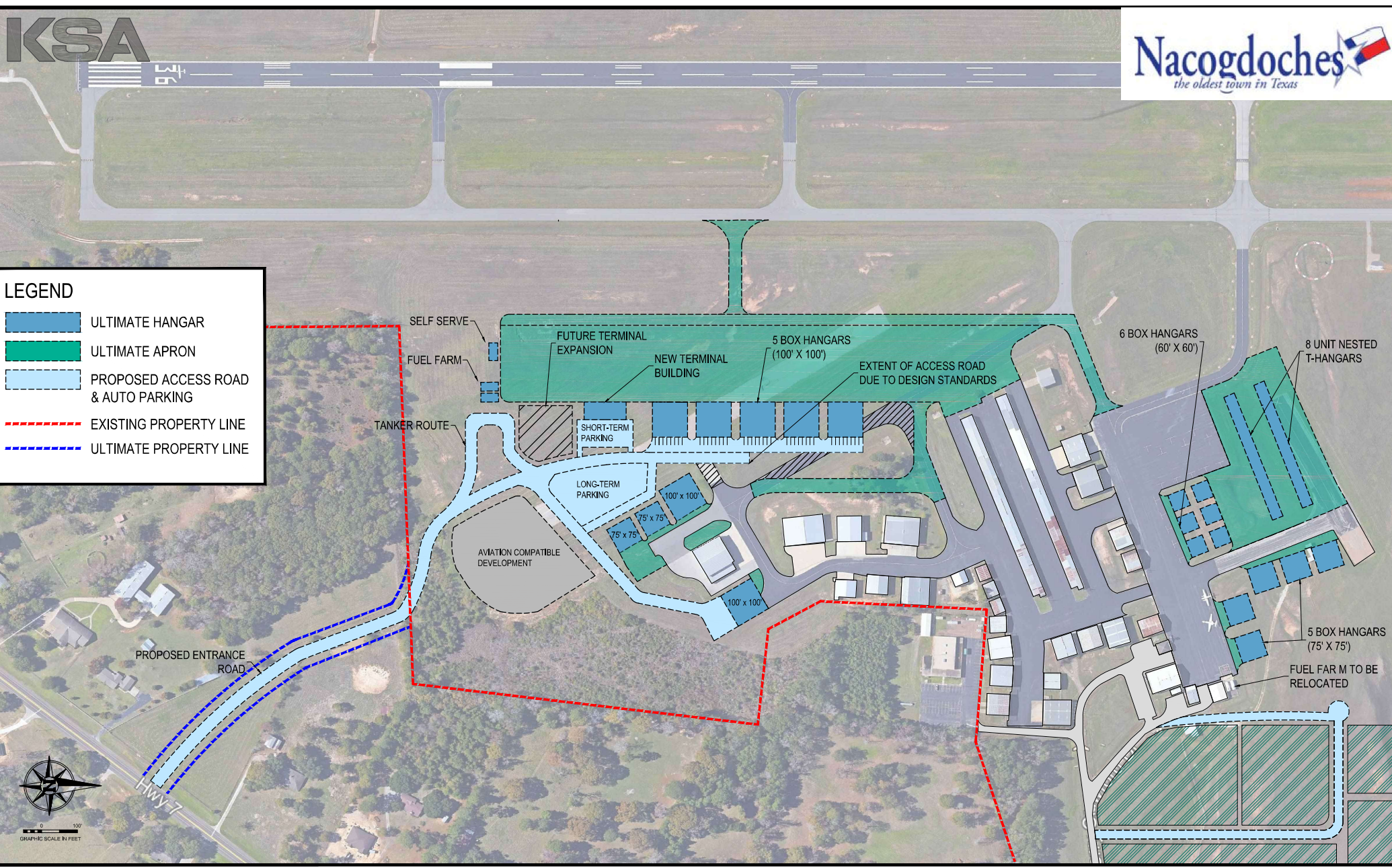
PRELIMINARY SCHEMATIC CONCEPT ONLY, NOT FINAL OR APPROVED

KSA

Nacogdoches
the oldest town in Texas

LEGEND

- ULTIMATE HANGAR
- ULTIMATE APRON
- PROPOSED ACCESS ROAD & AUTO PARKING
- EXISTING PROPERTY LINE
- ULTIMATE PROPERTY LINE



A.L. MANGHAM JR. REGIONAL AIRPORT

EXHIBIT 1 - RECOMMENDED DEVELOPMENT PLAN

PRELIMINARY SCHEMATIC CONCEPT ONLY, NOT FINAL OR APPROVED



City Council Meeting

Date: December 3, 2024

Agenda Item: 5.J.

PRESENTER: Rhonda Lewis, City Secretary

ITEM/SUBJECT: Consider approval of minutes for the November 5, 2024, Regular City Council Meeting, and the November 19, 2024, Regular City Council Meeting. (City Secretary)

SUMMARY/BACKGROUND:

FINANCIAL:

No financial impact associated with this item.

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

CITY CONTACT: Rhonda Lewis, City Secretary
lewisr@nactx.us
(936) 559-2506

ATTACHMENTS: 1. City Council Meeting Minutes - 11.05.24



Regular Session
Nacogdoches City Council
November 5, 2024 – 5:30 p.m.

City Council Chambers
202 E. Pilar Street, Nacogdoches, TX

City Council present: Mayor Randy Johnson; Council Members, Kathleen Belanger; Blane Williams; Brad Maule, and Chad Huckaby

1. Called to order at 5:30 p.m.

2. Pledge of Allegiance.

3. Open Forum:

Michelle Cox, President of the Parks Advocacy League, expressed her gratitude for the progress on the project for the Robert McCrimmon Park.

4. ITEMS TO BE REMOVED FROM THE CONSENT AGENDA:

There were no items removed from the Consent Agenda.

5. CONSENT AGENDA:

Councilwoman Belanger moved to approve the Consent Agenda. Councilman Huckaby duly seconded the motion and the Consent Agenda was approved unanimously.

6. REGULAR AGENDA:

- A. **Public Hearing:** Consider approval of a Specific Use Permit, in a B-2, General Business and R-4, Multi-Family Zoning District for Stone, Sand, Gravel & Mineral Extraction, for approximately 5 acres, on Lot 1, City Block 47, generally located on the east side of Old Tyler Road, approximately one-half mile north of the Powers Street and Old Tyler Road intersection. This request has been submitted by James Wood on behalf of the owner, John Mast of Separate Property Partnership, L.P. Case File SUP2024-06.

Juan Pollette, Interim City Planner, presented this item stating that the property is undeveloped and the applicant would like to extract the stone, sand and gravel. Once the property is the appropriate grade, the applicant plans to sale the property for future development. Case Opperman, Director of Public Works, stated that Staff is working to develop an erosion control ordinance to mitigate some issues in the past.

Councilwoman Belanger made a motion to approve item 6.A. Councilman Maule duly seconded the motion, and the motion carried unanimously.

- B. **Public Hearing:** Consider approval of a Zone Change from I-2, Heavy Industrial to R-4, Multi-Family for approximately 2.87 acres, on Lot 78-S-5, City Block 56, located at 808 East Lane Drive and 2924 Hunter Street. This request has been submitted by the property owners, Lee and Tracy Saenz. Case File ZON2024-03.

Juan Pollette, Interim City Planner, stated this request for a zone change is to subdivide the property into two lots to separate the existing church from the parsonage. Mr. Pollette stated that the Planning and Zoning Commission approved this request on October 14, 2024.

Councilman Huckaby moved to approve the zone change. Councilman Williams duly seconded the motion, and the motion carried unanimously.

- C. **Public Hearing:** Consider approval of a Zone Change from R-2, Single Family to R3, Two Family for approximately 1 acre, on Lot(s) 1&2, of the Larry Wade Subdivision and Lot(s) 6, 7, 8, 9, & 10, City Block 47, generally located on the north side of Powers

Street, approximately 350 feet east of the Ritchie Street and Powers Street intersection. This request has been submitted by the owner, Clifton White. Case File ZON2024-04.

Juan Pollette, Interim City Planner, stated that the applicant proposed to construct 4-5 duplexes on the property. He also stated that the area is surrounded by R-2, Single Family residences, and in 2022, a similar request was approved for 10 undeveloped lots, now developed with 10 duplexes. Mr. Pollette said the Planning and Zoning Commission recommended approval of the zone change on October 14, 2024, by a 5-0 vote.

Councilman Williams asked how would the development improve the area. Mr. Pollette stated that the tax base would improve, and the requests goes along with the current uses in the area.

The applicant, Mr. White, discussed his request for this zone change and his intentions in the neighborhood.

Councilman Maule made a motion to approve the zone change, Mayor Johnson duly seconded the motion. This first motion was denied by a vote of 2 to approve the zone change, and a vote of 3 to deny the motion.

Councilman Williams made a motion to revisit the item at a later date after further discussion with the applicant. Councilwoman Belanger duly seconded the motion, and the motion carried unanimously, 5-0 to continue.

- D. **Public Hearing:** Consider amending the Code of Ordinances of the City of Nacogdoches, Texas, Chapter 78 – “Signs”, Article I. – “In General”, Article IV – “Permits”, and Article V. – “Regulations for On-Premises Signs by District”, to define feather-type signs and allow for further control of placement, maintenance, and the number of times these signs can be used throughout the year.

Michael Neu, Executive Director of Development and Infrastructure, revisited this item with City Council, addressing the regulation of feather-type signs within the City. He stated that if the Ordinance is put in place, the condition of these type signs and the duration of the display of the signs would be addressed within the sign ordinance.

Councilman Maule made a motion to approve amending said ordinance. Councilman Huckaby duly seconded the motion, and the motion carried unanimously.

- E. **Public Hearing:** Consider amending the Code of Ordinances of the City of Nacogdoches, Texas, including Chapter 46 – “Health and Sanitation”, Article III. – “Smoking Pollution Control”, and Chapter 118 – “Zoning”, Article I – “In General”, Article III. – “District Regulations”, and Article IV. – “Supplementary District Regulations” to allow for additional clarification and requirements for tobacco and Nacogdoches City Council Agenda Page 3 November 5, 2024 vape stores in the city of Nacogdoches.

Michael Neu, Executive Director of Development and Infrastructure, this item was to address the number of these types of stores that sell tobacco and vapes. He also went over the specific proposed amendments to the ordinance.

The owner of the Cigar Co. on Main Street stated that he appreciates the amendments to the ordinance.

Councilman Huckaby made a motion to approve Item 6.E. Councilman Maule duly seconded the motion, and the motion passed unanimously.

- F. **Public Hearing:** Consider amending the Code of Ordinances of the City of Nacogdoches, Texas, Chapter 118 – “Zoning”, Article II – “Administration”, Division 4 – “Amendment Procedure”, to allow for the change of designation of the controlling board for protests of zoning changes.

Michael Neu, Executive Director of Development and Infrastructure, presented this item to Council stating that this was a continuation of the workshop discussions. Mr. Neu clarified the proposed change to Chapter 118 and its terminology.

Mayor Johnson made a motion to approve Item 6.F. Councilman Huckaby duly seconded the motion, and the motion carried unanimously.

- G. Public Hearing: Consider amending the Code of Ordinances of the City of Nacogdoches, Texas, Chapter 118 – “Zoning”, Article II – “Administration”, Division 3 – “Board of Adjustment”, to amend the number of days to file an appeal to the Board of Adjustment and who may appeal Board of Adjustment decisions.

Michael Neu, Executive Director of Development and Infrastructure, stated that these amendments will align better with the Texas Local Government Code. He stated the amendments would update the appeals to the City Planner, the timeframe in which to file an appeal and also who is able to appeal.

Mayor Johnson made a motion to approve Item 6.G. Councilman Huckaby duly seconded the motion, and motion carried 4-1.

- H. Consider approval of the purchase of 65 body-worn cameras and approval of a contract by and between Nacogdoches Police Department and Motorola Solutions.

Police Chief Weems presented this item to Council stating that he would like to address any question regarding the purchase of body-cams for the Police Department. Chief Weems discussed the terms of the maintenance agreement and the budget associated with the purchase.

Councilman Huckaby made a motion to approve Item 6.H. Councilman Huckaby duly seconded the motion, and the motion carried unanimously.

7. EXECUTIVE SESSION:

The Mayor and City Council adjourned into Executive Session at 7:55

8. Open for action, if any, on Executive Session item(s).

City Council returned from Executive Session and took action on the approval of the extension of the City Manager’s contract and agreement.

Councilwoman Belanger made a motion to extend the contract for the City Manager. Councilman Maule duly seconded the motion, and the motion carried unanimously.

A full recording of the Special City Council Meeting for November 5, 2024, may be viewed here: [Regular City Council Meeting - 20241105](#)

9. **ADJOURNED:** 8:15 p.m.

ATTEST:

Mayor, Randy Johnson
City Council
City of Nacogdoches

Rhonda Lewis, City Secretary



City Council Meeting

Date: December 3, 2024

Agenda Item: 5.K.

PRESENTER:

ITEM/SUBJECT: Consider approval of a resolution updating the designated authorized signatories regarding Texas Community Development Block Grant Program grant agreement number CDV23-0190. (Jennifer Lewis, GrantWorks).

SUMMARY/BACKGROUND: City of Nacogdoches staff positions are additional authorizing signatories on contractual documents, including documents for requesting funds, regarding Texas Community Development Block Grant Program (TXCDBG) grant agreement number CDV23-0190.

- (1) Executive Director of Development and Infrastructure
- (2) Director of Finance

FINANCIAL:

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

CITY CONTACT: Rhonda Lewis, City Secretary
lewisr@nactx.us
(936) 559-2506

- ATTACHMENTS:**
- 1. Nacogdoches_CDV23-0190_CD Resolution Authorizing Signatories draft
 - 2. Authorized Signatories - City of Nacogdoches

RESOLUTION AUTHORIZING SIGNATORIES

A RESOLUTION BY THE CITY COUNCIL OF CITY OF NACOGDOCHES DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (TXCDBG) GRANT AGREEMENT NUMBER CDV23-0190.

WHEREAS, The City of Nacogdoches has received a 2023 Texas Community Development Block Grant award to provide (03J) Water Line Service Improvement; and

WHEREAS, it is necessary to appoint persons to execute contractual documents, environmental review documents, and documents requesting grant funds from the Texas Department of Agriculture, and;

WHEREAS, all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.

NOW, THEREFORE, The City of Nacogdoches directs and designates the following to act in all matters in connection with this grant:

- The City Manager, and/or designee, shall serve as the Chief Executive Officer and Authorized Representative to execute contractual documents;
- The City Manager and/or designee, is authorized to review and execute environmental review documents between the Texas Department of Agriculture and the City of Nacogdoches; and
- The City Manager and/or designee, is authorized to execute the Request for Payment Form documents and/or other forms required for requesting funds to reimburse project costs

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, on this _____ day of _____, 2024.

Randy Johnson, Mayor
City of Nacogdoches

ATTEST:

Approved as to form:

Rhonda Lewis, City Secretary

Jerry Baker, City Attorney



November 25, 2024

Attn: Jennifer Lewis, MBA
Community Development Project Manager | GrantWorks
2201 Northland Drive, Austin, TX 78756
(512) 577-4020 | jenniferd@grantworks.net

Re: CDV23-0190 Additional Authorized Signatories

Please be advised that I am designating the following City of Nacogdoches staff positions as additional authorized signatories on contractual documents, including documents for requesting funds, regarding Texas Community Development Block Grant Program (TXCDBG) grant agreement number CDV23-0190:

- (1) Executive Director of Development and Infrastructure
- (2) Director of Finance

My designation authority for CDV23-0190 additional signatories will be considered for support by resolution of the Nacogdoches City Council on December 3, 2024.

Sincerely,

Richard B. Beverlin, III
City Manager



City Council Meeting

Date: December 3, 2024

Agenda Item: 6.A.

PRESENTER: Jennifer Lewis, GrantWorks

ITEM/SUBJECT: Receive a presentation of the TDA Form A1024 CDBG Section 3 Program Goals. Presentation for the TxCDBG Project CDV23-0190. (Jennifer Lewis, Community Development Project Manager - GrantWorks)

SUMMARY/BACKGROUND: TDA issued a revised Section 3 Rule, Policy Issuance CDBG 20-01 on July 1, 2021, that now applies to all projects receiving CDBG funds. As part of this policy issuance, localities are required to present the Section 3 CDBG program goals in a City Council meeting. The intent of the Section 3 Program goals is to promote economic opportunities for low- and very low-income persons in projects using CDBG funds.

HUD published a final rule updating requirements related to Section 3 of the Housing and Urban Development Act of 1968, as amended, which became effective on November 30, 2020. The Texas Department of Agriculture issued Policy Issuance CDBG 20-01 on July 1, 2021, to update the Section 3 requirements within the CDBG Implementation Manual. The purpose of the final rule is to improve the reporting and promotion of economic opportunities for low- and very low-income persons in projects using CDBG funds.

FINANCIAL:

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

CITY CONTACT: Rhonda Lewis, City Secretary
lewisr@nactx.us
(936) 559-2506

ATTACHMENTS: 1. A1024 Section 3 Nacogdoches Presentation to Local Community

A1024 Section 3 Presentation: City of Nacogdoches - CDV23-0190



The City of Nacogdoches recently received the following grant award:

- Grant Contract No. Nacogdoches CDV23-0190
- Award Amount: \$500,000
- **Project:** Water line replacement on MLK Jr. Boulevard – The contractor shall install approximately two thousand six hundred linear feet (2,600 l.f.) of eight-inch (8 in.) water line including valves, capping of existing water lines, fire hydrants, related pavement repair and service reconnections, and all associated appurtenances.



The grant is funded through the
Community Development Block Grant, via:

- U.S. Department of Housing and Urban
Development

and

- Texas Department of Agriculture



Section 3 Concepts

- As a condition of funding, the City of Nacogdoches must comply with Section 3 of the Housing and Urban Development Act of 1968.
- To the greatest extent feasible, Grant Recipients must direct economic opportunities generated by CDBG funds to low- and very low-income persons.



Section 3 Concepts

In part, this means ensuring that:

- Section 3 Businesses have the information to submit a bid or proposal for the project; and
- Section 3 Workers have information about any available job opportunities related to the project.

For precise definitions, see TxCDBG Policy Issuance 20-01



Section 3 Business

A company may qualify as a Section 3 Business if:

- it is owned by low-income persons;
- it is owned by Section 8 assisted housing residents; or
- 75% of all labor hours for the business in a 3-month period are performed by Section 3 Workers

Register at:

- HUD's Section 3 website: <https://ddoct.org/hud-section-3-opportunity-portal/>
- Certify as a Section 3 Business (Form A1023)



Section 3 Business

This project is expected to include the following contracting opportunities:

- Grant Administration services – GrantWorks Inc.
- Engineering Services – KSA Engineer
- Prime Contractor for Water/Sewer Improvements – Nacogdoches



Section 3 Worker

You may qualify as a Section 3 Worker if:

- Your annual income is below the county threshold for your family size:
- You are a current or recent Youthbuild participant

Register your information and search for opportunities at:

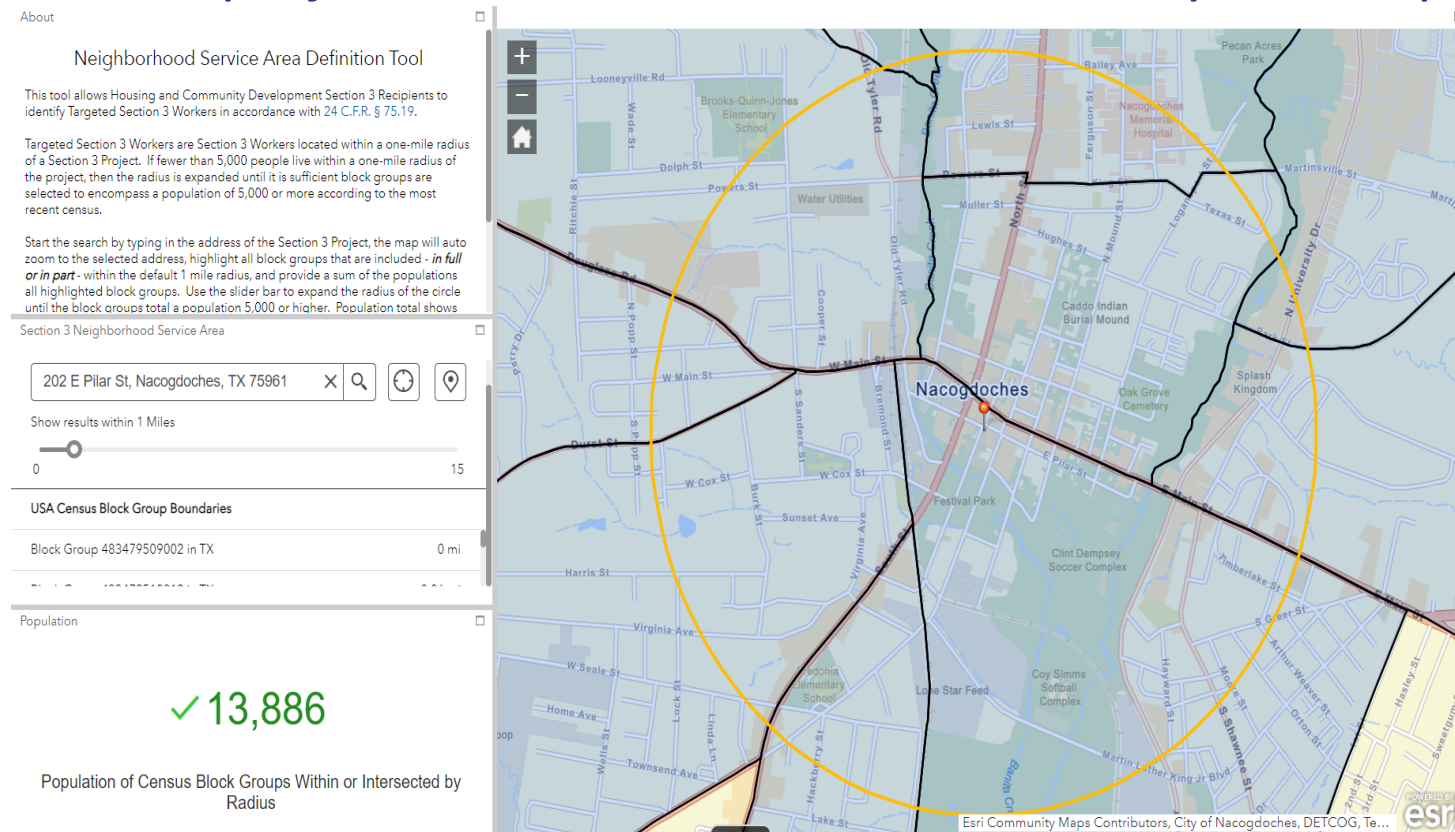
- WorkInTexas.com



Targeted Section 3 Worker

Section 3 Workers that reside near the project location may also qualify as Targeted Section 3 Workers.

For this project, that service area is defined by this map:





Recordkeeping

The City of Nacogdoches will track all hours worked on the project based on the three categories of workers.

This will require collection of certain income information.





For More Information

TxCDBG Policy Issuance 20-01

[REVISED Policy Issuance 20-01 Section 3 v1.pdf](#)
texasagriculture.gov

24 CFR Part 75

[Electronic Code of Federal Regulations \(eCFR\)](#)

Rhonda Lewis, City Secretary (936) 559-2506

PRESENTER: Juan Pollette, Interim City Planner

ITEM/SUBJECT: Public Hearing Continuance: Proposed Zone Change from R-2, Single Family to R-3, Two Family for approximately 1 acre, on Lot(s) 1&2, of the Larry Wade Subdivision and Lot(s) 6, 7, 8, 9, & 10, City Block 47, generally located on the north side of Powers Street, approximately 350 feet east of the Ritchie Street and Powers Street intersection. Case File ZON2024-04. (Interim City Planner)

SUMMARY/BACKGROUND: This public hearing is a continuance from the November 5, 2024, City Council meeting. The request is for a zone change from R-2, Single Family to R-3, Two Family for seven lots totaling approximately 1 acre, located on the north side of Powers Street just east of Ritchie Street. The R-3, Duplex Dwelling District creates a residential district which is appropriate for both single-family housing and two-family housing. Lots in the R-3 district must be 5,000 square feet and larger. The applicant owns the subject properties, and intends to develop the vacant lots with two-family (duplex) residences.

Adjacent Land Use & Zoning

The subject property is zoned R-2, Single Family and is currently undeveloped. The surrounding zoning and land uses are as follows:

Direction	Comprehensive Plan	Zoning	Land Use
North	Single-Family Residential	R-2, Single Family	Single-Family
South (Across Powers St.)	Single-Family Residential	R-2, Single Family	Single-Family
East	Single-Family Residential	R-2, Single Family	Single-Family
West	Single-Family Residential	R-2, Single Family	City Property

The area is primarily zoned R-2 and developed with single-family residences along with several two-family district zoning lots which were previously approved in 2022 just east of this location. The lots in this area are similar in size and configuration.

REVIEW CRITERIA: Per Section 118.139 of the Nacogdoches Zoning Ordinance, the following conditions shall be considered when reviewing an application for zoning change:

Compatibility: The specific use will be compatible with and not injurious to the use and enjoyment of other property in the immediate vicinity, nor significantly diminish or impair property values within the immediate vicinity;

The area is zoned and developed with single-family detached residences, and in the staff's opinion, duplex housing would not significantly impact the overall density or character of the neighborhood, while providing more affordable housing in proximity to a public school. Similar duplexes were constructed last year one block east of the subject properties after the approval of a zone change from single-family to two-family (duplex) zoning in 2022.

Orderly Growth and Development: The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property;

The surrounding properties are mostly developed, with the exception of a few vacant lots located south of Powers St. The rezoning would not impede the orderly growth of adjacent properties.

Supporting Facilities: Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;

The subject properties take direct access from Powers Street, which is a two-lane asphalt road with a ROW of approximately 36 feet. The properties have access to public utilities, with 6-inch water and 6-inch sewer mains located along Powers Street.

Drives and Parking: The design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;

Future development will meet all current driveway and parking requirements.

Nuisances: Adequate nuisance-prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;

Future development will comply with City regulations regarding the prevention of offensive odor, fumes, dust, noise and vibrations.

Lighting: Any lighting to be provided will be directional so as not to disturb or adversely affect neighboring properties;

If the zone change request is approved, any new outdoor lighting would be subject to the City's current standards, which require light fixtures to utilize a down lighting design and prohibit fixtures that directly project light in all directions.

Landscaping: Sufficient landscaping and screening to ensure harmony and compatibility with adjacent property exists or will be provided;

Single-family construction is not subject to commercial district landscaping requirements.

Comprehensive Plan: The proposed use is in accordance with the comprehensive plan.

Future Land Use

Per the 2003 Nacogdoches Comprehensive Plan, the Future Land Use Plan (FLUP) Map designates the subject property as *Single Family Residential*. This FLUP category is described as, "Conventional one-family detached dwellings (also includes duplexes)."

Thoroughfare Plan

Powers Street is a paved asphalt local street that serves as direct access for residential uses in the area. This two-laned roadway is adequate to accommodate the nature and volume of traffic typically generated by the proposed use.

Land Use Policies, Goals & Objectives

This rezoning is a response to current needs for residential growth and therefore fits into the goals of the Comprehensive Plan; specifically, the goal to encourage *Growth Inward* – Long-term growth in appropriate areas to achieve an efficient, diverse, and balanced pattern of land uses both within the City and urbanizing portions of its extraterritorial jurisdiction. Some of the

targeted objectives include:

- Encourage infill development where appropriate (utilities, compatibility, etc.).
- Plan for mixing and/or separation of land use types based on desire, location, density and pattern of development.
- Promote growth where adequate infrastructure exists.

This request also furthers the Land Use Policies of the 2003 Comprehensive Plan, specifically:

- Compatibility with existing uses should be maintained. Well-planned, mixed uses which are compatible are to be encouraged.
- Schools, parks, and community facilities should be located close to or within residential neighborhoods.

Staff finds that the request is in compliance with the FLUP and the stated Goals and Objectives of the 2003 Comprehensive Plan.

NOTICES:

Staff mailed 25 notices to property owners within the 200-foot notification area. Staff has not received any responses in opposition or in favor of the zone change request.

NEIGHBORHOOD INPUT:

Staff held a neighborhood meeting for the property owners within 500 feet on September 18, 2024, at 5:30 p.m., to discuss and answer questions about the request. One of the neighboring property owners attended the meeting in support of the zone change and proposed duplex development.

This zoning application was also subject to the additional noticing practices that were approved by City Council in January 2021. These include a zoning sign located on the subject property; notices published on the City's webpage and social media platforms; and, mailed courtesy notices to property owners within 500 feet of the subject property.

P&Z Recommendation

The Planning & Zoning Commission heard this item on October 14, 2024, and voted unanimously (5-0) to recommend approval of the zoning change from R-2, Single Family to R-3, Two Family.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

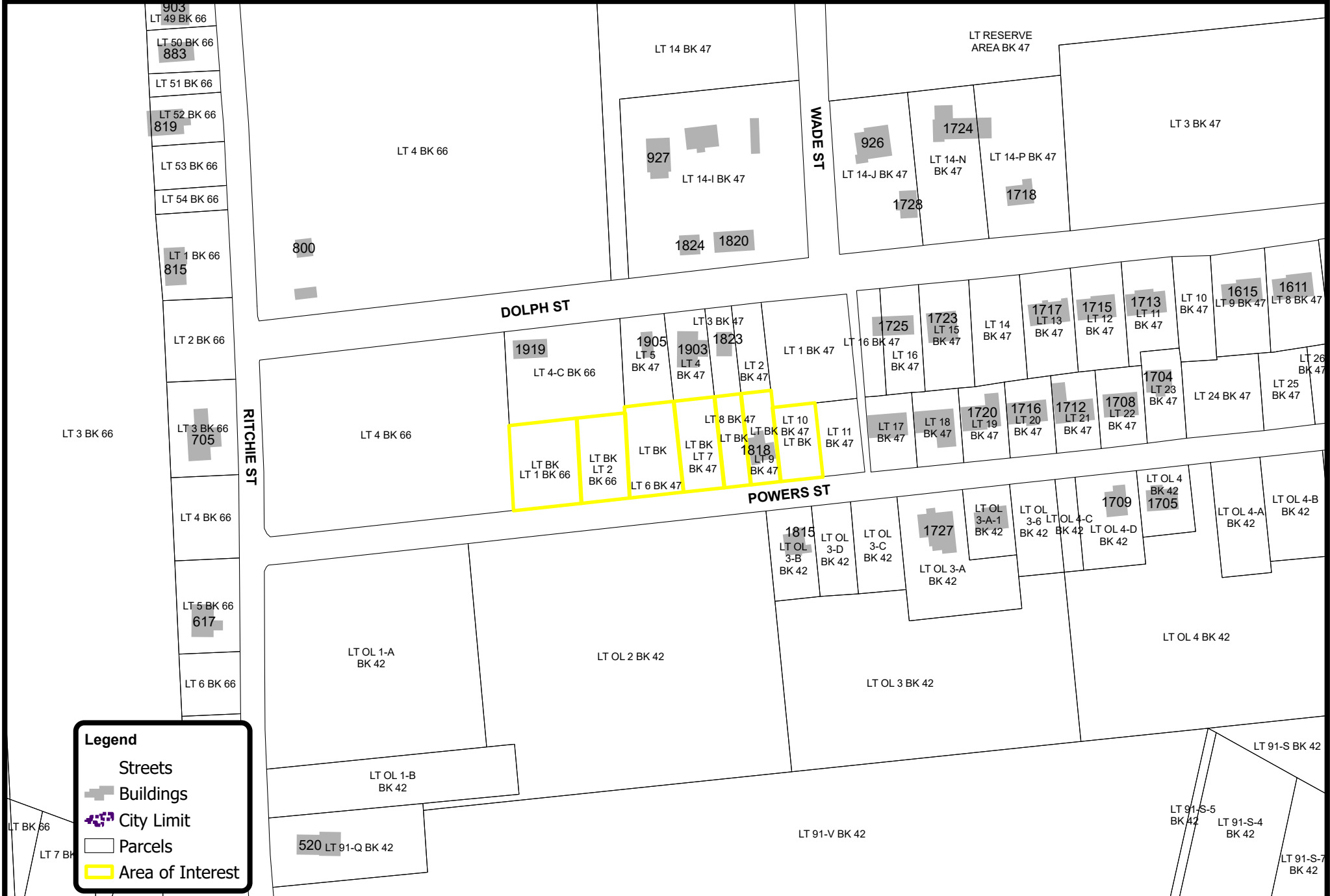
Not Applicable

CITY CONTACT: Juan Pollette, Interim City Planner
pollettej@nactx.us
(936) 559-2559

ATTACHMENTS: 1. Location Map
2. Aerial Map

3. Zoning Map
4. Future Land Use Map
5. Notification Map
6. Response Form
7. Site Photos
8. Ordinance

ZON2024-04 Location Map



A horizontal number line with tick marks at 0, 70, 140, 210, and 280. The label "280 Feet" is at the right end.

Date Created: 09/18/24 16:46 | Document Generated Automatically

Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

ZON2024-04 Aerial Map



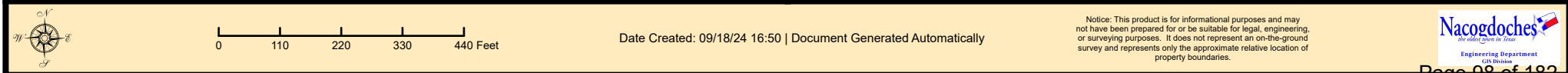
0 70 140 210 280 Feet

Date Created: 09/18/24 16:49 | Document Generated Automatically

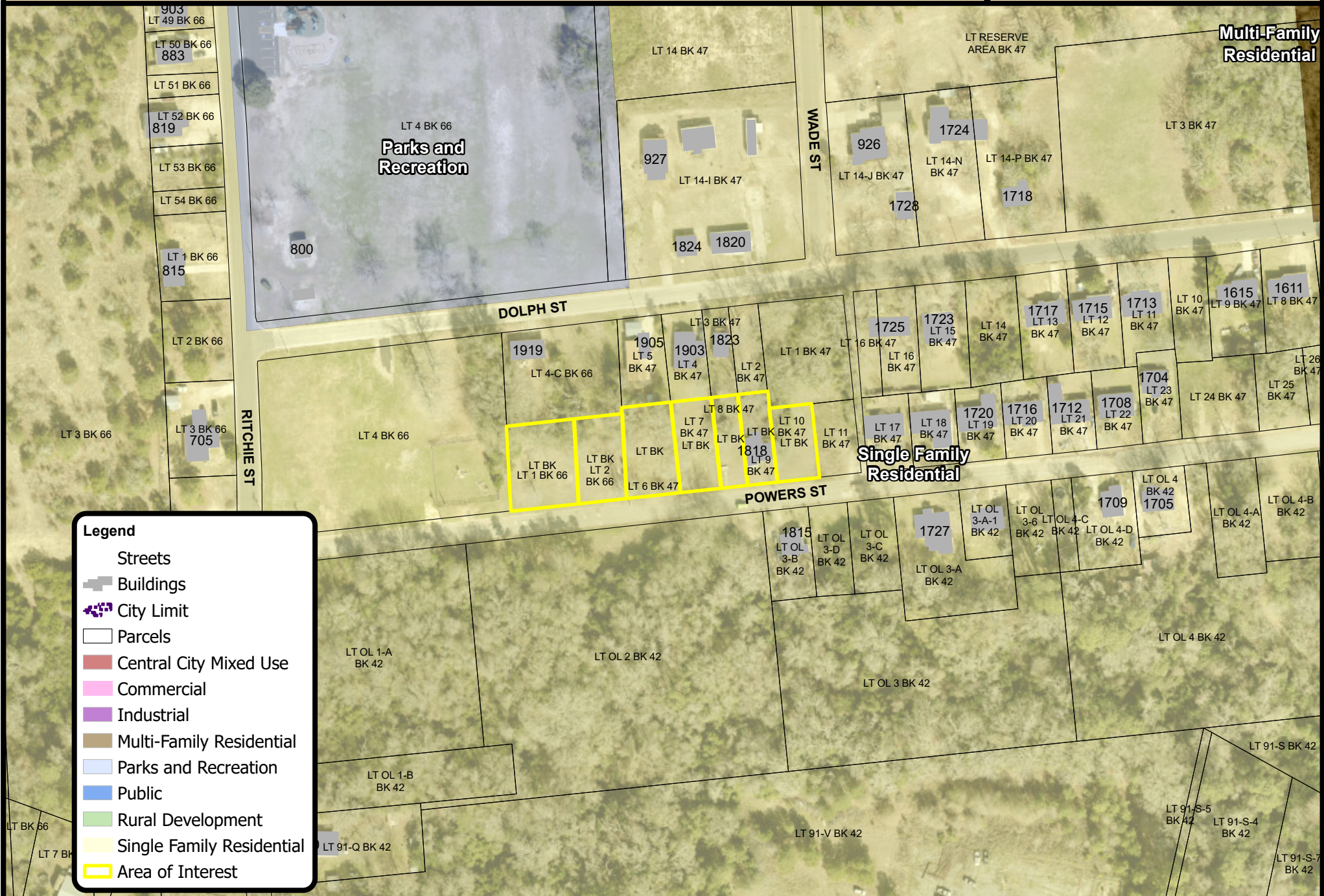
Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



Proposed Zoning



ZON2024-04 Future Land Use Map



200 Foot Notification Map

Legend

 200 Foot Buffer

 Proposed Zone Change

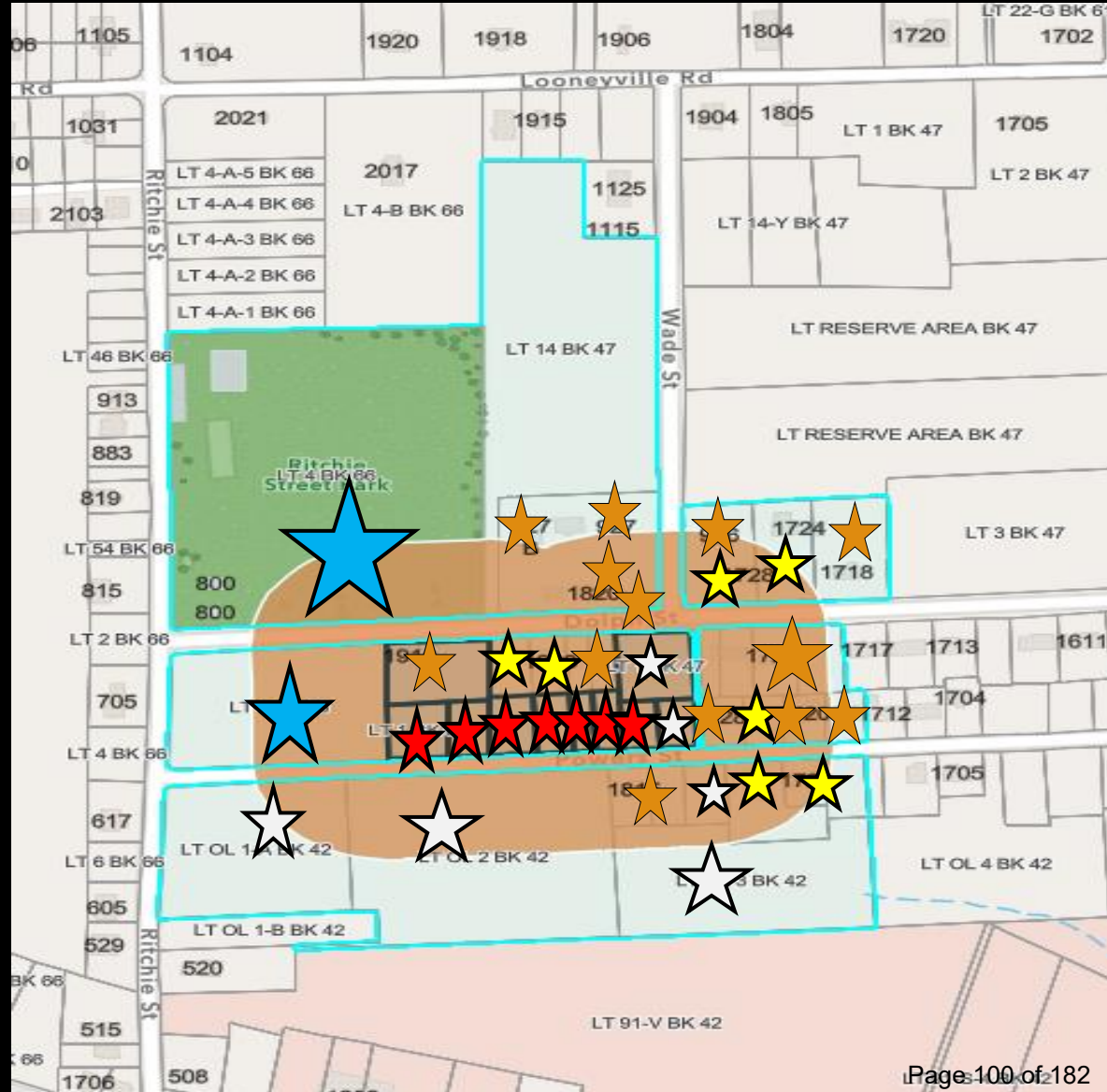
 Single-Family- Rental

 Single-Family-
Owner Occupied

 Vacant

 Park

ZON2024-04: Powers Street



Nacogdoches

the oldest town in Texas

Response Form

Project Number: ZON2024-04

1800 AND 1900 BLOCK OF POWERS ST.

You may make your views known by completing this form and returning it to the Planning & Zoning Department. You may also make your views known in person by attending the public hearings. **All response forms and written protests must be submitted no later than Monday, October 14, 2024, by 12:00 p.m. Protests and responses submitted after this deadline will not be accepted.**

Please complete and return the form to:

City of Nacogdoches Planning & Zoning Department

Attn: Aimee Cloutier

PO Drawer 635030

Nacogdoches, TX 75963

You may also email a copy to Aimee Cloutier at pz@nactx.us

Project Number: ZON2024-04

Please circle one:

☐ In favor of request

☒ Opposed to request

Comments: We STRONGLY OPPOSE approval of the requested zoning change from R2 to R3. We support the building of Single Family Residence for which these lots are zoned. The addition of many two-family units, in limited space and lot size will increase the number of people in an area for less population density and may exceed density ranges for number of proposed 2-Family units and onsite parking. Will there be impacts to water runoff, water/sewer infrastructure/demand? We feel any new development should fit/match the existing/surrounding Single Family homes within this community. We DO NOT support this zoning change of R2 to R3!

Signature:

Stacey D. Freeman

Printed Name:

Stacey D. Freeman

Street Address:

752 CR 508

City, State and Zip Code:

Nacogdoches, Texas 75961

Phone Number:

760 805 1668

Email Address:

doches04@yahoo.com

Physical Address of Property within 200 Feet:

1728 Powers Street, Nacogdoches TX 75961

City of Nacogdoches

202 E. Pilar – PO Drawer 635030 – Nacogdoches, TX 75963

936-559-2574 Fax 936-559-2910 www.nactx.us

Home of Stephen F. Austin State University www.sfasu.edu

Site Photos: ZON2024-04

View of subject property
from Powers St.





View of SFR's along
Powers St.





Street view looking east
Along Powers St.

View of City Property on
corner of Powers and
Ritchie St.



Newly constructed
duplex's along Powers
and Dolph St.



ORDINANCE NO.

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, AMENDING THE BOUNDARIES OF A ZONING DISTRICT WITHIN THE CITY OF NACOGDOCHES FROM R-2, SINGLE-FAMILY TO R-3, TWO-FAMILY LEGALLY DESCRIBED APPROXIMATELY 1 ACRE OF LAND, BEING LOT(S) 6, 7, 8, 9, & 10, CITY BLOCK 47 AND LOTS 1 & 2 OF THE LARRY WADE SUBDIVISION, LOCATED AT 808 EAST LANE DRIVE AND 2924 HUNTER STREET, GENERALLY LOCATED ON THE NORTH SIDE OF POWERS STREET, APPROXIMATELY 350 FEET EAST OF THE RITCHIE STREET AND POWERS STREET INTERSECTION, LOCATED IN NACOGDOCHES, TEXAS; CONTAINING FINDINGS; PROVIDING A REPEAL CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Zoning Ordinance of the City of Nacogdoches allows the City Council to amend the official zoning map; and

WHEREAS, the property described above and depicted in “**Exhibit A**” is currently zoned R-2, Single-Family; and

WHEREAS, the property owner has requested the zoning classification of said property to be changed to R-3, Two-Family; and

WHEREAS, the City Council of the City has conducted, in the time and manner and after the notice required by law and the Zoning Ordinance of the City, a public hearing on such request for change in zoning classification; and

WHEREAS, the City Council now deems it appropriate to grant such a requested change in classification.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS:

SECTION I

Findings.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct, and same are deemed to be in furtherance of a public purpose.

SECTION II

Approval of Zoning Change

Pursuant to the requirements of Chapter 118 of the Code of Ordinances of the City of Nacogdoches, Texas, a change in Zoning Classification from R-2, Single-Family to R-3, R-3, Two-Family is hereby approved by the City Council.

SECTION III

Repeal

This Ordinance shall in no manner repeal, amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting change in Zoning Classification as herein provided.

SECTION IV

Effective Date

This Ordinance shall take effect following its passage and publication as may be required by governing law.

SECTION V

Severability

If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION VI

Proper Notice and Open Meetings

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION VII

Filing

The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City of Nacogdoches, Texas.

PASSED AND APPROVED, this the ____ day of November 2024, by a vote of ____ (ayes) to ____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
RANDY JOHNSON, Mayor

ATTEST:

APPROVED AS TO FORM:

RHONDA LEWIS, City Secretary

JERRY BAKER, City Attorney

APPROVED AS TO CONTENT:

JUAN POLLETTE, Interim City Planner

EXHIBIT "A"



PRESENTER: Juan Pollette, Interim City Planner

ITEM/SUBJECT: Public Hearing: Conduct a Public Hearing and consider action regarding Specific Use Permit Case SUP2024-08 to allow for Mini Warehouse in a B-2 General Business District on two (2) parcels of land approximately 1.8 acres $\pm$ in size, more particularly described by Nacogdoches Central Appraisal District Parcels 26295 and 26299; and generally located north of the intersection of Douglass and Wankan Road, Nacogdoches, Nacogdoches County, Texas. (Interim City Planner)

SUMMARY/BACKGROUND: The applicant is requesting a Specific Use Permit (SUP) to allow for a Mini Warehouse storage facility at 2412 and 2418 Douglass Road. The property is located on two parcels spanning approximately 1.8 acres and zoned B-2 General Business.

The B-2 General Business zoning district is intended to accommodate those business activities that are oriented toward the automobile, or whose operations may require limited truck access. Generally, this district is located along major traffic arteries where strip business development exists. Mini Warehouse is a permitted use in the B-2 General Business zoning district with approval of an SUP. The SUP process allows the City to review the requested use and impose conditions, if necessary, on such development.

The subject property is currently developed with a general office building located at 2418 Douglas Road, as well as two additional structures used for storage that are addressed at 2412 and 2408 Douglass Road. The applicant is proposing to remove the structure addressed at 2408 from the property and construct five (5) storage buildings with an office surrounded by a chain-link security fence as shown on the site exhibit.

Abutting Zoning & Land Use

The property is zoned B-2 General Business, and the surrounding zoning and land uses are as follows:

Direction	Zoning	Land Use
North	B-2 General Business	Residential
East	B-2 General Business	Commercial
South	B-2 General Business	Residential
West	B-2 General Business	Commercial

The property and surrounding area are zoned B-2 General Business. This area is developed with commercial uses east and west of the subject property along the north side of Douglass Road. There are several legal non-conforming residential uses to the north of the subject property as well as south of Douglass Road.

OWNER / AGENT:

Sandy McCorvey

REVIEW CRITERIA:

Per Section 118.173 of the Nacogdoches Code of Ordinances, the following factors are to be considered in SUP review:

Compatibility. The specific use will be compatible with and not injurious to the use and enjoyment of other property in the immediate vicinity, nor significantly diminish or impair property values within the immediate vicinity;

Mini Warehouse storage facilities are distinct from typical commercial Warehouse/storage facilities in that Mini Warehouse storage is characterized by a building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property. Commercial warehouse/storage is typically for goods or materials for sale in a business located on the premises or for commercial distribution. Mini Warehouse storage facilities are often met with objections from surrounding properties due to concerns about esthetics, hours of operation, and overall design. These facilities generate little traffic in comparison to other land uses permitted in the B-2 General Commercial zoning district, and typically there are few employees and a low density of customers onsite at any given time. Proposed office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday. This facility will be gated, and gate access hours are not limited. The proposed land use is low-intensity in nature, and there is no history of code enforcement cases at this location. Staff believes the proposed use is compatible with existing land uses surrounding the development and will not adversely affect adjacent properties or interfere with current quality of life of the surrounding residential developments.

Orderly growth and development. The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property;

The surrounding properties are all developed. Therefore, the use as a Mini Warehouse storage facility will not impede development of vacant property.

Supporting Facilities. Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;

The site is adequately served with all basic utilities.

Drives and Parking. The design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;

All parking areas and drives conform to current development standards. The entrance driveway at this location is approximately 25 feet wide, which is within the guidelines permitted for commercial driveways. The office will be approximately 500 square feet, which will require a minimum of two (2) parking spaces. The internal drive aisles located between the buildings are approximately 20 feet wide, which is an adequate width to allow parallel, temporary customer parking on each side of the drive aisle.

Nuisances. Adequate nuisance-prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise and vibration;

Mini Warehouse storage facilities generate little vehicle traffic when compared with other land uses permitted in the B-2 General Commercial zoning district.

Lighting. Any lighting to be provided will be directional so as not to disturb or adversely affect neighboring properties;

This development is required to comply with City ordinances regarding outdoor lighting (i.e., only downlighting, no spillover lighting onto neighboring properties).

Landscaping. Sufficient landscaping and screening to ensure harmony and compatibility with adjacent property exists or will be provided;

This development is required to comply with City ordinances regarding commercial landscaping. Currently, there is little to no trees or landscaping along Douglass Road or Wankan Road.

Comprehensive Plan. The proposed use is in accordance with the comprehensive plan.

The 2003 Future Land Use Plan designates this area as Commercial (Shopping and service facilities for the sale of goods and services, including small shops and larger retail stores and centers, restaurants, hotels and motels, service stations, and various other customer-oriented establishments). Staff believes the Future Land Use designation is consistent with B-2 General Business zoning. Approval of this SUP will not change the land uses permitted by the current zoning district.

PUBLIC ENGAGEMENT:

- September 18, 2024 – Staff mailed twenty-four (24) neighborhood meeting notice postcards to property owners within 500 feet.
- October 2, 2024 – Staff coordinated a neighborhood meeting at City Hall on behalf of the applicant to receive input from surrounding property owners. Three (3) persons attended the meeting with general questions about the development. None were opposed.
- October 29, 2024 – Staff mailed fourteen (14) public meeting notice letters to property owners within 200 feet and ten (10) notice postcards to property owners within 500 feet. No responses were received in favor or opposition to the request.
- November 3, 2024 – Legal ad published in the Daily Sentinel newspaper.

NOTE – This application is subject to additional notification procedures, including signage posted on the subject property, as well as notices on the City website and social media pages.

P&Z ACTION:

The Planning & Zoning Commission heard this item on November 18, 2024, and voted unanimously (4-0) to recommend approval with the following conditions:

1. Office hours are from 9 a.m. to 5 p.m., Monday through Friday.
2. Owner will construct a 6-foot-tall chain-link security fence around the perimeter with a coded gate entry.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

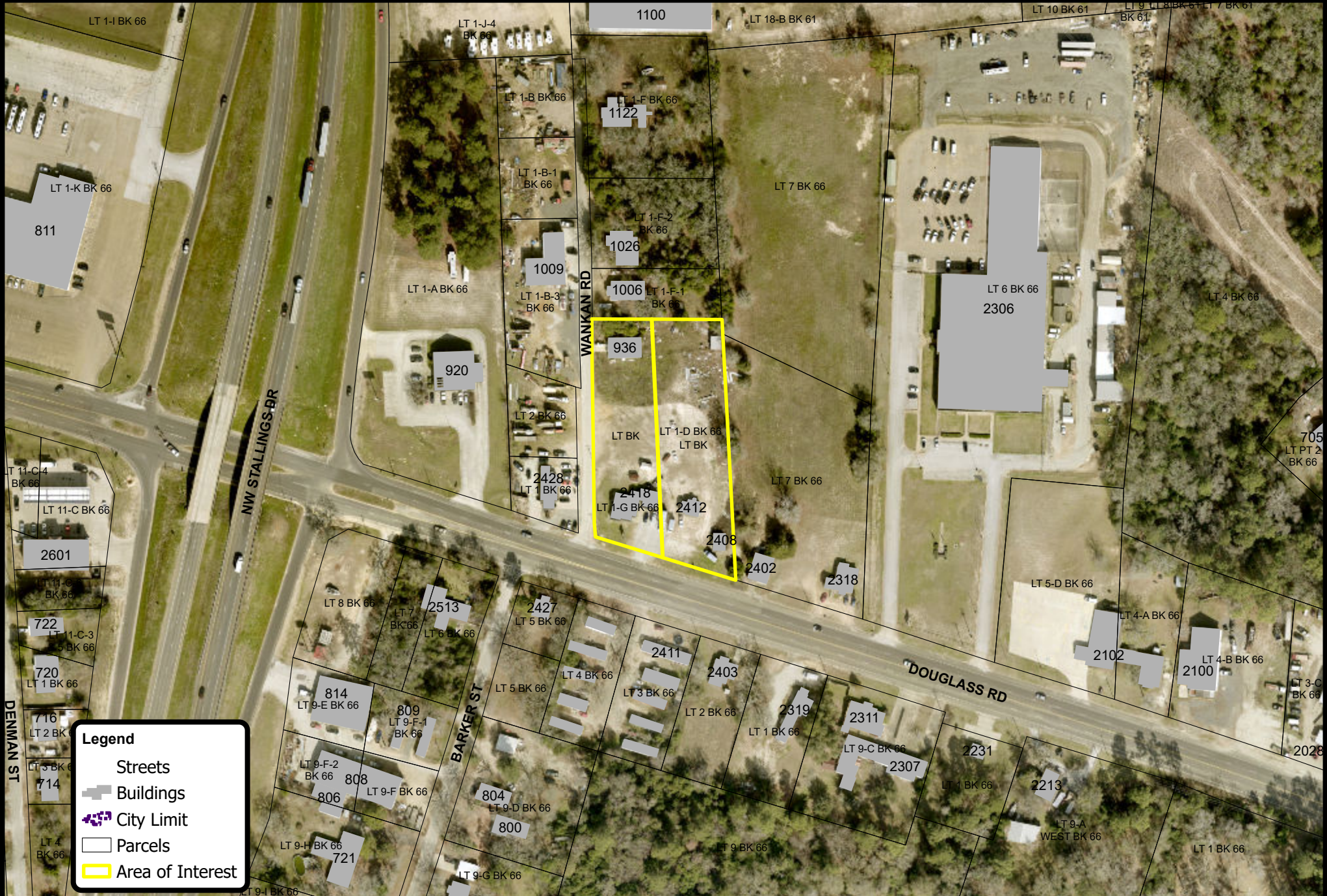
Not Applicable

CITY CONTACT: Juan Pollette, Interim City Planner
pollettej@nactx.us
(936) 559-2559

ATTACHMENTS:

1. Aerial Map
2. Zoning Map
3. Future Land Use Map
4. Notification Map
5. Site Photos
6. Ordinance

SUP2024-08 Aerial Map



A horizontal number line with tick marks at 0, 80, 160, 240, and 320. The label "Feet" is at the right end.

Date Created: 10/30/24 15:47 | Document Generated Automatically

Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

SUP2024-08 Zoning Map



Legend

- Streets
- Buildings
- City Limit
- Parcels
- A - Agriculture
- B-1 - Local Business
- B-2 - General Business
- B-3 - Central Business
- DA - Development Agreement
- I-1 - Light Industrial
- I-2 - Heavy Industrial
- M - Medical
- PD - Planned Development
- R-1 - Single Family
- R-2 - Single Family
- R-3 - Two Family
- R-4 - Multi Family
- Area of Interest

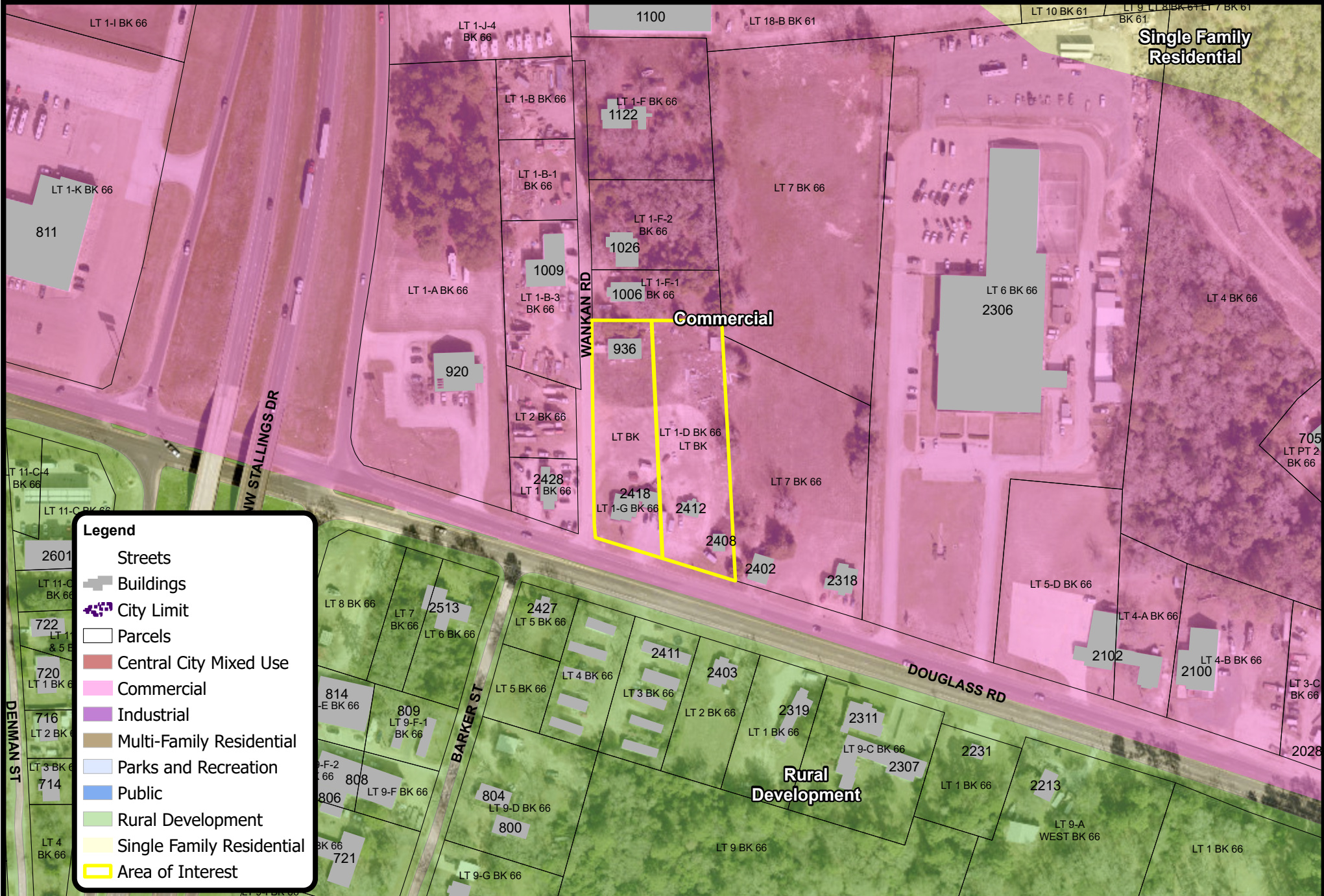


0 80 160 240 320 Feet

Date Created: 10/30/24 15:38 | Document Generated Automatically

Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

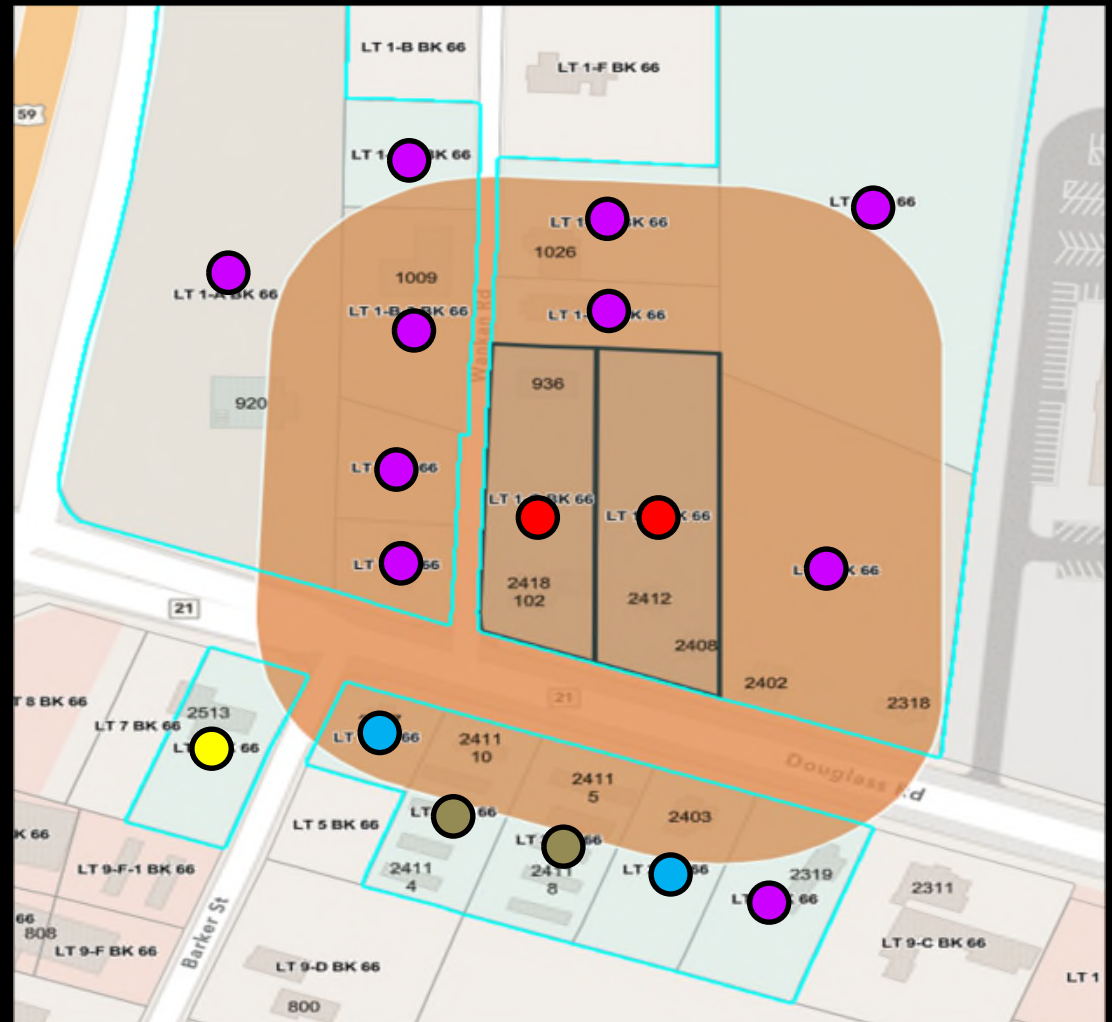
SUP2024-08 Future Land Use Map



200-FT Notification Map

SUP2024-08
2412 & 2418 Douglas Road

Legend	
	200-ft Buffer
	Proposed SUP
	Commercial
	SF Owner
	SF-Rental
	Multi-Family



SUP2024-08 Site Photos

View of subject property from Douglass Rd.





View looking east along
Douglass Road

View looking west along
Douglass Road





Mobile home park south
across Douglass Road

SFR south across
Douglass Road



Commercial property
west of subject property.

Wankan Road to the west
of subject property



ORDINANCE NO.

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, GRANTING A SPECIFIC USE PERMIT FOR MINI WAREHOUSE LOCATED WITHIN THE B-2, GENERAL BUSINESS ZONING DISTRICT, LEGALLY DESCRIBED AS APPROXIMATELY 1.8 ACRES, PARCEL(S) 26295 AND 26299 AND GENERALLY LOCATED NORTH OF THE INTERSECTION OF DOUGLASS AND WANKAN ROAD, IN NACOGDOCHES, TEXAS, PROVIDING REQUIREMENTS AND CONDITIONS FOR SAID SPECIFIC USE PERMIT; CONTAINING FINDINGS; PROVIDING A REPEAL CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Specific Use Permit process allows the Planning and Zoning Commission and City Council to consider the conditions specific to individual tracts of land and the operational characteristics of various businesses; and

WHEREAS, Sandy McCorvey, filed an application for a Specific Use Permit for Mini Warehouse on property that is currently zoned as B-2, General Business; legally described as approximately 1.8 acres, Parcel(s) 26295 and 26299, generally located north of the intersection of Douglass and Wankan Road (the “Property”), and situated within the corporate limits of the City of Nacogdoches, Texas (the “City”), being more particularly described in **Exhibit “A”**, attached hereto and made a part hereof for all purposes; and

WHEREAS, the Owner of the Property, has presented an application to the City for the granting a Specific Use Permit to use said Property for the purpose of Mini Warehouse (the “Specific Use”), as authorized by the City's Zoning Ordinance; and

WHEREAS, after satisfaction of all conditions precedent required by law, the Planning and Zoning Commission held a public hearing and did make recommendation to the City Council for approval of the Specific Use Permit application submitted for the above-referenced site; and

WHEREAS, after satisfaction of all conditions precedent required by law and receiving the recommendation of the Planning and Zoning Commission, the City Council conducted a public hearing, and immediately thereafter approved the application for a Specific Use Permit allowing for the construction, operation, and maintenance for Mini Warehouse.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS:

SECTION I
Findings.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct, and same are deemed to be in furtherance of a public purpose.

SECTION II
Approval of Specific Use Permit

Pursuant to the requirements of Chapter 118 of the Code of Ordinances of the City of Nacogdoches, Texas, a Specific Use Permit is hereby approved allowing for the construction, operation, and maintenance of Mini Warehouse at the above-described location, with the following conditions:

- a) Hours of Operation are Monday through Friday from 9:00 a.m. to 5:00 p.m. each day.
- b) Construct a 6-foot-tall chain-link security fence around the perimeter with a coded gate entry.

SECTION III

Repeal

This Ordinance shall in no manner repeal, amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting of the Specific Use Permit as herein provided.

SECTION IV

Effective Date

This Ordinance shall take effect following its passage and publication as may be required by governing law.

SECTION V

Severability

If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION VI

Proper Notice and Open Meetings

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION VII

FILING

The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City of Nacogdoches, Texas.

**PASSED AND APPROVED, this the ____ day of December 2024, by a vote of ____ (ayes) to
____ (nays) of the City Council of the City of Nacogdoches, Texas.**

CITY OF NACOGDOCHES

By: _____
Randy Johnson, Mayor

ATTEST:

APPROVED AS TO FORM:

Rhonda Lewis, City Secretary

Jerry Baker, City Attorney

APPROVED AS TO CONTENT:

Juan Pollette, Interim City Planner

EXHIBIT "A"

PRESENTER: Case Opperman, Director of Public Works

ITEM/SUBJECT: Consider approval of an Indefinite Deliverable Indefinite Quantity contract by and between the City of Nacogdoches and WBI, Inc. for WWTP Digester Sludge Removal Services for a not-to-exceed amount of \$354,900.00 (Director of Public Works).

SUMMARY/BACKGROUND: Digesters at the Wastewater Treatment Plant (WWTP) are part of the treatment process in which microorganisms break down biodegradable material. Sludge from the two digesters is pumped to belt presses where it is dewatered prior to final disposal. Over the course of time, sludge can build up in the digesters requiring periodic removal.

On November 12, 2024, the City received bids for WWTP Digester Sludge Removal Services. Seven (7) contractors submitted bids as follows, based on an estimated quantity of sludge to be removed:

WBI, Inc.	\$ 354,900.00
Synagro of Texas-CDR	\$ 400,950.00
Clean Infusion	\$ 475,389.00
Mobile Solid Solutions	\$ 673,000.00
Magna Flow Environmental	\$ 768,000.00
Sciphyn	\$ 899,356.00
Merrell Bros., Inc.	\$ 971,500.00

WBI, Inc. was found to be the lowest responsible bidder. They are a Kingwood-based contractor who has performed similar services for the City in the past. It is recommended that the contract for this project be awarded to WBI, Inc. for the amount of \$354,900.00. Due to the undefined quantity of sludge to be removed, this will be an Indefinite Deliverable Indefinite Quantity contract. There is a budget available for these services in the FY24-25 budget.

FINANCIAL:

Item is budgeted:

Account No.: 30.39 680.97
Account Name: *Wastewater Treatment - CIP*
Amount: \$ 354,900.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Infrastructure

CITY CONTACT: Case Opperman, Director of Public Works/City Engineer
oppermanc@nactx.us
(936) 559-2515

- ATTACHMENTS:**
1. Bid Tab
 2. Contract Documents
 3. PowerPoint

				WBI, Inc.		Synagro of Texas-CDR		Clean Infusion		Mobile Solid Solutions		Magna Flow Environmental	
Item	Est. Quan.	Unit	Description	Unit Price	TOTAL	Unit Price	TOTAL	Unit Price	TOTAL	Unit Price	TOTAL	Unit Price	TOTAL
1.	1	LS	Mobilization/Demobilization	\$7,500.00	\$7,500.00	\$49,950.00	\$49,950.00	\$90,639.00	\$90,639.00	\$70,000.00	\$70,000.00	\$3,000.00	\$3,000.00
2.	1,800	Wet Ton	Sludge Removal Services	\$193.00	\$347,400.00	\$195.00	\$351,000.00	\$213.75	\$384,750.00	\$335.00	\$603,000.00	\$425.00	\$765,000.00
TOTALS				\$354,900.00		\$400,950.00		\$475,389.00		\$673,000.00		\$768,000.00	

				Sciphyn		Merrell Bros., Inc.	
Item	Est. Quan.	Unit	Description	Unit Price	TOTAL	Unit Price	TOTAL
1.	1	LS	Mobilization/Demobilization	\$24,700.00	\$24,700.00	\$71,500.00	\$71,500.00
2.	1,800	Wet Ton	Sludge Removal Services	\$485.92	\$874,656.00	\$500.00	\$900,000.00
TOTALS				\$899,356.00		\$971,500.00	



INVITATION TO BID

ANNUAL SERVICE REQUIREMENTS for INDEFINITE DELIVERY and INDEFINITE QUANTITIES

Bid #: 25-10-103

WASTEWATER TREATMENT PLANT DIGESTER SLUDGE REMOVAL SERVICES

Bids must be received before:
Tuesday, November 12, 2024
2:00 PM

City Hall
Engineering Division
202 E. Pilar Street, Room 239
Nacogdoches, Texas 75961

Refer Inquiries To:

Case Opperman, PE – Director of Public Works/City Engineer
City of Nacogdoches
Public Works Department
(936) 559-2515
Email: oppermanc@nactx.us

TABLE OF CONTENTS

INTRODUCTION

DEFINITIONS

INSTRUCTIONS to BIDDERS

STANDARD TERMS and CONDITIONS

SPECIAL TERMS and CONDITIONS

TECHNICAL SPECIFICATIONS

QUOTATION FORM

CERTIFICATION and ACKNOWLEDGMENT

STANDARD SERVICES AGREEMENT

INTRODUCTION

Bids are solicited for **WWTP Digester Sludge Removal Services** with the following definitions, term and conditions of bidding. Should this bid contain the City's standard contract terms, conditions and insurance requirements, they will be attached as Exhibit A.

A. **NOTICE**

Sealed bids are due at **2:00 PM on Tuesday, November 12, 2024** after which time all qualified bids will be opened and publicly read aloud at **Conference Room 203, 202 East Pilar Street, Nacogdoches, Texas 75961**. Bids received after the specified deadline will be returned unopened.

Sealed bids shall be clearly marked with the bid number and title and addressed to the City of Nacogdoches – Engineering Division. Bids shall be delivered using one of the following:

Hand-deliver to:	Mail to:	Ship to (FedEx, UPS, DHL):
202 E. Pilar St., Room 239	PO Box 635030	202 E. Pilar St.
Nacogdoches, TX 75961	Nacogdoches, TX 75963	Nacogdoches, TX 75961

Vendors may receive notice of bids from the City of Nacogdoches from a variety of channels. Approved methods of dissemination include: www.civcastusa.com or on the City website at <https://www.nactx.us/bids.aspx>. The receipt of solicitations through any other means may result in the receipt of incomplete specifications or addenda which could ultimately render your bid non-compliant. City of Nacogdoches accepts no responsibility for the receipt or notification of solicitations through any other source.

B. **QUESTIONS and INQUIRIES**

Questions and inquiries about this Solicitation shall be submitted in writing to the following individual:

Case Opperman, PE
Director of Public Works/City Engineer
oppermanc@nactx.us

The deadline for written questions is **November 8, 2024 at 5:00 PM**.

C. **SCHEDULE OF IMPORTANT DATES**

The tentative schedule for this Solicitation is as follows:

Release ITB to Vendors	October 27, 2024
Advertisement Dates	October 27, 2024
	November 3, 2024
Deadline for Questions and Inquiries	November 8, 2024
ITB Due Date	November 12, 2024
Earliest Award by City	November 2024

DEFINITIONS

The following definitions shall be used to identify terms throughout this invitation to bid:

A. AGREEMENT/CONTRACT

A mutually binding legal document obligating the Vendor to furnish the services specified within this solicitation and obligating the City to pay for the services as specified.

B. BID/RESPONSE/OFFER/QUOTATION

A complete, properly signed response to this solicitation that, if accepted, would bind the Respondent to perform the resulting contract.

C. BIDDER/RESPONDENT/OFFERER

The Respondent identified throughout the solicitation that they consider themselves qualified to provide the services specified herein, and are interested in making an offer to provide the services to the City.

D. CITY

The City of Nacogdoches, located in Nacogdoches County, Texas.

E. CITY COUNCIL

The elected officials of the City of Nacogdoches, Texas given the authority to exercise such powers and jurisdiction of all City business as conferred by the City Charter and State Constitution and Laws.

F. PIGGYBACK CONTRACT

A contract or agreement that has been competitively bid in accordance with State of Texas statutes, rules, policies and procedures and has been extended for the use of state and local agencies that have entered (or will) into an Interlocal Agreement with the City.

G. PURCHASE ORDER

A purchase order records the financial obligation of the City to pay for services properly received; therefore, a purchase order is also required for all contracts with an expenditure of funds entered into by the City Manager or City Council.

H. SOLICITATION/INVITATION TO BID

This Solicitation document issued by the City containing terms, conditions and specifications for the services to be procured.

I. VENDOR/CONTRACTOR

Person or business enterprise providing services to the City as fulfillment of obligations arising from an agreement or purchase order.

INSTRUCTION TO BIDDERS

Qualified bidders interested in responding to this Solicitation must submit the following information as part of their bid response. Failure to provide any information requested in this Solicitation may result in disqualification of the bid response.

A. **FORMS**

All Responses must be submitted on the form(s) provided by the City, and accompanied by all required attachments. All figures must be written in ink or typewritten. Mistakes may be crossed out, corrections inserted adjacent thereto and initiated in ink by the person certifying the bid.

B. **RECEIPT OF BIDS**

Sealed bids must be received by the City prior to the date and time specified. The mere fact that the bid was dispatched will not be considered; the bidder must ensure that the bid is actually delivered. Bids received after that time will be returned unopened to the Respondent. Bid responses submitted via fax or email are not acceptable.

C. **CERTIFICATION**

This Solicitation includes a certification page. Respondent must:

1. Furnish complete name, mailing address, telephone number and email of the individual duly authorized to execute contractual documents on behalf of the Respondent.
2. Furnish name of individual(s), along with respective telephone numbers and email addresses, who will be responsible for answering all questions.
3. Certify that they have not conspired with any other potential Respondents in any manner to attempt to control competitive pricing.
4. Certify that they are duly qualified, capable and otherwise bondable business entity not in receivership or contemplating same, and has not filed bankruptcy.

D. **EXCEPTIONS**

Any deviations from terms, conditions or specifications contained herein must be clearly indicated in the Response to this Solicitation in writing at or before the due date and time. Any deviations or exceptions are subject to review by the City and may deem the Response disqualified or non-responsive. If no exceptions are stated, it will be understood that all general terms and conditions and specific requirements will be complied with, without exception.

E. **TAX EXEMPT**

Respondents bid prices must be net, exclusive of taxes. The City is exempt from State Retail Tax and Federal Excise Tax.

F. **DISCLOSURE OF INTERESTED PARTIES**

Contracting hereunder may require compliance with §2252.908 Texas Government Code/Disclosure of Interested Parties for contracts that (1) require an action or vote by the City Council before the contract may be signed; or (2) has a value of at least \$1 million. The law provides that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity at the time the business entity submits the signed contract to the governmental entity or state agency.

The process as implemented by the Texas Ethics Commission ("TEC") is as follows:

1. The disclosure of interested parties must be performed using the [Texas Ethics Commission's electronic filing application](#) listing each interested party of which the business entity is aware on Form 1295, obtaining a certification of filing number for this form from the TEC, and printing a copy of it to submit to the City.
2. The copy of Form 1295 submitted to the City must be notarized and contain the unique certification number from the TEC. The form must be filed with the City pursuant to §2252.908 Texas Government Code, "at the time the business entity submits the signed contract" to the City.

The City, in turn, will submit a copy of the disclosure form to the TEC not later than the 30th day after the date the City receives the disclosure of interested parties from the business entity.

STANDARD TERMS and CONDITIONS

A. ACCEPTANCE

Acceptance is deemed to have occurred upon the latter of the following: the Vendor's signature on the City's Standard Services Agreement or approval by the City Council, or their designee. A City of Nacogdoches Purchase Order is required prior to the delivery of any services provided to the City.

B. ABSENCE of PURCHASE ORDER or AGREEMENT

The City is not responsible for delivery of any commodities or equipment without a proper Purchase Order.

C. ADDENDA

If it becomes necessary to revise any part of this bid, prior to the due date and time, a written addendum will be provided to all Bidders. The City is not bound by any oral representations, clarifications, or changes made in the written specification by the City's employees, unless such clarification of change is provided to Bidders in written addendum form from the City.

Addenda will be transmitted to all that are known to have received a copy of the bid documents and specifications. However, it shall be the sole responsibility of the Bidder to verify issuance of any addenda and to check all avenues of document availability prior to the opening date and time. Bidder shall provide written acknowledgment of all addenda.

D. ADVERTISING and PUBLICITY

Vendor shall not advertise or otherwise publicize, without the City's prior written consent, the fact that the City has entered into the Agreement, except to the extent required by applicable law.

E. ASSIGNMENTS

The Agreement shall be binding upon and inure to the benefit of the City and the Vendor, and their respective successors and assignees, provided however, that no right or interest in the Agreement shall be assigned and no obligation shall be delegated by the Vendor without the prior written consent of the City. Any attempted assignment or delegation by the Vendor shall be void unless made in conformity with this Paragraph. The Agreement is not intended to confer any rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Agreement.

F. AWARD of CONTRACT

A Contract may be awarded to either the lowest responsible bidder or the bidder who provides services at the best value for the City. In determining the best value for the City, the City may consider, but is not necessarily limited to, the following factors:

- a. conformity to specifications;
- b. the purchase price, including payment discount terms;
- c. the reputation of the bidder and of the bidder's goods or services;
- d. the quality of the bidder's goods or services;
- e. the extent to which the goods or services meet the City's needs;
- f. the bidder's past relationship with the City;
- g. the impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- h. delivery terms;
- i. payment terms;
- j. availability of repair and maintenance parts;
- k. financial condition;
- l. products or services that have a lesser or reduced effect on human health and the environment when compared with competing products and services that serve the same purpose. This comparison may consider raw materials acquisition, product, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service;
- m. the total long-term cost to the City to acquire the bidder's goods or services; and
- n. any relevant criteria specifically listed in this request for bid.

Although the cost of products to be provided is an essential part of the Bid, the City is not obligated to award a contract on the sole basis of cost.

Pursuant to Local Government Code 271.9051, if the bid is less than \$500,000 and the City Council determines that a local bidder whose principal place of business is in the City offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality, the city may award the bid to the local bidder whose bid is within 5% of the lowest bid.

Pursuant to Local Government Code 271.905, if the City Council determines that a local bidder whose principal place of business is in the City offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality, the city **may** award the bid to the local bidder whose bid is within 3% of the lowest bid.

G. BUSINESS PRACTICES

Minority business enterprises and/or historically underutilized businesses will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, creed, sex, or national origin in consideration for an award.

H. CANCELLATION or TERMINATION

1. Termination For Cause:

In the event of default by the Vendor, the City shall have the right to terminate the Agreement for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Vendor, within such ten (10) day period cures such default, or

provides evidence sufficient to prove to the City's satisfaction that such default does not, in fact, exist. In addition to any other remedies available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses incurred by the City as a result of the Vendor's default, including without limitation, cost of cover, reasonable attorneys' fees, court costs and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of default by the Vendor, the City may remove the Vendor from the City's Vendor List and any Offer submitted by the Vendor may be disqualified for up to three (3) years. All rights and remedies under the Agreement are cumulative and not exclusive of any other right or remedy provided by law.

2. Termination Without Cause:

The City shall have the right to terminate the Agreement, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Vendor shall promptly cease all further work pursuant to the Agreement, with such exceptions, if any, specified in the notice of termination. The City shall pay the Vendor, to the extent of funds appropriated or otherwise legally available for such purposes, for all services completed and obligations incurred prior to the date of termination in accordance with the terms hereof.

3. Non-Appropriation:

The resulting Agreement is a commitment of the City's current revenues only. It is understood and agreed that the City shall have the right to terminate the Agreement if, for any reason, funds are not appropriated to continue this Agreement.

4. Cancellation:

The City reserves the right to cancel the Agreement for default for all or any part of the delivered portion of the deliverables if the Vendor breaches any term hereof including warranties, or becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any remedies which the City may have in law or in equity.

I. CLAIMS

If a claim, demand, suit or other action is asserted against the Vendor which arises under or concerns the Agreement, or which could have a material adverse effect on the Vendor's ability to perform thereunder, the Vendor shall give written notice to the City within ten (10) calendar days after receipt of notice by the Vendor. Such notice to the City shall state the date of notification of any such claim, demand, suit or other action; the names and address of the claimant(s); the basis thereof; and the name of each person against whom such claim is asserted. Such notice shall be delivered to the City Attorney at PO Box 635030, Nacogdoches, TX 75963.

J. CODES, PERMITS, LICENSES

Vendor shall comply with all federal, state and local standards, codes and ordinances, as well as other authorities that have jurisdiction pertaining to the services provided and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. Vendor shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations to the City.

K. COLLUSION

Advanced disclosures of any information to any particular bidder which gives that particular bidder any advantage over any other interested bidder in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the governing body or an employee or representative thereof, will cause to void all responses to that particular bid solicitation or request.

L. COMMUNICATION

To insure the proper and fair evaluation of this bid, the City prohibits ex parte communication (e.g., unsolicited) initiated by the Respondent to the City Official or Employee evaluating or considering the Responses prior to the time an award has been made. Communication between Respondents and the City will be initiated by the appropriate City Official or Employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the Bid. Ex parte communication may be grounds for disqualifying the offending Respondent from consideration or award of the Bid then in evaluation, or any future Solicitation.

Unless otherwise specified, all requests for clarification or questions regarding a Solicitation must be directed as provided herein.

M. CONFIDENTIALITY

In order to provide the deliverables to the City, Vendor may require access to certain of the City's and/or its licensors' confidential information (including, but not limited to, inventions, employee information, trade secrets, confidential know-how, confidential business information and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Vendor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors, and any unauthorized use, disclosure, dissemination or other release of the Confidential Information will substantially injure the City and/or its licensors. The Vendor (including its employees, subcontractors, agents or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate or otherwise use the Confidential Information without the prior written consent of the City, or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or as a result of an order of any court or other governmental authority with proper jurisdiction, provided the Vendor promptly notifies the City prior to disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Vendor agrees to use protective measures no less stringent than the Vendor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

N. DEFAULT

Vendor shall be in default under the Agreement if the Vendor (a) fails to fully, timely and faithfully perform any of its material obligations under the Agreement, (b) fails to fully, timely and faithfully perform any of its material obligations under any agreement Vendor has with the City, (c) fails to timely pay any fees or taxes owed to the City, (d) becomes insolvent or seeks relief under the bankruptcy laws of the United States, or (e) makes a material misrepresentation in Vendor's bid, or in any report or deliverable required to be submitted by Vendor to the City.

A Vendor who abandons or defaults the work on the Agreement and causes the City to purchase the services elsewhere may be charged the difference in cost of services, if any, and may not be considered in the re-advertisement of the service and may be rejected as an irresponsible bidder and not considered in future Solicitations for the same type of service unless the scope of work is significantly modified.

O. DELAYS

The City may delay scheduled services or other due dates by written notice to the Vendor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Agreement, the City and the Vendor shall negotiate an equitable adjustment for costs incurred by the Vendor in the Agreement price and execute an amendment to the Agreement. The Vendor

must assert its right to an adjustment within ten (10) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution Process specified herein. However, nothing in this provision shall excuse the Vendor from delaying the services as notified.

P. DISCLOSURE OF PENDING LITIGATION:

Each Respondent shall include in its proposal a complete disclosure of any material civil or criminal litigation or pending investigation which involves the Respondent or in which the Respondent has been judged guilty.

Q. DISPUTE RESOLUTION

If either the Vendor or the City has a claim, dispute or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the parties shall first attempt to resolve the matter through this dispute resolution process. The disputing party shall notify the other party in writing as soon as practicable after discovering the claim, dispute or breach. The notice shall state the nature of the dispute and list the party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both parties shall make a good faith effort, in person or through generally accepted means, to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with, this Agreement. If the parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the parties may submit the matter to non-binding mediation upon written consent of authorized representatives of both parties in accordance with the Arbitration Rules of the American Arbitration Association or other applicable rules governing mediation then in effect. If the parties cannot resolve the dispute through mediation, then either party shall have the right to exercise any and all remedies available under law regarding the dispute.

R. EFFECTIVE DATE and TERM

This Bid shall be effective upon execution of the Standard Services Agreement (Exhibit A) and issuance of a City Purchase Order, and shall continue in effect until all obligations are performed in accordance with the terms and conditions herein.

S. FORCE MAJEURE

Neither party shall be liable for any default or delay in the performance of its obligations under this Agreement if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond reasonable control. In the event of default or delay in performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

T. FRAUD

Fraudulent statements by the Vendor on any bid or in any report or deliverable required to be submitted by the Vendor to the City shall be grounds for termination of the Agreement for cause by the City and may result in legal action.

U. GRATUITIES

The City may, by written notice to the Vendor, cancel the Agreement without liability if it is determined by the City that gratuities were offered or given by the Vendor or any agent or representative of the Vendor to any officer or employee of the City with the intent of securing the Agreement or securing favorable treatment with respect to awarding or amending or the making

of any determinations with respect to performance of the Agreement. In the event the Agreement is cancelled by the City pursuant to this Section, the City shall be entitled, in addition to any other rights and remedies, to recover the benefits or payments to the Vendor, as a result of the gratuities.

V. INDEPENDENT CONTRACTOR

Nothing in this bid is intended to be construed as creating an employer/employee relationship, a partnership or joint venture. The Vendor's services shall be those of an independent contractor. The Vendor agrees and understands that the Agreement does not grant any rights or privileges established for employees of the City. Vendor shall not be within protection or coverage of the City's Worker Compensation Insurance, Health Insurance, Liability Insurance or any other insurance that the City, from time to time, may have in force.

W. INDEMNITY

VENDOR SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY THE CONTRACTOR UNDER THIS CONTRACT. SUCH INDEMNITY SHALL APPLY REGARDLESS OF WHETHER THE CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, OR LIABILITY ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY, ANY OTHER PARTY INDEMNIFIED HEREUNDER, THE CONTRACTOR, OR ANY THIRD PARTY.

X. INFRINGEMENT

Vendor represents and warrants to the City that: (a) Vendor shall provide the City good and indefeasible title to the deliverables and (b) the deliverables supplied by the Vendor in accordance with the specifications of the Agreement shall not infringe, directly or contributory, any patent, trademark, copyright, trade secret or any other intellectual property right of any kind of any third party; that no claims have been made by a person or entity with respect to the ownership or operation of the deliverables and the Vendor does not know of any basis for any such claims. Vendor shall, at its sole expense, defend, indemnify and hold the City harmless from and against all liability, damages and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (a) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the deliverable infringes the intellectual property rights of any third party; or (b) Vendor's breach of any of the Vendor's representations or warranties stated in this Agreement. In the event of any such claim, the City shall have the right to monitor such claim or, at its option, engage its own separate counsel to act as co-counsel on the City's behalf. Further, Vendor agrees that the City's specifications regarding the deliverables shall in no way diminish Vendor's warranties or obligations under this Paragraph, and the City makes no warranty that the products, development or delivery of such deliverables will not impact such warranties of Vendor.

Y. INSURANCE REQUIREMENTS

Insurance Requirements are listed in the City's Standard Service Agreement.

Z. INTERLOCAL AGREEMENT

Other governmental entities may be extended the opportunity to purchase from Solicitations awarded by the City, with the consent and agreement of the successful Vendor(s) and the City.

Such consent and agreement shall be conclusively inferred from lack of exception to this clause in Vendor's Response. However, all parties indicate their understanding and all parties hereby expressly agree that the City is not an agent of, partner to or representative of those outside agencies or entities and that the City is not obligated or liable for any action or debts that arise out of such independently negotiated piggyback procurements.

AA. INTERPRETATION

The Agreement is intended by both parties as the final, complete and exclusive statement of the terms of their Agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Agreement. Although the Agreement may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner fair to both parties, reading no provision more strictly against one party of the other. Whenever a term defined by the Uniform Commercial Code (the "UCC"), as enacted by the State of Texas, is used in the Agreement, the UCC definition shall control unless otherwise defined in the Agreement.

BB. INVALIDITY

The invalidity, illegality or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace the stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision which is the essence of the Agreement be determined to be void.

CC. LIABILITY

Any person, firm or corporation party to this Agreement or Purchase Order shall be liable for all damages incurred while in the performance of the Agreement. Vendor assumes full responsibility for the terms contained herein and hereby releases, relinquishes, and discharges the City, its officers, agents and employees from all claims, demands and causes of action of any nature including the cost of defense thereof, for any injury to, including death of, any person whether that person be a third party, supplier or an employee of either of the parties hereto, and any loss of or damage to property, whether the same be that of either of the parties, caused by or alleged to have been caused by, arising out of or in connection with the issuance of the Agreement or Purchase Order to the Vendor and the negligence of the Vendor, whether or not said claims, demands and causes of action in whole or in part are covered by insurance. Certificates of insurance may be required for, but not limited to, Commercial General Liability, Business Auto Liability, Workers Compensation and Professional Liability Insurance.

DD. LIENS

Vendor shall defend, indemnify and hold the City harmless from and against any and all liens and encumbrances for all services provided under this Agreement. At the City's request, the Vendor or its subcontractors shall provide a proper release of all liens or satisfactory evidence of freedom from liens shall be delivered to the City.

EE. MANAGEMENT

Should there be a change in ownership or management, the Agreement may be canceled unless a mutual Agreement is reached with the new owner to continue the Agreement with its present terms, conditions and pricing. The Agreement is nontransferable by either party.

FF. NOTICES

Unless otherwise specified, all notices, requests or other communications required or appropriate to be given under the Agreement shall be in writing and deemed delivered three (3) business days after postmarked if sent by US Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, fax, or other commercially accepted means. Notices to the Vendor shall be sent to the address specified in the Vendor's bid or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to: City of Nacogdoches, PO Box 635030, Nacogdoches, TX 75963 and marked to the attention of the City Manager.

GG. OVERCHARGES

Vendor hereby assigns to the City any and all claims for overcharges associated with this Agreement which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and/or which arise under the antitrust laws of the State of Texas, *Business and Commerce Code Ann.*, Section 15.01, et seq.

HH. PAYMENT TERMS

1. Tax Exempt Status: The City is exempt from all federal excise, state and local taxes unless otherwise stated in this document. The City claims exemption from all sales and/or use taxes under Texas Tax Code §151.309, as amended. Texas Limited Sales Tax Exemption Certificates are furnished upon request. Vendor will not charge for such taxes. If billed, the City will not remit payment until a corrected invoice is received.

2. Invoicing Requirements: Unless otherwise specified, all invoices shall be submitted to City of Nacogdoches, Accounts Payable, PO Box 635030, Nacogdoches, TX 75963-5030, and issued as required by the Purchase Order or Agreement. Each invoice must reference the unique Purchase Order number, and include the Vendor's complete name and remit to address. If applicable, transportation and delivery charges must be itemized on each invoice. A copy of the bill of lading and the freight waybill must be submitted with the invoice if applicable.

3. Payment Terms: All payments will be processed in accordance with Texas Prompt Payment Act, *Texas Government Code*, Subtitle F, Chapter 2251. The City will pay Vendor within thirty days after acceptance of performance of services was completed, or the day of receipt of a correct invoice for services, whichever is later. The Vendor may charge a late fee (fee shall not be greater than that permitted under the Texas Prompt Payment Act) for payments not made in accordance with this prompt payment policy; however, the policy does not apply to payments made by the City in the event: (a) there is a bona fide dispute between the City and Vendor concerning the services performed, that causes the payment to be late; (b) the terms of a federal agreement, grant, regulation or statute prevents the City from making a timely payment with Federal funds; (c) there is a bona fide dispute between the Vendor and a subcontractor and its suppliers concerning services provided, which caused the payment to be late; or (d) the invoice is not mailed to the City in strict accordance with instructions on the Purchase Order or Agreement, or other such contractual agreement.

4. Right To Audit: The Vendor agrees that the representatives of the City shall have access to, and the rights to audit, examine, or reproduce, any and all records of the Vendor related to the performance under this Agreement. The Vendor shall retain all such records for a period of four (4) years after final payment on this Agreement or until all audit and litigation matters that the City has brought to the attention of the Vendor are resolved, whichever is longer. The Vendor agrees to refund to the City any overpayments disclosed by any such audit.

5. Firm Pricing: The price shall remain firm for the duration of the Agreement, or any extension period, unless expressly approved in writing. No separate line item charges shall be permitted for either bidding or invoice purposes, which shall include equipment rental, demurrage, fuel surcharges, delivery charges, and costs associated with obtaining permits or any other extraneous charges. Vendor further certifies that the prices in the bid have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6. Price Warranty: The Vendor warrants the prices quoted are not materially higher than the Vendors current prices on orders by others for like deliverables under similar terms of purchase. In addition to any other remedy available, the City may deduct from any amounts owed to the Vendor, or otherwise recover, any amounts paid for items materially in excess of the Vendor's current prices on orders by others for like deliverables under similar terms of purchase.

7. Travel Expenses: All travel, lodging and/or per diem expenses associated with providing the services specified must be included in the original Bid and resulting Services Agreement and Purchase Order. All travel expenses are subject to review by the City and documentation of actual itemized expenses may be requested. No reimbursement will be made without prior authorization, or for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed.

II. PERSONAL INTEREST

No officer, employee, independent consultant or elected official of the City who is involved in the development, evaluation or decision-making process of this Solicitation shall have a financial interest, direct or indirect, in the resulting Agreement. Any willful violation of this Paragraph shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. In the event a member of the governing body or an appointed board or commission of the City belongs to a cooperative association, the City may purchase services from the association only if no member of the governing body, board or commission will receive pecuniary benefit from the purchase, other than as reflected as in increase in dividends distributed generally to members of the association. Any violation of this provision with the knowledge, expressed or implied, by the Vendor shall render the Agreement voidable by the City. Nevertheless, the City may obtain the services under the Agreement if a conflict of interest affidavit is filed and the Council member recuses his/herself.

JJ. PRIORITY OF DOCUMENTS

In the event there are inconsistencies between the general provisions and special (or other) terms and conditions contained herein, the latter will take precedence.

KK. PUBLIC INFORMATION

All Responses are subject to release as public information unless the Response or specific parts of the Response can be shown to be exempt from the Texas Public Information Act. Respondents are advised to consult with their legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or any other proprietary information. The City assumes no obligation or responsibility for asserting legal arguments on behalf of potential Respondents.

If a Respondent believes that a Response or parts of a Response are confidential, then the Respondent shall so specify. The Respondent shall stamp in bold red letters the term "**CONFIDENTIAL**" on that part of the Response, which the Respondent believes to be confidential. Vague and general claims as to confidentiality shall not be accepted. All Responses

and parts of Responses that are not marked as confidential will be automatically considered public information.

LL. REIMBURSEMENTS

There is no expressed or implied obligation for the City of Nacogdoches to reimburse responding firms for any expenses incurred in preparing bids in response to this Invitation to Bid and the City will not reimburse responding firms for these expenses, nor will the City pay any subsequent costs associated with the provision of additional information or presentation, or to procure a contract for these services.

MM. RESERVATIONS

The City reserves the right to request clarification or additional information specific to any response after all Responses have been received and the Solicitation due date has passed. Additionally, the City reserves the right to accept or reject all or part of any Response, waive any formalities or technical inconsistencies, delete any requirement or specification from the Solicitation, or terminate the Solicitation when deemed to be in City's best interest.

NN. RESPONSES BECOME PROPERTY OF THE CITY:

Submissions received in response to a Solicitation become the sole property of the City.

OO. RIGHT TO ASSURANCES

In the event the City, in good faith, has reason to question the intent of the Vendor to perform, the City may demand written assurances of the intent to perform. In the event no written assurance is given within the time specified, the City may treat this failure as an anticipatory repudiation of the Agreement.

PP. SEVERABILITY

The invalidity or unenforceability of any provision herein shall not affect the validity or enforceability of any other provision.

QQ. SURVIVABILITY OF OBLIGATIONS

All provisions of the Agreement that impose continuing obligations on the parties, including but not limited to the warranty, indemnity and confidentiality obligations of the parties, shall survive the expiration or termination of the Agreement.

RR. VENDOR'S OBLIGATION:

Vendor shall fully and timely provide all deliverables described in this Solicitation, Vendor's bid must be in strict accordance with the terms, covenants and conditions of the Agreement and all applicable federal, state and local laws, rules and regulations.

SS. VENUE

This Agreement is made under and shall be governed by the laws of the State of Texas, including when applicable, the UCC as adopted in Texas, VTCA, *Business & Commerce Code*, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. This Agreement is fully performable in Nacogdoches, Texas, and the venue for any action related to this Agreement shall be Nacogdoches, Texas. All issues arising from this Agreement shall be resolved in the courts of Nacogdoches County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or the ability of the City to seek and secure

injunctive relief from any competent authority as contemplated herein and does not waive the City's defense of sovereign immunity.

TT. WAIVER

No claim or right arising out of a breach of the Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Vendor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Agreement, or an express or implied acceptance of any other existing or future default(s), whether of similar or different character.

UU. WITHDRAWAL

Respondents may request withdrawal of a sealed bid prior to the scheduled bid opening time, provided the request for withdrawal is submitted to the City in writing.

SPECIAL TERMS and CONDITIONS

A. TERM OF AGREEMENT

1. Original Term:

The initial term of the agreement shall become effective from date of acceptance and approval by the City of Nacogdoches. It shall remain in full force and effect with firm fixed bid prices for twelve (12) months.

2. Renewal Term:

Upon completion of the term of the original agreement and upon mutual agreement of both parties, the original agreement may be renewed for up to two (2) additional one (1) year [three (3) years total]. The renewal will under the same terms and conditions as the original agreement; provided, however, that the unit prices bid under the original agreement may, by mutual consent, be increased by no more than ten (10) percent (10%) of the original agreement. In the event a new agreement cannot be executed at the anniversary date of the original term or any renewal term, the agreement may be renewed month-to-month until a new agreement is executed.

B. PLACE AND CONDITIONS OF WORK, ACCESS TO SITE:

If Services are to be performed principally on the City's premises or in public rights of way, the City shall provide the Vendor access to the sites where the Vendor is to perform the Services as required in order for the Vendor to perform in a timely and efficient manner, in accordance with and subject to applicable security laws, rules and regulations. The Vendor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of the materials, equipment, labor and facilities necessary to perform the Services and any other conditions or states of fact which could, in any way, affect performance of the Vendor's obligations under the Agreement. The Vendor shall promptly notify the City if the actual site or service conditions differ from the expected conditions and failing to do so, hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature.

C. VENDOR TO PROVIDE ALL MATERIAL, EQUIPMENT, LABOR:

Vendor shall provide all goods and labor necessary to perform Services. All material must be new and all equipment utilized must be in good safe working condition and suitable for Services.

Vendor shall employ all personnel for Services in accordance with the requirements of applicable local, state, and federal law.

D. WORKFORCE:

If Services are to be performed principally on the City's premises or on public rights-of-way:

1. Vendor shall employ only orderly and competent workers, skilled in the performance of the Services which they will perform under the Agreement.
2. Vendor, its employees, subcontractors and subcontractor's employees while engaged in participating in a Solicitation or while in the course and scope of delivering services under the Agreement may not:
 - i. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated or under the influence of alcohol or drugs while on the job.
3. If the City or the City's representative notifies the Vendor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, or has possessed or was under the influence of alcohol or drugs on the job, the Vendor shall immediately remove such worker from Agreement Services and may not employ such worker again on Agreement Services without the City's prior consent.

E. COMPLIANCE WITH ALL SAFETY AND ENVIRONMENTAL REQUIREMENTS:

If Services are to be performed principally on the City's premises or on public rights of way, the Vendor, its subcontractors and their respective employees, shall comply fully with all applicable federal, state and local health, safety and environmental laws, ordinances, rules and regulations in the performance of the Services, including but not limited to those promulgated with the City and the Occupational Safety and Health Administration (OSHA). In the case of conflict, the most stringent safety requirement shall govern. The Vendor shall defend, indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liabilities of any kind or nature arising from the breach of the Vendor's obligations under this paragraph.

F. STOP WORK NOTICE:

The City may issue an immediate Stop Work Notice in the event the Vendor is observed performing in a manner that is in violation of Federal, State or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Vendor shall cease all work until notified by the City that the violation or unsafe condition has been corrected. The Vendor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

G. WARRANTY OF SERVICES:

Vendor warrants and represents that all Services to be provided to the City under the Agreement will be fully and timely performed in good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions and covenants of the Agreement and all applicable Federal, State and local laws, rules or regulations. This warranty may not be limited, excluded or disclaimed and any attempt to do so will be without force or effect. Unless otherwise specified, the warranty period shall be a minimum of one year from acceptance by the

City of Services. In the event any applicable warranty is breached, the Vendor shall promptly upon receipt of demand of performance, perform the Services again in accordance with the above standard at no additional costs to the City. All costs incidental to such additional performance shall be borne solely by the Vendor. The City shall endeavor to give the Vendor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

In the event the Vendor is unable or unwilling to perform the Services in accordance with the above standards as required by the City, then in addition to any other available remedy, the City may reduce the amount of Services originally required to purchase from the Vendor under the Agreement and procure conforming Services from other sources. In such event, the Vendor shall pay the City upon demand the increased cost, if any, incurred by the city to procure such services from an alternative source.

H. SUBCONTRACTORS:

If the Vendor utilizes Subcontractors in providing the services under the Agreement, the Vendor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Vendor is responsible for the Vendor's own acts and omissions. The Vendor shall:

1. Require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Agreement;
2. Prohibit the Subcontractor from further subcontracting any portion of the Agreement without the prior written consent of the City and the Vendor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
3. Require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Vendor in sufficient time to enable the Vendor to include same with its invoice or application for payment to the City in accordance with the terms of the Agreement;
4. Require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Vendor, with the City being a named insured as its interest shall appear;
5. Require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City; and
6. Shall pay each Subcontractor its appropriate share of payments made to the Vendor not later than ten (10) calendar days after receipt of payment from the City.

I. DAMAGE TO CITY PROPERTY:

Vendor shall be responsible for any and all damage to the City's equipment and/or property, the workplace and its contents, by its work, negligence in work, its personnel and equipment. Vendor shall be responsible and liable for the safety, injury and health of its working personnel while its employees are performing service work.

J. INSURANCE REQUIREMENTS

Vendor must maintain insurance coverage and limits more fully described in the Standard Services Agreement for the duration of the Agreement. Coverage or limits may not be cancelled or reduced during the term of the Agreement.

K. STANDARD SERVICES AGREEMENT

The City's Standard Service Agreement is attached as Exhibit A. The successful Bidder will be required to execute this Agreement. All bidders shall be required to thoroughly read and understand the terms, condition and provisions in this Agreement. All required Certificates of Insurance and endorsements will be required before award recommendation is taken to City Council. Any exceptions taken to the City's Standard Service Agreement may cause the Bid Response to be considered non-responsive.

TECHNICAL SPECIFICATIONS

Removal of an estimated 5,100 wet tons of sludge from two oxidation ditches at the Nacogdoches Wastewater Treatment Plant (WWTP). Sludge to be pumped from basins to weir tank for settling, then dewatered via mobile belt press. After separation, filtrate will gravity drain to nearby lift station and solids will be hauled off in roll off container to the Nacogdoches Landfill. Provide all equipment and labor necessary for services, including for pumping sludge out of each basin, tank for settling, polymer and equipment for dewatering via mobile belt press, and for haul off of solids.

QUOTATION FORM

A. DATES FOR COMPLETION

Response must show the number of days required to provide services to the City's designated location under normal conditions. Unrealistically short or long completion promises may cause Response to be disregarded. Failure to state completion time obligates Respondent to complete services in 30 calendar days.

FOB: NACOGDOCHES, TX

COMPLETION DATE: 60 (calendar days)

B. DISCOUNTS

Cash discounts will not be considered in determining award; all cash discounts offered will be taken if earned. Respondent will list and deduct all discounts not based on early payment from prices quoted.

C. QUANTITIES

Quantities indicated below are estimated based upon the best available information. The City reserves the right to increase or decrease the quantities by any amount deemed necessary to meet its needs without any adjustments in the unit prices bid.

D. UNIT PRICES

Prices should be itemized. Unit prices shall be set to no more than four (4) decimal places. The City reserves the right to award by item or by total bid. If there are discrepancies between unit prices and extension, the unit price will prevail.

E. VALIDITY OF PRICING

Pricing will be considered firm for acceptance for a minimum of 60 days after the due date unless otherwise specified in the Solicitation. The validity period may be extended beyond that date on agreement of parties.

F. QUOTATION

All Responses must be submitted on the form(s) provided below:

<u>Item #</u>	<u>Quantity</u>	<u>UOM</u>	<u>Description</u>	<u>Unit Price</u>	<u>Total Price</u>
1.	1	LS	Mobilization/Demobilization	\$ <u>7500</u>	\$ <u>7500</u>
2.	1	Wet Ton	Sludge Removal Services	\$ <u>193.00</u>	\$ <u>193.00</u>



ADDENDUM 1

Date: October 28, 2024
To: All Interested Parties
From: Case Opperman, PE – Director of Public Works/City Engineer
Subject: City of Nacogdoches WWTP Digester Sludge Removal Services

The bidding and contract documents for the above referenced project are hereby amended as follows:

Due to printing advertisement error, the original bid advertisement date was not met, requiring the bid opening date to be pushed back to remain in compliance with State purchasing requirements. Bids will be received until 2:00 PM, Tuesday, November 12, 2024 at which time bids will be opened at:

City Hall, Conference Room 203
202 E. Pilar Street
Nacogdoches, TX 75961

Acknowledge and return this signed addendum with your bid. Failure to do so may cause your bid to be considered non-responsive.



Authorized Representative



Company/Firm



Date



ADDENDUM 2

Date: November 6, 2024
To: All Interested Parties
From: Case Opperman, PE – Director of Public Works/City Engineer
Subject: City of Nacogdoches WWTP Digester Sludge Removal Services

The bidding and contract documents for the above referenced project are hereby amended as follows:

- After further investigation, it appears that no sludge will need to be removed from Digester B. This will drop the estimated sludge removal needed for these services to approximately 1,800 wet tons. This will not change the bid form as it is a per wet ton price. Please ignore the total price column in Part F of the Quotation Form. Any values in that column will be disregarded in bid tabulation.
- Wet tonnage, as quantified, is sludge only, not including polymer or other drying agents necessary for processing.
- Alternate methods of sludge removal and/or dewatering may be considered as long as the finished product will pass the paint filter test. This does not change the outlined process after dewatering, as found in the scope found in the Technical Specifications section of the bid documents.
- City Landfill hours of operation are Monday through Friday from 7:30 AM to 5:00 PM, and Saturday from 7:30 AM to 3:00 PM. All working hours should be scheduled to ensure disposal can be accomplished before Landfill closing each day.
- Site visits may be coordinated with the Water Utilities Department at (936) 564-5046.

CLARIFICATION ONLY

- No information is available pertaining to the last cleanout of these digesters as any previous cleanout, if any, occurred prior to current staff.
- Prevailing wage requirements, if any, will be addressed in the Bidding Documents.
- Water for dewatering and 480V/3-phase power for equipment are available at the site.
- Physical address of the WWTP is 3626 Rayburn Drive, Nacogdoches, Texas 75963.
- Plan sheets for the digesters for reference will be uploaded to www.civcastusa.com or the City's Bid Posting page at <https://www.nactx.us/bids.aspx>.
- Estimated start date range for services is late November or early December of 2024.
- No City equipment including forklifts or other equipment is available for assistance. All materials and labor, including any testing necessary for completion of services will be provided by the contractor.
- Third parties should be used if rental of roll off bins is necessary.
- There will be no disposal fees at the Nacogdoches Landfill as it is a City project.
- Invoicing shall be for quantity of wet tons removed at unit prices bid in accordance with Exhibit B of the contract provided in the bid documents.

Acknowledge and return this signed addendum with your bid. Failure to do so may cause your bid to be considered non-responsive.

City of Nacogdoches – Engineering Department
P.O. Drawer 635030 • Nacogdoches, TX 75963 • (936) 559-2521 • Fax (936) 559-2908 •
www.ci.nacogdoches.tx.us • Home of Stephen F. Austin State University • www.sfasu.edu

TRW



Thomas Whitener
Authorized Representative

WBI INC.
Company/Firm

NOV 12-2024
Date



ADDENDUM 3

Date: November 7, 2024
To: All Interested Parties
From: Case Opperman, PE – Director of Public Works/City Engineer
Subject: City of Nacogdoches WWTP Digester Sludge Removal Services

The bidding and contract documents for the above referenced project are hereby amended as follows:

CLARIFICATION ONLY

- This project is to remove sludge from a digester.
- Digester will be out of service while sludge is being removed.
- City will remove as much liquid as possible out of the digester beforehand, however some liquid may still be left which will require removal by contractor.

Acknowledge and return this signed addendum with your bid. Failure to do so may cause your bid to be considered non-responsive.



Authorized Representative

WBI INC.

Company/Firm

NOV 12-2024

Date

CERTIFICATION and ACKNOWLEDGMENT

By submitting a Proposal in response to this solicitation, the Respondent certifies that at the time of submission, the following statements required by State of Texas purchasing laws or the Governor's executive orders are true:

1. Respondent has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.

2. Respondent represents and warrants that it has no actual or potential conflicts of interest in the goods and or services described in the scope of work to this contract.

3. Antitrust. Pursuant to 15 U.S.C. §1, et seq. and Tex. Bus. & Comm. Code §15.01, et seq. neither the Respondent nor the firm, corporation, partnership, or institution represented by the Respondent, or anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

4. Terrorism Watch List. Respondent represents and warrants that it does not do business with Iran, Sudan or a foreign terrorist organization as prohibited by Texas Government Code 2252.152. Respondent certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

5. Convictions. Under Sections 2155.006, 2155.0061 and 2261.053 of the Texas Government Code, Respondent certifies that it is not ineligible to receive the specified contract and may be terminated and payment withheld if this certification is inaccurate. These sections prohibit contracts that include proposed financial participation by an individual or business entity who has been convicted in the past five years of (a) violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Gov't Code, occurring after September 24, 2005; and (b) of any offense related to the direct support or promotion of human trafficking.

6. COVID Vaccinations. Respondent certifies that it does not require its customers to provide any documentation certifying the Customer's COVID-19 vaccination or post-transmission recovery on entry to, or to receive service from the Respondent's business.

7. Boycotts. (a) To the extent this Contract is considered a Contract for goods or services subject to § 2270.002 Texas Government Code, Respondent verifies that it: (i) does not boycott Israel; and (ii) will not boycott Israel during the term of this Contract.

(b) To the extent this Contract has a value of \$100,000 or more and Respondent is an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit that employs 10 or more full time employees, Respondent certifies that it: (i) does not and will not boycott energy companies during the term of the contract (See *Texas Government Code 2274.002, et seq.*); and (ii) does not and will not discriminate against a firearm entity or firearm trade association (See *Texas Government Code 2274.002, et seq.*).

If between the time of Proposal submission and time of award, the truthfulness of any of the foregoing changes, the Respondent will notify the City of Nacogdoches Purchasing Agent. Failure to do so may result in terminating any contract or purchase order issued pursuant to this bid.

DISCLOSURE OF INTERESTED PARTIES The law states that a governmental entity may not enter into certain contracts with a nonexempt business entity unless the business entity submits a disclosure of interested parties to the governmental entity. By submitting a Proposal in response to this solicitation, the Respondent agrees to comply with HB 1295, Government Code 2252.908. Respondent agrees to provide the City Secretary of the City of Nacogdoches, and/or requesting department, the "Certificate of Interested Parties," Form 1295 as required, within ten (10) business days from notification of pending award, renewal, amended or extended contract.

Signed By: Thomas Whitener Title: President

Typed Name: Thomas Whitener Company Name: W.B.T. Inc

Phone No.: 713-907-7200 Fax No.: _____

Email: T.whitener@wbtiinc

Bid Address: 526 Kingwood Dr #279 Kingwood TX 77339
P.O. Box or Street City State Zip

Order Address: 1701 California Ave Cleland TX 77328
P.O. Box or Street City State Zip

Remit Address: 526 Kingwood Dr #279 Kingwood TX 77339
P.O. Box or Street City State Zip

Federal Tax ID No.: 76-0366639

DUNS No.: _____

Date: NOV. 12-2024

FOR CITY USE ONLY

Approved By: _____ Date: _____
City Manager, City of Nacogdoches

EXHIBIT A
STANDARD SERVICES AGREEMENT

CITY OF NACOGDOCHES GENERAL SERVICE CONTRACT

This General Service Contract is by and between the City of Nacogdoches, a Texas Home-Rule Municipal Corporation (the “City”), and WBI, Inc. (the “Contractor”), for the following work: **WWTP Digester Sludge Removal Services** as described in the Scope of Services attached as Exhibit “A”.

ARTICLE I PAYMENT AND TERM

1.1 Consideration. In consideration for the services performed in the Scope of Services and Contractor’s completion of work in conformity with this Contract, the City shall pay the Contractor an amount not to exceed **Three Hundred Fifty-Four Thousand Nine Hundred and 00/100 Dollars (\$354,900.00)**. In no event shall payment under this contract exceed appropriations made by City Council.

1.2 Payment Application. Within **seven (7)** calendar days of completion of the services the Contractor will submit its payment application to the City.

1.3 City’s Payment and Approval. The City will pay the Contractor as shown in **Exhibit “B”** Payment Schedule, for the services performed no later than **thirty (30)** calendar days from the date of the City's receipt of the payment application and the City’s approval of the services.

1.4 Term. The initial term of the Contract is for one (1) year with the option to renew for two (2) additional one (1) year terms for a total of three (3) years. Any renewal must be in writing and executed by the parties. If, for any reason, funds are not appropriated to continue the contract, the contract shall become null and void and shall terminate.

1.5 Executed Contract. The “Notice to Proceed” will not be given nor shall any work commence until this Contract is fully executed and all exhibits and other attachments are completely executed and attached to the Contract.

ARTICLE II CHANGE ORDERS

2.1 Changes will not be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid, except upon the prior written order from authorized personnel of the City. The Contractor will not execute change orders on behalf of the City or otherwise alter the financial scope of the services except in the event of a duly authorized change order approved by the City as provided in this Contract.

(a) City Manager Approval. When the original Contract amount plus all change orders is \$50,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more than \$50,000. For such contracts, when a change order results in a total contract

amount that exceeds \$50,000, the City Council of the City must approve such change order prior to commencement of the services or work; and

(b) City Council Approval. When the original contract amount plus all change orders is equal to or greater than \$50,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000 and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work.

(c) Increase in Scope. Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in Article II of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.

(d) Dispute. If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

ARTICLE III INDEPENDENT CONTRACTOR AND SUBCONTRACTORS

3.1 Independent Contractor. It is understood and agreed by the parties that the Contractor is an independent contractor retained for the services described in the Scope of Services. The City will not control the manner or the means of the Contractor's performance but shall be entitled to a work product as in the Scope of Services. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture.

3.2 Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with the Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

ARTICLE IV INSURANCE

4.1 The Contractor shall procure and maintain, at its sole cost and expense for the duration of this Contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services performed by the Contractor, its officers, agents, volunteers, and employees.

4.2 The Contractor's insurance shall list the City of Nacogdoches, its officers, agents, volunteers, and employees as additional insureds. The Required Limits of Insurance are attached in **Exhibit "C"**. Certificates of insurance evidencing the required insurance policies are attached in **Exhibit "D"**.

ARTICLE V INDEMNIFICATION AND RELEASE

5.1 Indemnification. The Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, volunteers, employees, representatives, contractors, assignees and/or designees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorneys' fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the Contractor under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party.

5.2 Release. The Contractor assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the City, its officers, agents, volunteers, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in connection with the Contractor's work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance and regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City, any other party released hereunder, the Contractor, or any third party.

5.3 Notice of Claims. If a claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Agreement, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and address of the claimant(s); the basis thereof; and the name of each person against whom such claim is asserted.

ARTICLE VI GENERAL TERMS

6.1 Performance. Contractor, its employees, associates, or subcontractors shall perform all the services described in the Scope of Services in a professional manner and be fully qualified and competent to perform those services. Contractor shall undertake the work and complete it in a timely manner.

6.2 Termination. The City may terminate the Project and this Contract, at any time, for convenience. In the event of such termination the City will notify the Contractor in writing

and the Contractor shall cease work immediately. Contractor shall be compensated for the services performed. Should the City terminate this Contract for convenience, the City shall pay Contractor for the services performed and expenses incurred before the date of termination.

6.3 Venue, Claims and Audit. (a) This Contract has been made under and shall be governed by the laws of the State of Texas.

(b) The parties agree that performance and all matters related thereto shall be in Nacogdoches County, Texas.

(c) Venue of any dispute will be in Nacogdoches County, Texas.

(d) The City, or if State funds are used to pay any part of this contract, the State Auditor, may conduct an audit or investigation of any entity receiving funds directly under this contract or indirectly through a subcontract under the contract. Acceptance of funds under the contract or through a subcontract under the contract acts as acceptance of the authority of the City or the State Auditor to conduct an audit or investigation. Contractor agrees to cooperate and must provide the City or State Auditor with access to any information the City or State Auditor considers relevant to the investigation or audit.

6.4 Amendment. This Contract may only be amended by a written instrument approved and executed by the parties.

6.5 Taxes. The City is exempt from payment of state and local sales and use taxes on labor and materials incorporated into the project. If necessary, it is the Contractor's responsibility to obtain a sales tax permit, resale certificate, and exemption certificate that shall enable the Contractor to buy any materials to be incorporated into the project and then resell the aforementioned materials to the City without paying the tax on the materials at the time of purchase.

6.6 Compliance with Laws. The Contractor will comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the following:

(a) Contractor shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations to the City.

(b) The Immigration Reform and Control Act (IRCA). The Contractor may not knowingly obtain the labor or services of an undocumented worker. The Contractor, not the City, must verify eligibility for employment as required by IRCA;

(c) In accordance with Section 2155.4441 of the Texas Government Code, Contractor agrees that during the performance of this contract it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state;

6.7 Contractor Affirmations: If this contract is funded in whole or in part by money from the State of Texas, State law requires the following certifications, representations and/or warranties. By signature hereon affixed, the Contractor hereby certifies that:

6.7.1 Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.

6.7.2 Contractor represents and warrants that it has no actual or potential conflicts of interest in the goods and or services described in the scope of work to this contract.

6.7.1 **Antitrust.** Pursuant to 15 U.S.C. §1, *et seq.* and Tex. Bus. & Comm. Code §15.01, *et seq.* neither the contractor nor the firm, corporation, partnership, or institution represented by the contractor, or anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

6.7.2 **Child Support.** Pursuant to §231.006(d), Texas Family Code, regarding child support, the Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate.

Furthermore, any Contractor subject to §231.006, Gov't Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the bid. This information must be provided prior to award. Enter the Name & Social Security Numbers for each person below:

Name:	Social Security Number:
Name:	Social Security Number:
Name:	Social Security Number:

6.7.3 **Debarment.** Contractor certifies that Contractor and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement. Entities ineligible for state procurement are listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award

Management (SAM) maintained by the General Services Administration. Entities ineligible for federal procurement are listed at <http://www.sam.gov/content/exclusions> .

6.7.4 Convictions. Under Sections 2155.006, 2155.0061 and 2261.053 of the Texas Government Code, Respondent certifies that it is not ineligible to receive the specified contract and may be terminated and payment withheld if this certification is inaccurate. These sections prohibit contracts that include proposed financial participation by an individual or business entity who has been convicted in the past five years of (a) violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Gov't Code, occurring after September 24, 2005; and (b) of any offense related to the direct support or promotion of human trafficking.

6.7.5 COVID Vaccinations. Respondent certifies that it does not require its customers to provide any documentation certifying the Customer's COVID-19 vaccination or post-transmission recovery on entry to, or to receive service from the Respondent's business.

6.7.6 Boycott. (a) To the extent this Contract is considered a Contract for goods or services subject to § 2270.002 Texas Government Code, Contractor verifies that it: i) does not boycott Israel; and ii) will not boycott Israel during the term of this Contract.

(b) To the extent this Contract has a value of \$100,000 or more and Respondent is an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit that employs 10 or more full time employees, Respondent certifies that it: (i) does not and will not boycott energy companies during the term of the contract (*See Texas Government Code 2274.002, et seq.*); and (ii) does not and will not discriminate against a firearm entity or firearm trade association (*See Texas Government Code 2274.002, et seq.*).

6.8 Waiver of Terms. No waiver or deferral by either party of any term or condition of this Contract shall be deemed or construed to be a waiver or deferral of any other term or condition or subsequent waiver or deferral of the same term or condition.

6.9 Assignment. This Contract and the rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of City.

6.10 Invalid Provisions. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

6.11 Entire Agreement. This Contract represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or

agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

6.12 Agree to Terms. The parties state that they have read the terms and conditions of this Contract and agree to the terms and conditions contained in this Contract.

6.13 Effective Date. This Contract will be effective when it is signed by the last party making it fully executed.

6.14 Notice. Any official notice under this Contract will be sent to the following addresses:

City of Nacogdoches
Attn: City Manager
P.O. Box 635030
202 East Pilar Street
Nacogdoches, TX 75961

WBI, Inc.
Attn: Thomas Whitener
526 Kingwood Drive, Suite 279
Kingwood, Texas 77339
t.whitener@wbiinc.com

6.15 Severability. In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and in lieu of each provision that is invalid, illegal or unenforceable, there shall be added a new provision to this Contract as similar in terms to such invalid, illegal, or unenforceable provision as may be possible and yet be valid, legal and enforceable, by means of good faith negotiation by the Parties to this Contract or by reform by a court of competent jurisdiction.

6.16 Duplicate Originals. The parties may execute this Contract in duplicate originals, each of equal dignity.

6.17 Exhibits. All exhibits to this Contract are incorporated and made part of this Agreement for all purposes.

List of Exhibits

- A.** Scope of Services
- B.** Payment Schedule
- C.** Insurance Requirements
- D.** Certificates of Insurance

WBI, INC.

By: _____

Printed Name: _____

Title: _____

Date: _____

CITY OF NACOGDOCHES

By: _____

City Manager

Date: _____

APPROVED AS TO FORM:

City Attorney

Date: _____

EXHIBIT A
SCOPE OF SERVICES

The terms and conditions of this Contract shall take precedence and control over any term or provision of the Scope of Services that in any way conflicts with, differs from, or attempts to alter the terms of this Contract.

EXHIBIT B
PAYMENT SCHEDULE

The Contractor must submit *monthly* invoices to the City, accompanied by an explanation of charges, fees, services, and expenses. The City will pay such invoices in compliance with the Texas Prompt Payment Act.

EXHIBIT C INSURANCE REQUIREMENTS

Throughout the term of this Agreement the Contractor must comply with the following:

I. Standard Insurance Policies Required:

- A.** Commercial General Liability
- B.** Business Automobile Liability
- C.** Workers' Compensation

II. General Requirements Applicable to All Policies:

- A.** Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
- B.** Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- C.** "Claims Made" policies are not accepted.
- D.** Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of Nacogdoches.
- E.** Upon request, certified copies of all insurance policies shall be furnished to the City of Nacogdoches.
- F.** The City of Nacogdoches, its officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General, Umbrella and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.
- G.** Waiver of subrogation in a form at least as broad as ISO form 2404 shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement.

III. Commercial General Liability

- A.** General Liability insurance shall be written by a carrier rated "A:VIII" or better under the current A. M. Best Key Rating Guide.
- B.** Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-

- insurance or any insurance the City may have or obtain
- C. Limits of liability must be equal to or greater than \$1,000,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$2,000,000. Limits shall be endorsed to be per project.
 - D. No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted for the City's review and acceptance
 - E. The coverage shall include, but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, and Personal & Advertising Liability.

IV. Business Automobile Liability

- A. Business Automobile Liability insurance shall be written by a carrier rated "A:VIII" or better rating under the current A. M. Best Key Rating Guide.
- B. Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain
- C. Combined Single Limit of Liability not less than \$1,000,000 per occurrence for bodily injury and property damage.
- D. The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page
- E. The coverage shall include any autos, owned autos, leased or rented autos, non-owned autos, and hired autos.

V. Workers' Compensation Insurance

- A. Workers compensation insurance shall include the following terms:
 - 1. Employer's Liability minimum limits of liability not less than \$500,000 for each accident/each disease/each employee are required
 - 2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy
 - 3. TEXAS must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: "All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY"

EXHIBIT D
CERTIFICATES OF INSURANCE

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

WBI, Inc
Kingwood, TX United States

Certificate Number:
2024-1236355

Date Filed:
11/07/2024

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Nacogdoches

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

25-10-103

WASTEWATER TREATMENT PLANT DIGESTER SLUDGE REMOVAL SERVICES

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	WBI, Inc	Kingwood, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is THOMAS R. WHITENER, and my date of birth is 8-12-48.

My address is 97 COUNTY ROAD 3180 CLEVELAND, TX 77327 LIBERTY
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Liberty County, State of TEXAS, on the 8 day of 11, 2024.
(month) (year)



Thomas R. Whitener
Signature of authorized agent of contracting business entity
(Declarant)

WWTP DIGESTER SLUDGE REMOVAL SERVICES

- Component of wastewater treatment process
- Microorganisms break down biodegradable material, produce sludge
- Sludge from digesters pumped to belt press for dewatering prior to final disposal
- Periodic removal of sludge from digesters necessary due to build-up



WWTP DIGESTER SLUDGE REMOVAL SERVICES

- Estimated 1,800 wet tons to be removed – IDIQ contract
- Bids received November 12 for services – 7 submittals

WBI, Inc. **\$ 354,900**

Synagro \$ 400,950

Clean Infusion \$ 475,389

Mobile Solid \$ 673,000

Magna Flow \$ 768,000

Sciphyn \$ 899,356

Merrell Bros. \$ 971,500

- Available CIP Budget: \$ 500,000



PRESENTER: Carlie Allen, Community Services Assistant Director

ITEM/SUBJECT: Discuss and consider the temporary street closure of North Pecan Street for a private event in March 2025. (Community Services Assistant Director)

SUMMARY/BACKGROUND: The applicant, Mallory Marshall, is requesting to temporarily close a section of North Pecan Street from the intersection at East Main Street to Pilar Street for a private event. This closure would begin at 9am and end at 11:00 pm on March 15, 2025.

The closure of a city street for a private purpose is permitted under state law if certain criteria are met. The current City of Nacogdoches' event guidelines do not address private event street closures. Therefore, the applicant is seeking permission from Nacogdoches City Council.

Tex. Transp. Code 316.021 states:

MUNICIPAL PERMISSION TO USE STREET OR SIDEWALK FOR PRIVATE PURPOSE. A municipality may permit and prescribe the consideration and terms for the use of a portion of a municipal street or sidewalk for a private purpose if the use does not:

- (1) interfere with the public use of the street or sidewalk; or
- (2) create a dangerous condition on the street or sidewalk.

FINANCIAL:

No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

CITY CONTACT: Carlie Allen, Community Services Assistant Director
allenca@nactx.us
(936) 559-2940

ATTACHMENTS:

1. Marshall-Kingham Street Closure
2. Event Permit - MarshallKingham



Marshall/Kingham Wedding

3 messages

Sarmiento, Cecilia <sarmientoc@nactx.us>
To: Jessica Sowell <sowellj@nactx.us>

Wed, Nov 20, 2024 at 2:08 PM

Event Date: Mar 15, 2025 – Mar 15, 2025
Event Name: Marshall/Kingham Wedding
Organizer Name: Mallory Marshall
Hosting Organization: Roma's
Email address: mallory.brooke29@gmail.com
Phone Number: 903-261-4459

Event Location: Roma's/ N Pecan St
Are you requesting street closures for the event?: Yes
If yes, which streets?: S Pecan
Event Setup and Cleanup Times: 9am-11pm
Event Start and End Time: 5:30pm-10pm
Number of Expected Attendees: 160

Estimated Number of Vendors Selling Items (if any): 0
Will alcohol be served, sold, or consumed?: Yes
If yes, please describe vendors, location, and plan.: Purchased through Roma's
If available at your location, will you need electricity?: No
Are you requesting additional trash receptacles beyond what is currently at this event location?: No

Will you need security or police presence?: Yes
Are you requesting a park pavilion rental for this event?: No

--
Cecilia Sarmiento
City of Nacogdoches
Community Services Coordinator
(936) 559-2938



Mallory Marshall Wedding .JPG
292K

Sowell, Jessica <sowellj@nactx.us>
To: "Sarmiento, Cecilia" <sarmientoc@nactx.us>

Thu, Nov 21, 2024 at 9:09 AM