



June 17, 2025

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. AWARDS AND RECOGNITIONS:
 - A. Planning and Zoning Commissioner Recognition. (Councilwoman Belanger)
 - B. Presentation of a Proclamation declaring June 12, 2025, as Women Veterans Day in the City of Nacogdoches. (Mayor)
5. ITEMS TO BE REMOVED FROM CONSENT AGENDA.
6. 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 a resolution for street closures related to the annual Old Town Rig Down Event hosted by the Massey Rose Foundation in Downtown Nacogdoches. (Community Services Director)
 - B. Consider approval of a resolution for street closures related to the Nacogdoches Nine Flags Christmas Parade hosted by Nacogdoches United Way in Downtown

Nacogdoches. (Community Services Director)

- C. Consider approval of a contract between the City of Nacogdoches and Consolidated Communications for Internet services at the Police Department. (Director of Information Technology)
 - D. Consider approval of the annual contract between the City of Nacogdoches and Main Street America for participation in the National and State Main Street program. (Community Services Director)
 - E. Consider approval of an agreement by and between the City of Nacogdoches and ETX Park Fund #1 LP for reimbursement of a gravity sanitary sewer line installation to serve one (1) parcel of land approximately 1.87 acres $\pm$ in size, more particularly described by Nacogdoches Central Appraisal District Parcel 26834, and generally located on Park Street near the intersection of Park Street and Martinsville Street; in a not-to-exceed amount of \$87,295.00. (Director of Public Works/City Engineer)
7. 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 and consider approval of a Bond Ordinance by Hilltop Securities. (Director of Finance)
 - B. **Public Hearing:** Discuss and consider action on Zoning Case ZON2025-07 regarding a zone change from B-2, General Business to R-2, Single Family Residential district for one (1) parcel of land approximately 0.34 acres $\pm$ in size, more particularly described by Nacogdoches Central Appraisal District Parcel 23897; and generally located east of Old Tyler Road approximately 0.50 miles north of the intersection of Powers Street and Old Tyler Road. (City Planner)
 - C. **Public Hearing:** Discuss and consider action on Zoning Case ZON2025-08 regarding a zone change from I-1, Light Industrial, to R-4, Multi-family district for two (2) parcels of land approximately 1.16 acres $\pm$ in size, more particularly described by Nacogdoches Central Appraisal District Parcels 23169 and 23166; and a zone change from B-2, General Business to R-4, Multi-family for one parcel of land approximately 0.25 acres $\pm$ in size, more particularly described by Nacogdoches Central Appraisal District Parcel 23167; and generally located on the west side of South Pecan Street, approximately 500 feet west of the intersection of South Pecan Street and South Fredonia Street. (City Planner)
 - D. Consider approval of a contract by and between the City of Nacogdoches and Drewery Construction Co., Inc. for the 2025 Street Paving Project in the total amount of \$2,180,788.60. (Director of Public Works/City Engineer)
 - E. Consider approval of an ordinance of the City of Nacogdoches, Texas amending Chapter 86 – "Streets, Sidewalks and Other Public Places", Article II - "Public Places", of the Code of Ordinances of the City of Nacogdoches, Texas; Providing a Severability Clause; Providing a Continuation Clause; Providing a Repeal Clause; and Providing an Effective Date. (City Attorney)

- F. Discuss and consider Field Lease Agreement by and between the City of Nacogdoches and Nacogdoches Sports and Entertainment, LLC. (Community Services Director)
- G. Consider approval of the purchase of an Interview Recording System and approval by and between Nacogdoches Police Department and Motorola Solutions. (Chief of Police)
- H. Discuss, update and consider adoption of updated City of Nacogdoches Public Event Guidelines. (Community Services Director and City Attorney)
- I. Consider appointing members to the Deep East Texas Council of Governments (DETCOG) Board of Directors. (Mayor)
- J. Consider approval of a contract by and between the City of Nacogdoches and ENVIROdredge for the 2025 WWTP Equalization Basin Sediment Removal Project utilizing TIPS Cooperative Purchasing Contract (ENVIROdredge 241001 JOC) in the amount of \$530,364.00. (Assistant Director of Public Works)
- K. Amendment of Eaton 380 agreement to extend construction deadlines and set a limitation for valuation triggering allowance of property tax protest. (Executive Director of Economic Development)
- L. **Consider approval of an ordinance after any discussion of the Waterworks and Sewer System Revenue Bonds, Series 2025. (Interim Finance Director)**

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 June 12, 2025, by 5:00 p.m., pursuant to Chapter 551 of the Texas Government Code.

Rhonda Lewis, City Secretary



City Council Meeting

Date: June 17, 2025

Agenda Item: 6.A.

PRESENTER: Jessica Sowell, Community Services Director

ITEM/SUBJECT: Consider approval of a resolution for street closures related to the annual Old Town Rig Down Event hosted by the Massey Rose Foundation in Downtown Nacogdoches.
(Community Services Director)

SUMMARY/BACKGROUND: The City of Nacogdoches holds several annual fundraising, holiday, and community events in Downtown Nacogdoches. These events attract visitors from all over the state, city, and county and, in turn, boost our local economy in sales tax and hotel occupancy.

Several events, including the Old Town Rig Down event, hosted by the Massey Rose Foundation, require the closure of East Main Street. In order to close East Main Street (Highway 21), the City Council must pass a temporary closure resolution. If approved, a map of the street closures, the Agreement for Temporary Closure of State Right of Way with TxDOT, and the City Council resolution will all be sent to the regional TxDOT office for final approval.

Old Town Rig Down is scheduled for September 12-14, 2025.

FINANCIAL:

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

CITY CONTACT: Jessica Sowell, Community Services Director
sowellj@nactx.us
936-559-2935

ATTACHMENTS:

1. Resolution 1391-06-25
2. Old Town Rig Down Map

RESOLUTION NO. 1391-06-25

WHEREAS, organizers of the Old Town Rig Down desire to have a safe and successful event for all vendors and participants; and

WHEREAS, organizers of the Old Town Rig Down are requesting that the City of Nacogdoches closes Main Street (SH 21) from its intersection with North Street eastward to its intersection at Mound Street, as well as all side streets and all streets leading in and out of Festival Park, from 6:00 a.m. Friday, September 12th, 2025 until 12:00 p.m. Sunday, September 14th, 2025, in order to provide safety for the vendors and participants; and

WHEREAS, after duly considering such a request, it is the consent of the City Council that a resolution be adopted requesting the Texas Department of Transportation to allow the closing of Main Street for the Old Town Rig Down.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Nacogdoches, Texas that this resolution be adopted requesting the Texas Department of Transportation to allow the closing of Main Street (SH 21) from its intersection with North Street eastward to its intersection at Mound Street, as well as all side streets and all streets leading in and out of Festival Park, from 6:00 a.m. Friday, September 12th, 2025 until 12:00 p.m. Sunday, September 14th, 2025, in order to provide safety for the vendors and participants, for the Old Town Rig Down.

BE IT FURTHER RESOLVED that Richard B. Beverlin, City Manager, be authorized to execute an agreement with the Texas Department of Transportation for the closing of Main Street (SH 21).

PASSED AND APPROVED this 17th day of June, 2025.

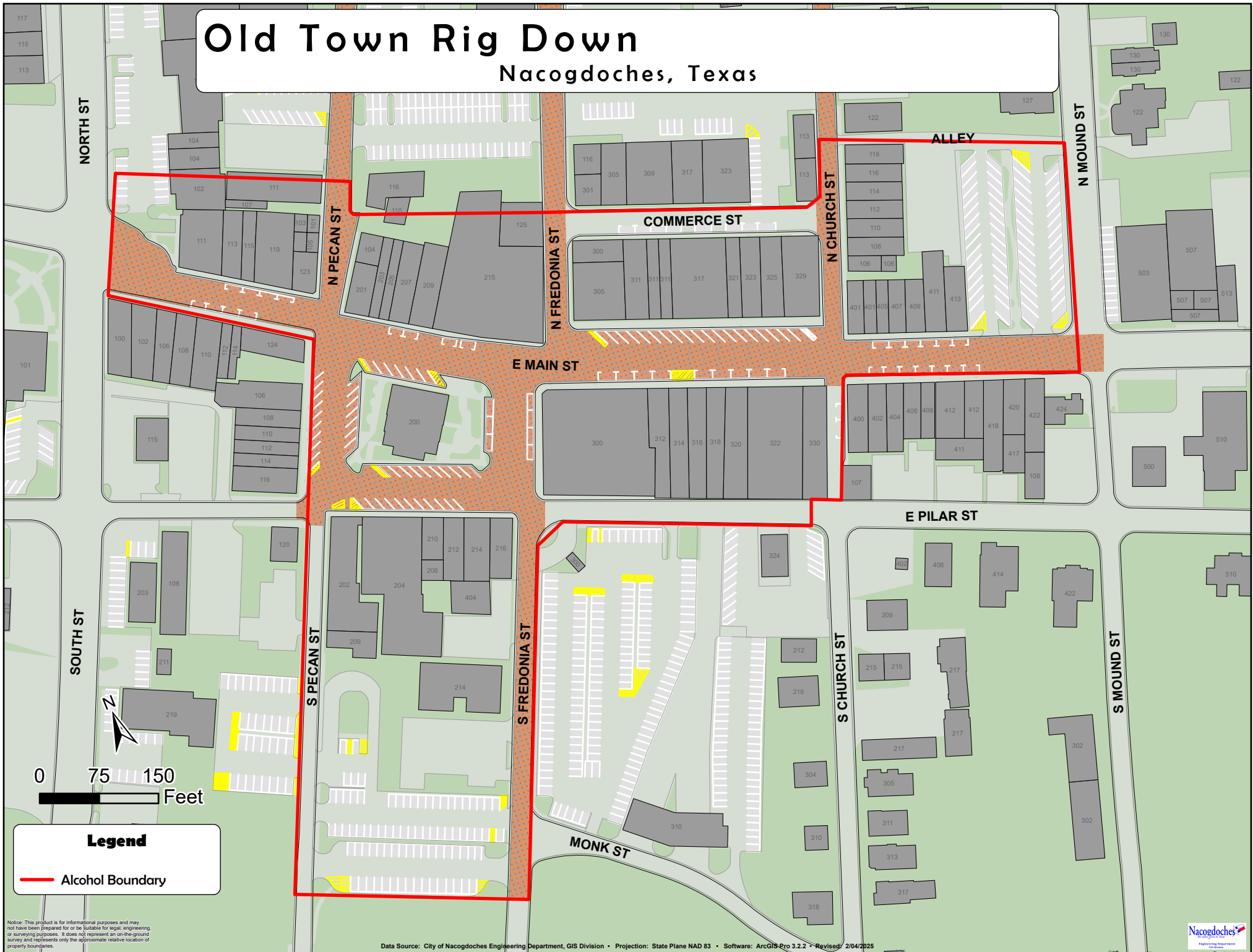
Mayor, Randy Johnson
City of Nacogdoches

ATTEST:

Rhonda Lewis, City Secretary

Old Town Rig Down

Nacogdoches, Texas





City Council Meeting

Date: June 17, 2025

Agenda Item: 6.B.

PRESENTER: Jessica Sowell, Community Services Director

ITEM/SUBJECT: Consider approval of a resolution for street closures related to the Nacogdoches Nine Flags Christmas Parade hosted by Nacogdoches United Way in Downtown Nacogdoches. (Community Services Director)

SUMMARY/BACKGROUND: The City of Nacogdoches holds several annual fundraising, holiday, and community events in Downtown Nacogdoches. These events attract visitors from all over the state, city, and county and, in turn, boost our local economy in sales tax and hotel occupancy.

Several events, including the Nacogdoches Nine Flags Christmas Parade, hosted by the Nacogdoches United Way, require the closure of East Main Street. In order to close East Main Street (Highway 21), the City Council must pass a temporary closure resolution. If approved, a map of the street closures, the Agreement for Temporary Closure of State Right of Way with TxDOT, and the City Council resolution will all be sent to the regional TxDOT office for final approval.

The Nine Flags Christmas Parade is scheduled for December 6, 2025.

FINANCIAL:

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

CITY CONTACT: Jessica Sowell, Community Services Director
sowellj@nactx.us
(936) 559-2935

ATTACHMENTS:

1. Resolution 1392-06-25
2. Christmas Parade Map 2025

RESOLUTION NO. 1392-06-25

WHEREAS, organizers of the 2025 Nine Flags Lighted Christmas Parade desire to have a safe and successful event for all vendors and participants; and

WHEREAS, organizers of the 2025 Nine Flags Lighted Christmas Parade are requesting that the City of Nacogdoches close Main Street (SH 21) from its intersection with North Street eastward to its intersection at Mound Street, as well as the Thomas J. Rusk Parade Route, from 1:00 p.m. December 6, 2025 until 10:00 p.m. December 6, 2025, in order to provide safety for the vendors and participants; and

WHEREAS, after duly considering such a request, it is the consent of the City Council that a resolution be adopted requesting the Texas Department of Transportation to allow the closing of Main Street for the 2025 Nine Flags Lighted Christmas Parade.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Nacogdoches, Texas that this resolution be adopted requesting the Texas Department of Transportation to allow the closing of Main Street (SH 21) from its intersection with North Street eastward to its intersection at Mound Street, as well as the Thomas J. Rusk Parade Route, from 1:00 p.m. December 6, 2025 until 10:00 p.m. December 6, 2025, in order to provide safety for the vendors and participants, for the 2025 Nine Flags Lighted Christmas Parade.

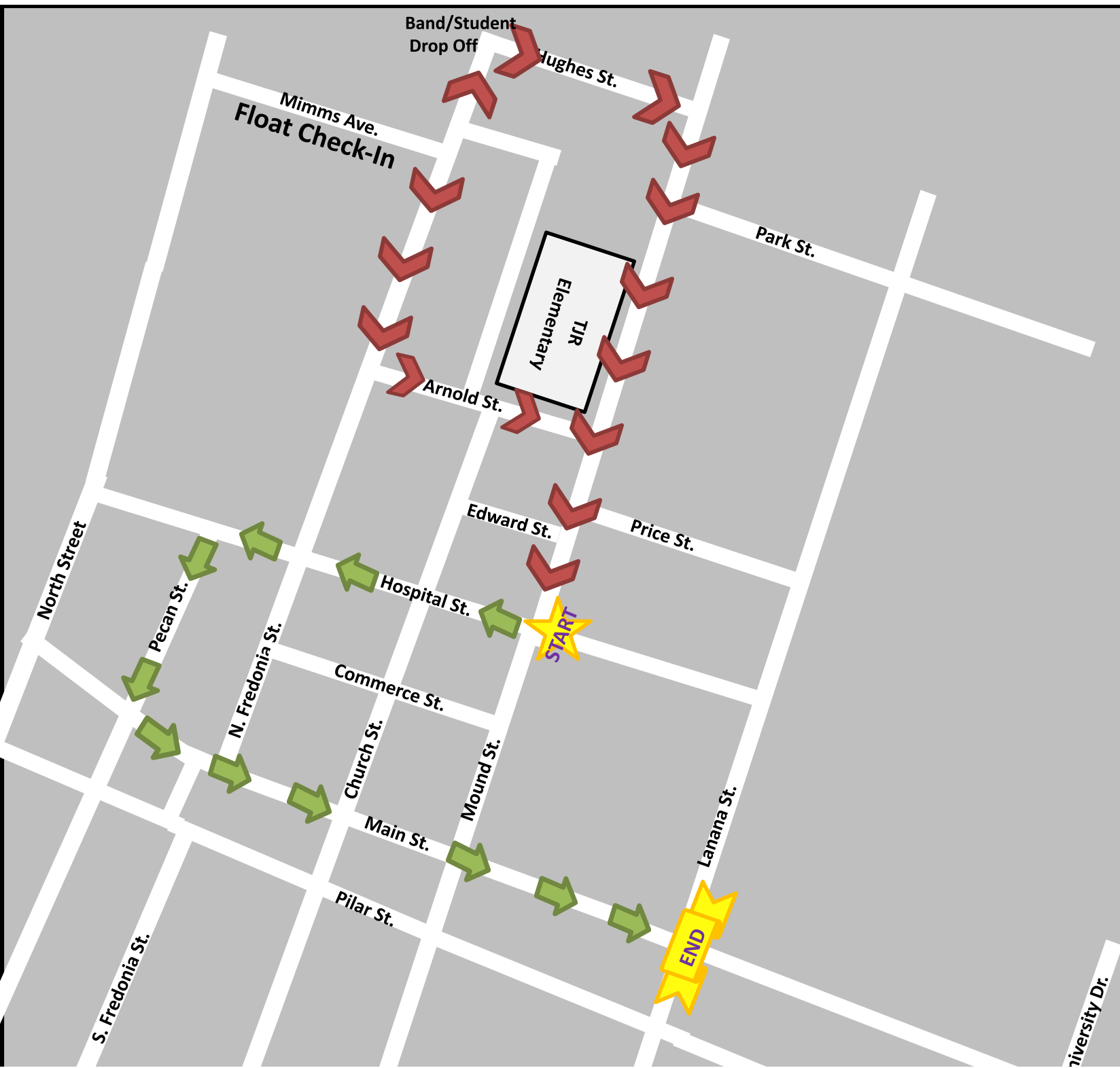
BE IT FURTHER RESOLVED that Richard B. Beverlin, City Manager, be authorized to execute an agreement with the Texas Department of Transportation for the closing of Main Street (SH 21).

PASSED AND APPROVED this 17th day of June, 2025.

Mayor, Randy Johnson
City of Nacogdoches

ATTEST:

Rhonda Lewis, City Secretary



Parade Route LEGEND



Parade
Route



Starting
Point



Ending
Point



Parade
Staging

Parade Route

Hospital St., Left on Pecan
St., Left on Main St., Left
on Lanana St.

Starting Point

Mound St. & Hospital St.

End Point

Main St. & Lanana St.

Parade Staging

Mound St., Hughes St., &
Fredonia St.

PRESENTER:

ITEM/SUBJECT: Consider approval of a contract between the City of Nacogdoches and Consolidated Communications for Internet services at the Police Department. (Director of Information Technology)

SUMMARY/BACKGROUND: The Department of Public Safety (DPS) is converting agencies that connect to the Texas Law Enforcement Telecommunications System (TLETS) using the DPS satellite network to an Internet-based system for improved communication. Nacogdoches PD is part of that group.

In order to support these changes, we will need to upgrade the current Optimum cable modem connection with limited throughput (speed) to a fiber-based 1GB Internet connection. There will be a cost increase from \$220/month to \$680/month for this new dedicated service.

We will also be installing a new firewall appliance to support this requirement. The current firewall at PD is out of date (unsupported) and is not Enterprise grade.

FINANCIAL:

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

CITY CONTACT: Dennis Varela, Director of IT
varelad@nactx.us
(936) 559 2534

ATTACHMENTS: 1. Consolidated BSA 00044135 City of Nacogdoches 5 28

BUSINESS SERVICES AGREEMENT

BSA ID	TERM LENGTH
00044135	36 Months

This Business Services Agreement is entered into by City Of Nacogdoches (“**you**” or “**Customer**”) and the Consolidated Communications, Inc. affiliate located in the state in which the Service(s) are being provided (“**we**” or “**CCI**”) and along with the General Terms and Conditions attached hereto and incorporated herein constitute the agreement (the “**Agreement**”) for the provision of the “**Services**” requested below. Additionally, one or more addendum(s) with service-specific terms and conditions may be attached to

this Agreement (each, an “**Addendum**”). Each such Addendum will be governed by and incorporated into this Agreement. This Agreement is binding on you and CCI when signed by both parties (the later dated signature being the “**Effective Date**”). By signing below, each party represents that their signatory is duly authorized to execute and deliver this Agreement. This Agreement will continue in force for so long as any Service is provided hereunder.

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Services	Quantity	MRC	Total MRC	NRC	Total NRC
Port & Access 1Gbps	1	\$200.00	\$200.00	\$0.00	\$0.00
Dedicated Internet Access EVC 1Gbps - Internet Only	1	\$460.00	\$460.00	\$0.00	\$0.00
WAN Static IP Block /29 = 5 usable IPs	1	\$20.00	\$20.00	\$0.00	\$0.00

Site Name	Site Notes
312 West Main Street	

CHARGES AND FEES. The following reflect the charges and fees applicable to the Services ordered:

- | | |
|--|-----------------|
| (a) Total of Monthly Recurring Charges (“ MRC ”): | \$680.00 |
| (b) Total of Non-Recurring Charges (“ NRC ”): | \$0.00 |

Any and all taxes, fees, universal service and similar public policy assessments, are in addition to the amounts set out above, and are also payable by you. If a tariff governs a Service, the terms of the tariff will take precedence over this Agreement. All pricing is exclusive of any non-recurring charges incurred that are not reflected above, including charges related to any needed extension of facilities or additional work necessary to provide the Services. These charges

may include after-hours installation charges for requested installations between 5:00 p.m. and 6:59 a.m. Monday through Thursday or weekend installation charges for requested installations between

5:01 p.m. Friday and 6:59 a.m. Monday. All extension or installation work will only be performed upon your agreement to pay the associated charges, and if you do not agree to pay such charges, this Agreement (or any applicable Service) will be subject to cancellation by us. Pricing is also exclusive of: (i) any usage or variable charges, (ii) all taxes and fees, and (iii) all charges incurred in connection with governmental or quasi-governmental assessments, all of which are payable by you. We reserve the right to adjust monthly service rates due to increases in other tariffed services that are outside of our control, or where third-party vendors increase rates for third-

party services, and you will not be entitled to terminate this Agreement as a result of any such increase. Notwithstanding any other terms in this Agreement, this pricing is good only in areas where the Service is commercially available. You understand that the Service selected may not be commercially available at the rates, speeds or bandwidth set forth herein in your area, and that this Service Order is subject to our final acceptance. Any long distance package pricing excludes charges related to international calls, which will be payable as incurred according to then-applicable rates. You are responsible for all individually charged calls, whether domestic or international, and whether through hosted services or otherwise, including charges that are unauthorized or fraudulently incurred. All Services are provided subject to verification of good credit before installation, your timely payment and your continued good credit.

TERM OF SERVICES. This Service Order is binding on you when you sign it. The initial term for each Service is 36 Months. The billing for each Service will commence on that date upon which the Service is made available by CCI for use by you, unless, prior to commencement, you notify us in writing that the Service provided does not meet an applicable Service performance specification. The Contract Term will not be less than a term of 12 months from the Service availability date except where "month-to-month" is the contracted term or where applicable law provides otherwise. During the initial term, we may make changes to the Services, including by adding to or modifying the features associated with the Services, but we will not materially reduce your Service functionality during the initial term. In some cases, new or modified Service features may require your payment of additional charges. If a new or modified Service feature requires your payment of an additional charge, we will notify you and will provide an opt-out period during which you will be able to opt-out of the applicable feature and the corresponding charge. If you do not opt-out during the opt-out period, your continued use of the Service following the opt-out period signifies your acceptance of the new or modified Service feature and your agreement to pay the corresponding charge. After the initial term, this Agreement and the term for each Service will automatically be extended on a month-to-month basis, unless either party provides at least 30 days' written notice of termination to the other. Upon the commencement of any such month-to-month renewal term, any discounted or promotional pricing will expire, and pricing will automatically be adjusted to reflect our then-current rates for the Services. During the renewal term, we may discontinue or modify the Service or increase Service charges at any time with thirty (30) days' prior notice to you.

CANCELLATION CHARGE; EARLY TERMINATION CHARGE. If you cancel this Agreement or any Service after the Effective Date but before the date that the Service is first made available to you, or if installation fails because of your action or inaction, and is not later completed, you agree to pay to us a cancellation charge equal to four (4) months of MRCs, plus all costs incurred by us in connection with the extension of facilities to your location, including both our costs and third-party costs. The cancellation charge will be paid to us not later than the later of any due date identified on

the invoice or thirty (30) days after the date Service is terminated. If we have provided any equipment to you, the equipment must be returned to us in good condition or you will be responsible for its cost. Notice of any Service termination must be submitted to us in writing. If you terminate any Service after the Service is first made available to you and before the end of the applicable term for any reason not permitted by this Agreement, or if we terminate any Service or this Agreement for your breach, you are responsible for an early termination charge equal to 100% of the MRCs for each affected Service for each of the remaining months in the term. Notwithstanding the foregoing, in markets where the following products are sold, the Essentials Voice, EPAKII Voice Packages, BizConnect and FiberConnect products will be subject to a flat early termination charge of \$129.00 per circuit or per line as applicable with no proration for the length of time left in the term for these products. In addition to the applicable early termination charge, you will also be responsible for the following ancillary costs related to your Service: (i) any recurring Service charges that are due or that become due and that are unpaid as of termination; (ii) any non-recurring charges (including any non-recurring charges that were waived by us at the time the Services were ordered) that are due or that become due and that are unpaid as of termination; (iii) any unrecovered costs of installation including, without limitation, fiber build and similar costs; (iv) all costs incurred by us, including costs with a third party, for any service, equipment or access rights procured in order to install a Service and/or to serve you; and (v) all taxes, fees and assessments. You agree that the early termination charge and the ancillary costs described above are a fair estimate of the damages to us in connection with your early termination and is not a penalty. Early termination charges may be waived if you upgrade a service for a term at least as long as the remaining term on this Agreement.

911 SERVICES. If you are obtaining any Service that is not powered from within the CCI network, you acknowledge receipt of disclosure that there are possible limits on access to 911 Service, that you, and not CCI, must provide electrical power for any customer-premise equipment and for connections to the underlying CCI network, and that outages may affect 911 access, 711 access and access to other services for users. You also acknowledge that you may be required to affix stickers or labels related to 911 limits or to otherwise provide notice of such limitations to users. You also acknowledge that location-based 911 Service is available, if at all, only at the location where we physically install the related Service. You may be provided with additional disclosures. It is your sole responsibility to determine if a Service is compatible with any security, alarm or monitoring service and/or system you use. To the extent that you operate or use a private network or multiline telephone system, you are, to the fullest extent permitted by applicable law, solely responsible to maintain timely and correct specific location information in the 911 or other relevant emergency database of all your telephone units and associated numbers, so that the appropriate emergency agency will be contacted, and the responder will be able to determine the actual location from which an emergency call is made. You agree to notify all users and potential users of the limitations applicable to 911 calls made through the Service as described in this provision.

MARKETING

Unless you opt-out by marking the box below, the following provision will apply to you: You agree that we may include your name and logo on our public customer list. You also agree to reasonably cooperate with us on co-marketing and public relations activities to demonstrate the launch and success of your program (e.g., press release, case study, testimonial,

video). You grant us a limited, non-exclusive, worldwide license to use your name and logo for these purposes.

CCI REPRESENTATIVE	City Of Nacogdoches
By: \	By:
Name:	Name:
Title:	Title:
Signature Date: 00044135	Signature Date:
	CUSTOMER CONTACT INFORMATION:
	Name: Dennis Varela
	Address: 202 E Pilar St, Nacogdoches, TX, 75961
	Business Phone: 9365592532
	Email Address: varelad@nactx.us

GENERAL TERMS AND CONDITIONS

1. SERVICES. These General Terms and Conditions along with the Business Services Agreement and any Addenda attached hereto constitute the Agreement between the parties for the provision of Services requested by you hereunder. You may not vary this Agreement with use of a Customer-issued purchase order, it being understood that the terms of any such purchase order will be void and/or superseded by the terms of this Agreement in the event of any conflict. You acknowledge that we may elect to perform under this Agreement through one or more CCI affiliates or other entities and that the applicable CCI affiliate to this Agreement is located in the state in which the Service(s) are being provided as referenced at <https://www.consolidated.com/affiliates>.

2. ACCESS. You agree to provide or obtain for us reasonable access to the location(s) where Service will be installed and/or provided, and to cooperate with us during installation and other work related to the provision of Service. We will deliver Service to a demarcation point established in accordance with applicable law and/or regulation, or in lieu thereof, established by us at or near the Service location.

3. PAYMENT. You agree to pay for all Services on time and at the applicable rates and charges, plus all applicable taxes, fees and assessments, without any deduction or setoff. You agree to pay all amounts stated on the invoice by the due date, or if there is no date stated, within thirty (30) days of the date of our invoice to you (the “Due Date”). If you do not timely pay your bill, you will be responsible to pay late charges applied to the amount unpaid of one and one-half percent (1.5%) of such amounts from the Due Date until paid in full (or the greatest amount allowed by applicable laws, if less). If your check is returned unpaid, or your payment does not clear, you will be billed our then-applicable fee for such occurrence. If you do not pay all undisputed amounts by the Due Date, we may elect to suspend or to disconnect any Service(s) until your account is brought current, including interest and late charges. A reactivation fee will apply.

4. BILL DISPUTES. If you dispute any charges stated on an invoice, you are required to notify us in writing within thirty (30) days of the date of the disputed invoice. Regardless of the basis of the dispute and unless prohibited by applicable law, if you fail to provide to us a written dispute notice as set forth above within thirty (30) days after the date of the affected invoice in which the disputed charge initially appears, you waive the right to dispute the charge and the invoice will become final and not subject to dispute for any purpose. Your dispute notice must identify the specific charge(s) that you dispute and provide a reasonable explanation of the basis for the dispute. Notification of disputed charges will not excuse payment of the remainder of the invoice, and you agree to pay all other invoiced charges not disputed in accordance with this section by the Due Date. Upon our resolution of a dispute you will either be credited for disputed amounts resolved in your favor or must pay the disputed amounts found to be due.

5. USE OF SERVICES. You are responsible to pay for all use of Service, including others’ use of your Service and/or use of your equipment. We encourage you to investigate and implement available security options such as call blocking to protect yourself from fraud. Services are provided to you

for your own use and cannot be resold by you unless specifically agreed to in writing by us. Each party agrees to comply with all Federal, state and local laws, rules, regulations and ordinances applicable to the Services or their use. We reserve the right to suspend a Service if we determine that the use being made of that Service is or is likely to be in violation of applicable law or regulation. Our current Acceptable Use Policy (AUP) is available at <https://www.consolidated.com/Support/Terms-Policies/Internet-Terms-Policies/Internet-Terms-Conditions-and-Acceptable-Use-Policy> and is expressly incorporated into this Agreement. We may update our AUP or other online terms and conditions of use applicable to the Service at any time. A violation of any applicable law or our AUP by you or any users of your Service may result in an immediate suspension or termination of Service.

6. EQUIPMENT, WIRING AND SOFTWARE. We may provide you with equipment and/or inside wiring. Unless otherwise expressly provided in this Agreement, you obtain no property right or interest in any equipment or facilities provided by us, and all right, title and interest to such items will remain solely with us or our underlying provider, as appropriate. We may at any time substitute the equipment and facilities used to provide the Services. As to all CCI-provided equipment, unless purchased by you and paid in full, you will: (i) keep all the equipment free and clear of any levies, liens and security interests and will provide prompt notice of any attachment or other judicial process affecting any item of the equipment; (ii) safeguard the equipment from loss and damage; and (iii) maintain full responsibility for the equipment if any damage or injury occurs and pay for all repairs, or for the replacement of the equipment if it is irreparable, lost or stolen. You are responsible for all wiring maintenance on your side of the demarcation point. Additional charges based on time and materials may apply if an optical handoff is required for Ethernet delivery. You may not move any CCI equipment without our written consent and, unless purchased by you and paid in full, you must return all CCI-provided equipment to us when the associated Service is terminated, in the same condition as when installed, reasonable wear and tear excepted, and consistent with any requirement of law. If we provide you with any software, you are only permitted to use the software in object code form on the hardware on which it is installed for the sole purpose of enabling use of the Services, and you agree not to: (i) disclose or make available to third parties any portion of the software without our advance written permission; (ii) further copy or duplicate the software; (iii) reverse engineer, decompile or disassemble such software; (iv) make derivative works from such software; (v) modify such software; or (vi) use the software in a credit bureau capacity. Additionally, to the extent any such software is third-party software, the third-party software may be governed by separate license provisions found or identified in documentation or on other media delivered with the third-party software or otherwise provided to you, all of which are incorporated herein by reference.

7. NETWORK ADDRESSES. Any and all network addresses provided to you will at all times remain our property and are non-transferable. We grant you a license to use such network addresses during the term but only for the purposes and as contemplated by this Agreement. You will have no right to such network addresses upon expiration or termination of the applicable

Services. You also agree that your license to use such network addresses during the term is revocable and is for non-portable network address space. Network addresses may be re-numbered as and when we deem necessary. All customers applying for IP address space from CCI must complete an IP address form provided by us, the terms of which will be deemed incorporated herein. Unless otherwise expressly provided in this Agreement, all fees associated with domain name registration and periodic maintenance of domain names are your responsibility. The registrar (or CCI on registrar's behalf) will bill such fees directly to you.

8. CUSTOMER-PROVIDED EQUIPMENT. You will provide, at your sole cost and expense, any and all additional electronic equipment and other facilities necessary for your use of the Services other than those provided by us. Unless otherwise agreed in writing, we will have no obligations with respect to the provision, installation or maintenance of any customer-provided equipment. You will pay the cost of interfacing to our demarcation point. You are fully responsible for ensuring that all customer-provided equipment is properly interfaced with the Services and emits signals that: (i) are of the proper mode, bandwidth, power, data speed and signal level for your intended use; (ii) are fully compliant with the generally accepted minimum protective standards of the telecommunications industry as endorsed by the Federal Communications Commission (FCC); and (iii) do not damage, harm, degrade or interfere with proper operation of the Services or our equipment and facilities. We assume no responsibility for the quality of the signal generated by any customer-provided equipment and will only be required to use commercially reasonable efforts to deliver the signal to the receiving location in the same format and condition as generated by such equipment. If you fail to maintain and operate your equipment properly, with resulting or imminent interference, degradation or harm to or with the proper operation of our services, equipment or facilities, or with injury or imminent injury to our personnel, we may immediately suspend the Services without liability or require the use of protective interface equipment at your expense.

9. MAINTENANCE AND SERVICE ISSUES. The information located at [https://www.consolidated.com/Trouble Reporting](https://www.consolidated.com/Trouble%20Reporting) is made available to you for reporting service problems, making requests for repair status, escalating individual circuit problems and scheduling maintenance. We also reserve the right to perform network upgrades, maintenance, updates and modifications at such times as are determined by us as required to maintain the Service performance, and any maintenance notices to you will be provided in accordance with the applicable Addendum and prevailing CCI state practices. We will use commercially reasonable efforts to perform all scheduled maintenance in a manner that minimizes any system interruption and will typically endeavor to perform scheduled maintenance between 12:00 a.m. and 6:00 a.m. local time. Each party will maintain communication with the other party throughout the status of any customer-specific trouble resolution. Your sole remedy for failure of the Services to meet any applicable performance specifications and for any Service interruptions as described in any Addendum will be for us to grant you the credits described in the applicable Addendum, if any. To be eligible for a credit, you must be under term as to the affected Service (must not be month-to-month), must be in good financial standing with CCI and must open a trouble ticket with us for

the Service issue. To receive a credit, you must request the credit in writing within thirty (30) days after the end of the month in which the credit-generating event occurred or you will waive your right to any credit or other remedy for such event. Credit requests must include your name, contact information, billing account number, circuit ID (if applicable), the date of the outage, trouble ticket number(s) and any other information requested by us. All credit requests are subject to our review and approval, and credits will only be applied in the billing cycle following our approval. Credits are not cumulative (only the highest applicable credit will apply to any one credit-generating event) and will not exceed 50% of the MRC for the affected Service(s) in the aggregate unless otherwise provided in an applicable Addendum. If there are no Addenda or the applicable Addendum does not specifically provide for credits, credits will only apply in our sole discretion. Services provided pursuant to filed state or federal tariff are subject to terms and conditions contained in such tariff and not any Addendum. In no event will you be entitled to credits or other remedies for Service issues caused by you or resulting from Force Majeure Events (described below) or our planned maintenance.

10. LIMITATION OF WARRANTIES. We will perform all installation and other work at the location where Services are provided in a competent manner, and any damage to such location will be promptly repaired or corrected. Additionally, in the event you are permitted to purchase any equipment or third-party software licenses as set forth in this Agreement, we will use commercially reasonable efforts to pass through (or to cause its applicable vendor to pass through) the manufacturer's end-user warranty for the purchased equipment or software licenses. OTHERWISE, ALL SERVICES, EQUIPMENT, FACILITIES AND SOFTWARE ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, AND WE SPECIFICALLY DISCLAIM ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT UNINTERRUPTED AND/OR ERROR-FREE OPERATION OF ANY FACILITY, EQUIPMENT OR SERVICE UNLESS THAT IS UNAMBIGUOUSLY DESCRIBED AS SUCH IN THIS AGREEMENT. WE DO NOT WARRANT OR GUARANTEE SPECIFIC INTERNET UPLOAD OR DOWNLOAD SPEEDS OR DATA QUALITY. WE COMPLY WITH APPLICABLE RELATED RULES, BUT SPEEDS ARE SUBJECT TO FACTORS OUTSIDE OF OUR CONTROL. ADVICE OR INFORMATION GIVEN BY CCI OR ITS CUSTOMER SUPPORT OR OTHER REPRESENTATIVES WILL NOT CREATE A WARRANTY OF ANY NATURE OR TYPE WHATSOEVER.

11. REMEDIES; LIMITS ON LIABILITY.

11.1 Your remedies for any failure, interruption, degradation, outage, non-delivery or non-performance of any Services, including related equipment and facilities, and any loss of data, or for any breach by us of this Agreement, are limited to (i) the applicable service credits or other remedies provided for under an applicable Addendum or (ii) if no Addendum is applicable, one or more of the following as elected by us: (a) repair of the Service, facilities, equipment or wiring; (b) re-performance of work, where that can be done; (c) cancellation or termination of any Service not remedied by repair or re-

performance, with no cancellation or early termination charge; and/or (d) an adjustment or credit to your bill.

11.2 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE COMBINED LIABILITY OF CCI AND ANY CCI AFFILIATE TO YOU WILL BE LIMITED TO THE APPLICABLE REMEDY IDENTIFIED ABOVE AND WILL IN NO EVENT EXCEED PROVEN DIRECT DAMAGES, NOT TO EXCEED THE TOTAL YOU HAVE PAID FOR ALL SERVICES FOR THE 12-MONTH PERIOD PRIOR TO THE TRIGGERING EVENT. HOWEVER, THIS LIMITATION WILL NOT APPLY TO BODILY INJURY, DEATH OR DAMAGE TO REAL PROPERTY DIRECTLY CAUSED BY OUR GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER YOU NOR CCI OR ANY CCI AFFILIATE WILL BE RESPONSIBLE FOR ANY PUNITIVE, ENHANCED COMPENSATORY, INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING ANY LOSS OF BUSINESS, REVENUE OR PROFITS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS, AND WITHOUT REGARD TO THE THEORY OF RECOVERY. To the maximum extent permitted by applicable law and except as otherwise expressly provided in this Agreement, neither CCI, any CCI affiliates nor any person or entity utilized by us to provide the Services, will be liable for any of the following: (i) any information or content that CCI or an affiliate transports or provides, and any and all claims related to such information or content; (ii) any unauthorized access to or use of your Services or equipment, or of any equipment or facilities related to such Services; (iii) any access, alteration, theft, damage, destruction or loss of any of your records, data or other information; (iv) any claims for damage for which you are responsible, whether in whole or in part, whether through action or inaction, and regardless of degree; and (v) claims against you by any person or entity not a party to this Agreement. Some jurisdictions may not permit the exclusion of certain warranties and/or damages as set forth above. In these jurisdictions, the foregoing will serve to limit CCI's liability to the maximum extent permitted by applicable laws.

11.3 No cause of action, regardless of form, arising out of this Agreement, may be brought by either party more than one (1) year after the cause of action has arisen or, in the case of non-payment, more than one (1) year from the date the last payment was due.

12. BREACH AND TERMINATION. You will be in breach of this Agreement: (i) if you fail to timely pay any undisputed amount due to us under this Agreement within ten (10) days of the date that it is due; (ii) immediately if you fail to comply with section 5 of these General Terms and Conditions; (iii) if you fail to perform any other obligation under this Agreement, and such failure continues for more than 10 days after written notice from us; (iv) if you cancel or repudiate this Agreement or any Service commitment; or (v) if you are subject to voluntary or involuntary bankruptcy proceedings, make an assignment for the benefit of creditors, cease to operate as a going business, or become insolvent or seek protection from creditors. Upon the occurrence of a breach not cured within CCI's 30-day written notice, we may elect to suspend or terminate any Services and/or this Agreement on written notice to you. If we take action to collect amounts due, or to address any other

breach, we will be entitled to reasonable attorneys' fees and costs. You can terminate this Agreement and/or a Service at any time on written notice to us, subject to payment of all applicable cancellation or early termination charges set forth in the Service Order. We will only be in breach of this Agreement if we fail to perform an obligation under this Agreement and such failure continues for more than 30 days after written notice from you. Upon the occurrence of our breach, you may elect to terminate any Services and/or this Agreement on written notice to us.

13. FORCE MAJEURE. We are not responsible for performance if we are delayed or hindered by any action, inaction or event that is outside of our reasonable control (a Force Majeure Event). This includes but is not limited to fire, flood, severe weather, any other Acts of God, acts of government, civil unrest, terrorist or similar acts, any strike or labor stoppage, embargo, war, cable cuts, power outages or failures, action or inaction by any third party, or any unavailability of necessary facilities, software, hardware or equipment. Notwithstanding anything herein to the contrary, if the Force Majeure delay continues for 30 days or more, either party may terminate the affected Services upon written notice to the other party, without penalty or liability for early termination.

14. INDEMNIFICATION. To the extent permitted by law, you hereby agree to indemnify, defend and hold CCI and any CCI affiliate harmless from and against any damages, costs, liabilities and attorneys' fees (and costs) we may incur from any claim arising from: (i) your use of the Service, or the use of your Service by others, including without limitation, violation of the copyrights, trademarks or other intellectual property rights of others, your combination of any Service with other products or services not provided by us, or any modification of the Service; (ii) your breach of the terms and conditions contained herein or any other terms and conditions of use applicable to the Service; or (iii) your negligence or willful misconduct. In such event, you agree to defend and control any such litigation, including the payment of any settlement thereof. You agree not to acquiesce to any judgment or enter into any settlement that adversely affects our rights or interests without our prior written consent, such consent to be exercised in our sole discretion. We hereby agree to give you prompt notice of all claims and to cooperate in defending against the claim. You may not settle any claim under this section which includes an admission of criminal liability or the payment of a settlement amount without our prior written consent, such consent to be exercised in our sole discretion.

15. ASSIGNMENT AND TRANSFER. You may not assign or transfer this Agreement, any Service or any of your rights or obligations under this Agreement without our prior written consent. Notwithstanding this provision, you may assign or transfer this Agreement and all Services to an entity that is successor to all or substantially all of your assets or capital stock on written notice to us if the successor entity agrees in writing to perform all terms and conditions applicable to the Services and is reasonably capable of doing so. We may assign this Agreement in whole or in part at any time subject to the requirements of applicable law. New customers are subject to credit review. An assignment or transfer in violation of this section will be void. This Agreement

is binding upon execution, and will inure to the benefit of each of the parties and their respective successors and permitted assigns.

16. NOTICES. CCI may provide notice of change of address via email or regular mail to the contact person set forth on the signature page of this agreement, or to any subsequent contact person identified by you. All other legal notices to you will be sent to the contact person and address set forth on the first page of this Agreement. All other legal notices must be in writing and will be mailed by certified or registered mail, postage prepaid, return receipt requested and will be deemed given on the third (3rd) business day after the date of posting in a United States Post Office or one day after delivery to a nationally recognized overnight courier. All legal notices to us must be sent to: Consolidated Communications, Attn: Legal Department, 350 South Loop 336 West, Conroe, Texas 77304. Except as otherwise agreed upon by you and CCI, you can change your notice address on written notice to CCI in accordance with this section.

17. GOVERNING LAW; VENUE; WAIVER OF JURY TRIAL AND CERTAIN CLAIMS. This Agreement, its formation, construction and interpretation will be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. For the purpose of resolving any dispute regarding this Agreement, its formation, construction and interpretation, to the fullest extent allowed by law, the parties agree to submit to jurisdiction and to bring such action in a U.S. District Court, or absent federal court jurisdiction, in a state court of competent jurisdiction, Nacogdoches County, Texas. THE PARTIES KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THEIR RIGHT TO A JURY TRIAL AND ANY RIGHT TO PURSUE ANY CLAIM RELATED TO THIS AGREEMENT ON A

CLASS OR CONSOLIDATED BASIS OR IN A REPRESENTATIVE CAPACITY, TO THE EXTENT PERMITTED BY LAW.

18. MISCELLANEOUS. The person signing this Agreement for you represents and warrants that he/she is authorized to execute this Agreement. For certain Service changes, a person authorized on your account may request the change via an email to your account representative or a CCI customer service representative. Otherwise the terms and conditions of this Agreement can only be amended by a writing signed by both parties. The failure of either party to insist on strict performance of any provision of this Agreement is not a general waiver of that provision or of any future performance. If any part of this Agreement is found to be invalid or unenforceable, the rest of the Agreement remains enforceable. This Agreement constitutes the entire agreement of the parties. Each party hereto is an independent contractor under this Agreement, and no license, joint venture or partnership, express or implied, is granted, created or intended. Neither party has the authority to bind the other party, or act for the other party, in any manner or capacity. In the event of any inconsistency between these General Terms and Conditions and the terms or conditions contained in the Business Services Agreement or any Addendum, the terms of the Business Services Agreement or applicable Addendum will govern and control with respect to the applicable Service.

19. CONSENT TO SHARE INFORMATION. You give us your consent to: (i) share information with our affiliates and others where sharing can assist in initiating, providing, billing and collecting for Services, establishing and managing billing records, responding to Service issues and resolving payment questions; and (ii) provide information on other CCI services.

ATTACHMENT 1

Insert any applicable Service Addenda
(there may be none)

DEDICATED INTERNET SERVICES ADDENDUM

1.INTERCONNECTION SPECIFICATIONS. Dedicated Internet service will be delivered using American National Standards Institute (“ANSI”) specifications. The signal characteristics and supported MAC Layers at the Network Interface (“NI”) will be as specified in the ANSI standards. The physical NI will be dependent on the physical data rate contracted.

2.PERFORMANCE STANDARDS. Dedicated Internet service standards apply on a one-way basis between the Dedicated Internet Service edge router at the point of demarcation (“**DEMARC**”) and CCI’s ingress/egress Internet uplinks. When a third-party provider is used to extend the CCI network, standards apply only to the CCI network handoff (Network to NI) to the third party. Dedicated Internet service standards exclude nonperformance due to force majeure or planned interruptions for necessary maintenance purposes. The actual end-to-end availability and performance of Dedicated Internet service may be affected by the customer-provided equipment, dependent upon the type and quality of customer-provided equipment used.

3.AVAILABILITY OBJECTIVE. Availability is a percentage of total time that service is operative when measured over a 30-consecutive-day (720-hour) period. The end-to-end availability standards for Dedicated Internet service are:

CCI MARKET	SPECIFICATION	AVAILABILITY
CCI Legacy Markets	Access – With Redundant CPE*	99.995%
CCI Legacy Markets	Access – With Non Redundant CPE	99.95%
CCI NNE Markets**	Access – With Redundant CPE	99.995%
CCI NNE Markets	Access – With Non Redundant CPE	99.95%

*Redundant CPE consists of two (2) NIs on two (2) different CPE devices and two (2) different uplink fiber pairs at each of your sites terminating in two (2) core nodes in two (2) different CCI offices (dual homed).

**CCI NNE Markets include Maine, New Hampshire and Vermont.

4.INOPERABILITY. Dedicated Internet service is considered inoperative when there has been a loss of signal.

5.REPAIR AND SCHEDULED MAINTENANCE. Repair efforts will be undertaken upon notification of trouble by internal network surveillance and performance systems or by notification of trouble and release of Dedicated Internet service by you for testing. You will be notified a minimum of five (5) business days in advance of any scheduled maintenance. Scheduled maintenance will be performed in a manner that minimizes any system interruption. Performance and availability standards will not apply during scheduled maintenance periods.

6.SLA SERVICE CREDIT PROCESS. SLA credits will be granted for Dedicated Internet service if CCI fails to meet service parameters as previously defined under Availability, subject to the following terms and conditions. CCI reserves the right to change, amend or revise this policy at anytime. For the SLA credit process, please refer to the terms and conditions on your contract.

ACTUAL SERVICE AVAILABILITY	CONFIGURATION Redundant	Non-Redundant	Type 2	EXAMPLE FOR 30-DAY MONTH
100%-99.999%	0%	0%	0%	Less than 40 sec
99.999%-99.95%	5%	0%	0%	40 sec up to 24min
99.95%-99.5%	10%	10%	0%	24 min up to 4 hrs
99.5%-98.9%	25%	25%	0%	4 hrs up to 8 hrs
98.9%-98.2%	40%	40%	0%	8 hrs up to 12 hrs
<98.2%	50%	50%	0%	Greater than 12 hrs

Dedicated Internet Services Addendum, v20211123

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City Council Meeting

Date: June 17, 2025

Agenda Item: 6.D.

PRESENTER: Jessica Sowell, Community Services Director

ITEM/SUBJECT: Consider approval of the annual contract between the City of Nacogdoches and Main Street America for participation in the National and State Main Street program.
(Community Services Director)

SUMMARY/BACKGROUND: The Nacogdoches Main Street Program has been designated as a 2025 Accredited Member of the Main Street America™ program, a national initiative that supports the revitalization of historic downtowns through preservation-based economic development. Main Street America™ is managed nationally by the National Main Street Center, a subsidiary of the National Trust for Historic Preservation, and coordinated statewide by the Texas Historical Commission. To maintain accreditation, the City must enter into a trademark sublicense agreement allowing the use of Main Street America™ branding in accordance with national guidelines. By approving this agreement, the City agrees to follow specific brand standards, maintain accredited status, and represent the program in a way that upholds the reputation and values of the national network; the agreement is effective through May 31, 2026.

The City of Nacogdoches has been a Main Street City since 1997. Each year we are required to enter into a similar contract.

FINANCIAL:

No financial impact associated with this item

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

CITY CONTACT: Jessica Sowell, Community Services Director
sowellj@nactx.us
936-559-2935

ATTACHMENTS: 1. MSA 2025 contract

TRADEMARK SUBLICENSE AGREEMENT

This Trademark Sublicense Agreement (“Sublicense Agreement”) is entered into between _____ (“**Coordinating Program**”) and Nacogdoches Main Street
_____, (“**Sublicensee**”), effective as of the last date written below. For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Background.

A. The National Main Street Center, Inc. (“NMSC”) operates a membership program called MAIN STREET AMERICA™. As a part of that program, MAIN STREET AMERICA™ Coordinating Program membership is available to statewide, regional or citywide organizations that oversee multiple local downtown and neighborhood programs within their service area and work to preserve and revitalize commercial districts (“Local Programs”). Local Program membership in the MAIN STREET AMERICA™ program is available at the Affiliate or Accredited levels to individual programs or organizations that satisfy the membership eligibility criteria described on the NMSC website (currently located at: https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Join/Main_Street_America_Tier_System_Overview_-_2019_Update.pdf).

B. Organization is a Coordinating Program member of NMSC in good standing and has entered into a Trademark License Agreement with the NMSC which grants to the Coordinating Program the right to sublicense to its Local Programs the use of the NMSC name and trademarks described below.

C. Sublicensee is a Local Program Member in good standing of the MAIN STREET AMERICA™ program at the Accredited level. Sublicensee is also located within the Coordinating Program's geographic service area. Therefore, Sublicensee has the opportunity to enter into this Sublicense Agreement, which grants certain rights to use the NMSC's name and trademarks, including MAIN STREET AMERICA™ and MAIN STREET®, as described below.

D. The NMSC's parent entity, the National Trust for Historic Preservation ("National Trust"), owns the following registered trademarks, which it has delegated to the NMSC the right to sublicense. NMSC and Coordinating Program have entered into a Trademark Licensing Agreement which grants the Coordinating Program the right to sublicense the following registered trademarks:

Mark	U.S. Registration Number
MAIN STREET	Reg. No. 3,365,568
NATIONAL MAIN STREET CENTER	Reg. No. 5,370,135

These registered trademarks owned by the National Trust, together with the MAIN STREET AMERICA™ word marks and logos referred to below, and any other trademarks owned by the National Trust, or the NMSC, which the NMSC may grant the Coordinating Program and Sublicensee permission to use from time to time, are referred to herein as the “Trademarks.”

E. The Trademarks are well known and recognized by the general public and associated in the public mind with the NMSC and the National Trust. The Coordinating Program and the Sublicensee recognize the mutual benefits that accrue from the Sublicensee's use of the Trademarks in accordance with the terms and conditions of this Sublicense Agreement, including the recognition and credibility brought to the Sublicensee through its use of these Trademarks and the benefit to the Coordinating Program and NMSC from association with high-performing Local Programs.

National Main Street Center Local Program Accredited Member Sublicensing Agreement

2. Grant of Sub-License.

A. Subject to the terms and conditions of this Sublicense Agreement, the Coordinating Program hereby grants to the Sublicensee the non-exclusive right and license to use the Trademarks to identify and promote its participation in the MAIN STREET AMERICA™ program, as well as its relationship and association with the Coordinating Program and NMSC, in connection with the following activities:

- i. **MAIN STREET AMERICA™ word and logo marks.** The Sublicensee's right to use the MAIN STREET AMERICA™ word mark and the following MAIN STREET AMERICA logo is limited to Sublicensees which are members in good standing at the Accredited membership level of the MAIN STREET AMERICA™ program:

For use by Local Programs who are Designated Members at the Accredited Level:



As a Main Street America™ Accredited program, INSERT NAME HERE is a recognized leading program among the national network of more than 1,200 neighborhoods and communities who share both a commitment to creating high-quality places and to building stronger communities through preservation-based economic development. All Main Street America™ Accredited programs meet a set of National Accreditation Standards of Performance as outlined by the National Main Street Center.

- ii. **NATIONAL MAIN STREET CENTER® word mark.** The Sublicensee's right to use the NATIONAL MAIN STREET CENTER® word mark solely and exclusively to indicate its association with the National Main Street Center.
- iii. **MAIN STREET® word mark.** The Sublicensee's right to use the MAIN STREET trademark is limited to use made to identify Sublicensee and/or its activities, including as part of the name of the Sublicensee at the Accredited level, in connection with commercial district revitalization and related consultation, education, and training.

3. Scope of and Limitations on Use. Use of the Trademarks by the Sublicensee will be subject to the following limitations:

A. Sublicensee must display the Accredited level MAIN STREET AMERICA membership mark on their website. All uses of the MAIN STREET AMERICA word mark and logo by Sublicensee must follow the specific mark, color, and character usage set forth in the Brand Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or stylized presentations), in connection with the MAIN STREET AMERICA mark or logo. Use of the MAIN STREET AMERICA word mark and logo by Sublicensee is a mandatory condition of membership in the MAIN STREET AMERICA program.

B. The MAIN STREET mark, as part of the name and identity of Sublicensee's organization, programs, and activities, can be used on materials designed to promote the work of Sublicensee (e.g.,

National Main Street Center Local Program Accredited Member Sublicensing Agreement

website, brochures, newsletter, letterhead or other printed promotional materials). The right to use the MAIN STREET mark by the Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

C. All uses of the NATIONAL MAIN STREET CENTER word mark by Sublicensee must follow the requirements set forth in the Brand Guidelines attached as Exhibit A, which are incorporated by reference as if fully set forth herein. Sublicensee will not use or develop any different logos or designs (including any symbols or stylized presentations) in connection with the NATIONAL MAIN STREET CENTER mark. Use of the NATIONAL MAIN STREET CENTER mark by Sublicensee is an optional benefit of membership in the MAIN STREET AMERICA program.

D. This Sublicense Agreement is subject to the terms, conditions, and limitations of the Trademark License Agreement between NMSC and the Coordinating Program.

E. Sublicensee will not apply to register any of the Trademarks, or any other trademark that incorporates any part of the Trademarks or "National Trust for Historic Preservation." Sublicensee will not state or imply that it owns any such trademarks.

F. Sublicensee will not use the Trademarks in combination with or in juxtaposition with other trademarks except as may be approved in writing by the NMSC. The Sublicensee will apply and display the ® symbol and the ™ symbol next to or with respect to the Trademarks as directed by the Coordinating Program.

G. Other than as specifically provided herein, Sublicensee is not granted any other rights to use, license or sublicense the Trademarks.

4. Term. This Sublicense Agreement will become effective immediately upon the date of last signature below, and, unless terminated early under Sections 5 or 10, will be effective through May 31, 2026, at which time it may be renewed by mutual written agreement of the parties hereto.

5. Conditions. This Sublicense Agreement between Coordinating Program and Sublicensee is conditioned upon Sublicensee having an active MAIN STREET AMERICA membership at the Accredited level with NMSC. The requirements of this membership are currently available at: [https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Join/Main Street America Tier System Overview - 2019 Update.pdf](https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Join/Main%20Street%20America%20Tier%20System%20Overview%202019%20Update.pdf), and are incorporated herein by reference.

6. Acknowledgment of Ownership. Use of the Trademarks indicates acknowledgment by the Sublicensee of the NMSC's and the National Trust's rights and title to the Trademarks, (i.e. MAIN STREET AMERICA, NATIONAL MAIN STREET CENTER, and MAIN STREET), and that Sublicensee will not at any time do, or permit to be done, any act or thing that will in any way impair the rights of the NMSC or the National Trust. All use of the Trademarks by the Sublicensee will inure to the benefit of the NMSC and the National Trust.

7. Goodwill and promotional value. Sublicensee recognizes and acknowledges the value of goodwill associated with the Trademarks and agrees that it will not conduct any activity, provide any service, or produce or distribute goods which in any way damages or reflects adversely upon the NMSC or the National Trust.

8. Non-assignment. This Sublicense Agreement is personal to the Sublicensee, and may not be assigned to any other individual, program, organization, or agency. Any attempted assignment will be null and void.

**National Main Street Center
Local Program Accredited Member Sublicensing Agreement**

9. Compliance Verification. It is the responsibility of the Sublicensee to verify compliance with the terms of this Sublicense Agreement, and to provide complete and accurate usage reports to the Coordinating Program. If the Coordinating Program or the NMSC has reason to believe that the Sublicensee is in violation of this Sublicense Agreement, the Coordinating Program or NMSC shall have the right to make inquiries with Sublicensee as necessary to determine compliance. In such case, the Sublicensee will cooperate with the Coordinating Program and/or NMSC in its investigation and provide in a timely fashion any and all information that is requested.

10. Termination.

A. Coordinating Program may terminate this Sublicense Agreement if the Sublicensee violates any of the provisions of this Sublicense Agreement or fails to satisfy the membership criteria established by the NMSC for Accredited Local Programs. Such termination will be effective thirty (30) calendar days after the Coordinating Program sends written notice of such termination to Sublicensee. During this thirty (30) day period, Sublicensee may attempt to cure such violation. If the violation is not cured during this period, the termination will be effective upon the expiration of the thirty (30) calendar day period.

B. This Sublicense Agreement will automatically terminate immediately without any notice required, notwithstanding the above paragraph, if the Coordinating Program or NMSC determines, in their sole discretion: (i) that Sublicensee's actions could negatively affect the goodwill, image, or reputation of the NMSC, the National Trust, the Coordinating Program, or any of the Trademarks; (ii) the Sublicensee discontinues all or a significant portion of its business; (iii) the National Trust terminates, revokes, or fails to renew the NMSC's rights to use, license, or sublicense the Trademarks; or (iv) the NMSC terminates, revokes or fails to renew the Coordinating Program's rights to use, license or sublicense the Trademarks.

C. Upon the expiration or early termination of this Sublicense Agreement, the Sublicensee will discontinue use of the Trademarks and will promptly destroy and delete tangible and electronic documents and files containing any such marks, except for a limited number of copies retained for archival purposes only.

11. Governing Law. This Sublicense Agreement is entered into in the District of Columbia and will be governed by and construed in accordance with the laws of the District of Columbia, USA, without giving effect to conflict of laws provisions.

12. Annual Report, Notices, Other Communication. Upon request by the Coordinating Program or NMSC, Sublicensee shall submit samples of any materials on which the Trademarks licensed under this agreement were used during the year. Such samples shall be submitted within ten (10) business days of receipt of a written request from the Coordinating Program or NMSC.

13. Notices. Any notices which either party is required or may desire to serve upon the other party shall be in writing and may be served either personally or by depositing the same in the mail (first class postage prepaid, certified and return receipt requested) or with a reputable overnight express delivery service (with confirmed delivery, charge prepaid or billed to shipper), addressed to the party to be served as follows, unless a different address is designated in writing by the party to be served. Notice shall also be required to be given by electronic mail on the same date as deposited in the mail. Notice given by mail alone shall not be sufficient.

To Coordinating Program:

Name:

Address:

**National Main Street Center
Local Program Accredited Member Sublicensing Agreement**

Phone: _____
Email: _____

To Sublicensee:
Nacogdoches Main Street Program
Name: _____
Address: Address _____
City, State & Zip _____
Phone: Phone _____
Email: huddtestont@nactx.us _____

14. Successors. This Sublicense Agreement shall be binding upon, and will inure to the benefit of, the parties and their respective permitted successors and assigns.

15. Modification. No amendment or modification of the terms or conditions of this Sublicense Agreement will be valid unless in writing and signed by both parties.

16. Waiver. The failure of either party to partially or fully exercise any right or the waiver by either party of any breach, shall not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same or any other term of this Sublicense Agreement. No waiver shall be valid or binding unless in writing and signed by the waiving party.

17. Severability. If any provision of this Sublicense Agreement or the application of any provision hereof to any person or circumstances is held to be void, invalid, or inoperative, the remaining provisions of this Sublicense Agreement shall not be affected and shall continue in effect and the invalid provision shall be deemed modified to the least degree necessary to remedy such invalidity.

18. Hold Harmless. The Sublicensee will be responsible at all times for the supervision and management of its activities under this Sublicense Agreement. To the extent possible in accordance with state law, the Sublicensee agrees to hold harmless the Coordinating Program, the NMSC, the National Trust, and their respective directors, trustees, officers, employees, and agents, from any and all liability, loss, damages, costs or expenses which arise out of the negligent acts or omissions of the Sublicensee, its directors, officers, employees, and agents, while acting in the scope of their employment and/or in the course of their involvement with the Sublicensee's activities.

19. Insurance. The Sublicensee shall obtain and maintain one or more policies of insurance to ensure Sublicensee's performance of its obligations under this Sublicense Agreement and to provide adequate protection for the Coordinating Program, the NMSC, and the National Trust, against any and all claims, demands, causes of action or damages, including attorney's fees, arising out of the performance of this Sublicense Agreement. Nothing herein shall prevent the Sublicensee from self-insuring the terms of coverage or from contracting with an insurance company to provide substantially equivalent coverage.

20. Relationship of the Parties. The Sublicensee is an independent contractor. Nothing in this Sublicense Agreement shall be construed to create or constitute a partnership, joint venture, or any other agency or employment relationship between the parties hereto. Neither party is authorized to enter into any agreement on behalf of, assume any obligation for, or otherwise bind the other party financially or otherwise; nor is either party responsible for the obligations of the other party, including but not limited to obligations to the other's own employees, their wage/salaries, benefits, vacation pay, and the like.

**National Main Street Center
Local Program Accredited Member Sublicensing Agreement**

21. Entire Agreement. This Sublicense Agreement is the entire agreement between the parties with respect to the matters referred to herein and it supersedes and replaces all prior and contemporaneous oral and written understandings pertaining to the subject matter hereof.

IN WITNESS WHEREOF, the parties enter into this Sublicense Agreement effective as of the last date written below.

Coordinating Program

Sublicensee

By: _____

By: _____

Date: _____

Date: _____

**National Main Street Center
Local Program Accredited Member Sublicensing Agreement**

EXHIBIT A

BRAND GUIDELINES

BRAND

Guidelines





HOW WE DESCRIBE OURSELVES

IT IS IMPORTANT THAT WE ALL TELL THE SAME STORY ABOUT *MAIN STREET AMERICA* TO HELP DISTINGUISH AND REINFORCE OUR BRAND. TO DO THAT, WE HAVE THREE LEVELS OF INCREASING DETAIL: TAGLINE, DESCRIPTOR, AND POSITIONING STATEMENT.

TAGLINE

The tagline is our simplest statement about what Main Street America stands for. We can use it in written materials but to help establish consistency, we should not alter the words.

Nationally recognized. Locally powered.

DESCRIPTOR

The descriptor was developed to be a concise statement about Main Street America to be used in such applications as press releases, announcements, and promotional materials. While it can be altered if necessary for specific circumstances, we encourage using it intact for most applications.

***Main Street America™* has been helping revitalize older and historic commercial districts for more than 35 years. Today it is a network of more than 1,600 neighborhoods and communities, rural and urban, who share both a commitment to place and to building stronger communities through preservation-based economic development. Main Street America is a program of the nonprofit National Main Street Center, a subsidiary of the National Trust for Historic Preservation.**



OUR POSITIONING

POSITIONING STATEMENT

The positioning statement provides more detail about *Main Street America* and what makes our program both unique and effective. It can be used in its entirety, or parts can be extracted, as a source of language for a variety of communication needs.

Main Street America™ is a movement. Main Street America has been helping revitalize older and historic commercial districts for more than 35 years. It is the leading voice for preservation-based economic development and community revitalization across the country. Made up of small towns, mid-sized communities, and urban commercial districts, Main Street America represents the broad diversity that makes this country so unique. Working together, the programs that make up the Main Street America network help to breathe new life into the places people call home.

Main Street America is a mark of distinction. It is a seal, recognizing that participating programs, organizations, and communities are part of a national movement with a proven track record for celebrating community character, preserving local history, and generating impressive economic returns. Since 1980, over 2,000 communities have been part of Main Street, bringing renewed energy and activity to America's downtowns and commercial districts, securing \$61 billion in new investment creating more than 525,000 net new jobs and rehabilitating 251,000 buildings.

Main Street America is a time-tested strategy. Main Street America communities are encouraged to make use of a time-tested approach, known as the Main Street Approach. The Main Street Approach is rooted in a commitment to broad-based community engagement, a holistic understanding of the factors that impact the quality of life in a community, and strategic focus on the core principles of downtown and neighborhood revitalization: Economic Vitality, Quality Design, Effective Promotion, and Sustainable Organization.



OUR LOGO

THE MAIN STREET AMERICA™ NAME AND ALL ASSOCIATED LOGOS ARE TRADEMARKS OF THE NATIONAL MAIN STREET CENTER AND MAY BE USED ONLY WITH PERMISSION OF NMSC.

Three brand treatments—each associated with a different level of membership with Main Street America—are available to accommodate communication needs and establish consistency across the network. All Main Street America members who have signed licensing or sub-licensing agreements are required to include the appropriate logo and membership language on their websites, and are encouraged to use them across other communications and branding platforms.





LOGO USAGE

IT IS IMPERATIVE THAT A LOGO IS PRESENTED CONSISTENTLY, CLEARLY AND CORRECTLY.

There are a few rules to keep in mind when using our logo:

- BE CONSISTENT** Place the logo on a white background. Do not place on dark, photographic, or illustrative backgrounds.
- KEEP IT CLEAR** Make sure the logo has enough space around it so that it is legible. Do not place other elements within this “clear space.”
- USE CORRECTLY** Use approved logo files as they are provided, do not alter them in any way.



Always maintain an area of “clear space” around the logo to ensure legibility. That space is equal to the height of “MAIN STREET”: . DO NOT place anything inside of the gray dotted box.



DO NOT resize parts of the logo
DO NOT omit parts of the logo



DO NOT change the color of the logo
DO NOT add effects such as drop shadows to the logo



DO NOT stretch or distort the logo



DO NOT alter the placement of the parts of the logo



DO NOT rotate the logo



DO NOT place the logo on patterns or photos



OUR COLORS

A COLOR PALETTE IS AN ESSENTIAL INGREDIENT IN ESTABLISHING A STRONG AND DISTINCTIVE BRAND PRESENCE.

The icon of our logo is comprised of four colors with black text. Along with shades of gray, these are the only acceptable colors to be used in our communications. The logo should always command the most visual attention, and color should be used to support but never overwhelm the logo. Additionally, when appropriate, color may be used to highlight the Main Street Four Point Approach®; each area has an assigned color:

ECONOMIC VITALITY // QUALITY DESIGN // EFFECTIVE PROMOTION // SUSTAINABLE ORGANIZATION

BLUE	GREEN	ORANGE	YELLOW	
100.0.20.0	50.0.100.0	0.40.100.0	0.10.100.0	Print (CMYK)
PMS 313	PMS 376	PMS 138	PMS 116*	Print (PANTONE)
0.173.208	106.189.69	248.154.29	254.203.0	SCREEN (RGB)



* Pantone Color Values vary between Coated, Uncoated and Matte finishes. While these variations are typically nominal, please use PMS 114 on Uncoated paper instead of PMS 116 because it's the better overall match.



FILE USAGE

OUR LOGO IS AVAILABLE IN A VARIETY OF FILE FORMATS.

The appropriate format should be selected based on how it will be used. Please refer to the list below for guidance.

EPS

Created in Adobe Illustrator, logo files are EPS vector files and resolution-independent, meaning they can be scaled an infinite amount without any loss of quality. Use EPS files for print, broadcast and specialty items.

JPEG

A raster graphic image file created by choosing from a range of compression qualities, therefore making it smaller in size and easier to email. Usually for broadcast, MS Word or web use, JPEGs can only be used for print reproduction if they have high enough resolution.

PNG

A raster graphic image file that supports lossless data compression. This format provides background transparency, perfect for use in MS PowerPoint presentations.

PRESENTER: Case Opperman, Director of Public Works

ITEM/SUBJECT: Consider approval of an agreement by and between the City of Nacogdoches and ETX Park Fund #1 LP for reimbursement of a gravity sanitary sewer line installation to serve one (1) parcel of land approximately 1.87 acres $\pm$ in size, more particularly described by Nacogdoches Central Appraisal District Parcel 26834, and generally located on Park Street near the intersection of Park Street and Martinsville Street; in a not-to-exceed amount of \$87,295.00. (Director of Public Works/City Engineer)

SUMMARY/BACKGROUND: In accordance with Chapter 106, Article VIII of the Nacogdoches Code of Ordinances, a Developer may request reimbursement for the design and construction of up to 500 feet of a water or sanitary sewer main line, or some combination thereof, that can be extended for public use. ETX Park Fund #1 LP has proposed to install approximately 740 linear feet of new 6-inch sanitary sewer main from an existing sanitary sewer line southwest of the subject property, to serve Lot 12-I, Block 54, more particularly described by Nacogdoches Central Appraisal District Parcel 26834. The developer has submitted to City staff a Letter of Intent to develop four tri-plexes on the lot to be served by this extension.

The design of any public utility extension must meet City and State standards, be inspected by the City during construction and pass all final testing before the Developer can request reimbursement. The Developer must follow all State purchasing requirements for public bidding.

ETX Park Fund #1 LP is requesting approval of a Developer Agreement, a document that has been drafted in general form by the City. This Agreement outlines the procedures and requirements for the utility extension work and defines the maximum costs that could be requested for reimbursement. The developer is requesting approval of a maximum reimbursement of \$87,295.00 for the first 500' of this sewer extension. Funding is available for this project in the current CIP budget.

FINANCIAL:

Item is budgeted:

Account No.: 30.39 680.97

Account Name: *Wastewater Treatment - CIP*

Amount: \$ 87,295.00

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

Infrastructure

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

- ATTACHMENTS:**
1. Letter of Intent
 2. Agreement



DBA ETX Custom Builders

225 E Parker Rd
Nacogdoches, TX 75965
Registration No: G-2716

Brent D Beal

936-250-1475

brent@etxmgmt.com

June 9, 2025

I'm writing this letter of intent as the managing partner of ETX Park Fund #1 LP, the limited partnership that owns 43 acres on Park St (see other associated documents, Parcel IDs: 26834, 24677, 24696) and an owner of ETX Management #1 LLC, a project management firm contacted by the limited partnership to manage its interests.

We are petitioning for reimbursement of 500 ft of sewer extension up from the SW corner of Property ID 70309 (Situs Address: 1602 Park St, Nacogdoches, TX; Lot 1 Vista Pines S/D LIHTC) to the middle of the frontage of Parcel ID 26834 (LT 12-I BK 54 S/D LT 12). The total linear footage for this extension is approximately 750 linear ft (see the associated documentation).

We respectfully submit that extending city sewer service up Park Street will yield significant long-term benefits for the City of Nacogdoches through increased property tax revenues and facilitation of future development:

- 1) ETX Park Fund #1 LP plans to develop four tri-plexes on Parcel ID 26834, each with approximately 5100 sq/ft (1,700 square feet per unit). The tri-plexes will be structured as townhomes governed by a Homeowners Association (HOA), with each unit sold individually as a fee-simple property. Based on an estimated valuation of \$200 per square foot, the completed project will add approximately \$80,000 per year in new property tax revenue to the city's tax rolls.
- 2) ETX Park Fund #1 LP is in the process of selling three additional lots to other developers north of Parcel ID 26834 (see the attached proposed plat). Extending the sewer up Park St by 750 feet will facilitate additional future development on these lots.

If we need to provide any additional information, please let me know.

Brent D. Beal

Brent D Beal
Chief Executive Officer
ETX Management #1 LLC
936-250-1475 | brent@etxmgmt.com

CONTRACT FOR UTILITY INSTALLATION

STATE OF TEXAS

COUNTY OF NACOGDOCHES

This contract and agreement is made and entered into this **17th** day of **JUNE**, 2025, by and between the City of Nacogdoches and the party designated herein as "DEVELOPER".

Effective Date: **6/17/2025**

Parties: "City" is the City of Nacogdoches, Texas, a municipal corporation
P. O. Box 635030, Nacogdoches, Texas 75963-5030

"Developer": **ETX Park Fund #1 LP**

Address: 225 E. Parker Rd.
Nacogdoches, TX 75965

Project: ☐ Potable water line
☒ Gravity Sanitary Sewer System
☐ Sanitary Sewer System with lift station and Force Main
☐ Storm Sewer System

Facilities

1. Project Location within the City of Nacogdoches:
1700 block of Park Street, Nacogdoches, TX
2. Engineer's drawing of utility extension and project area not available at time of this contract and agreement
3. Schematic Exhibit of utility extension project area attached and incorporated as Exhibit "B" and revisions thereto
4. Cost estimate sealed by a Professional Engineer licensed by Texas attached and incorporated as Exhibit "C" and revisions thereto

5. Tentative schedule for bidding and construction period:
Design.....July 2025
Bidding.....August 2025
Construction.....September 2025
6. New sanitary sewer system facilities will be in existing street right-of-way and new easements acquired by DEVELOPER on behalf CITY for construction, maintenance, repair, replacement, removal, access, laying parallel lines, use, and the like.

STANDARDS: DRAWINGS, COST ESTIMATES, BIDDING AND CONSTRUCTION MUST MEET ALL STATE AND CITY BIDDING AND CONSTRUCTION STANDARDS TO QUALIFY FOR REIMBURSEMENT, ACCEPTANCE FOR OWNERSHIP AND MAINTENANCE AND SERVICE.

Now, therefore, in the consideration of the mutual covenants and agreements herein contained, CITY agrees to accept the constructed facilities and process domestic wastewater from DEVELOPER'S service area and DEVELOPER agrees to pay for processing upon the terms and conditions and for the considerations hereinafter set forth, to-wit:

1. TERMS AND CONDITIONS

1.1 DEVELOPER shall provide "as built" drawings to the CITY upon completion of the project to show the exact location of facilities. DEVELOPER warrants that there are no liens, mortgages, undivided interests or other encumbrances on the Facilities to the easement and that it has the right to convey the Facilities and the easement free and clear does hereby do so.

1.2 DEVELOPER warrants that the facilities were built consistent with CITY specifications and based upon DEVELOPER'S information and belief, are in good repair and free of defects or leaks. DEVELOPER shall be responsible for construction of the Facilities in compliance with current TCEQ requirements up to the "Effective Date of Contract".

2. CONNECTIONS TO THE UTILITIES

2.1 The DEVELOPER understands and agrees that any connections made to the facilities will be considered as individual customers and will receive individual billings for utility services in accordance with the prevailing rate schedule.

3. REIMBURSEMENT FOR FACILITIES

3.1 The DEVELOPER shall initially pay for all cost associated with the acquisition, design and construction of the facilities including, but not limited to, easements, surveying, engineering, materials and labor. The CITY will not be responsible for any costs, labor or materials during the time period prior to the "Effective Date" of the contract other than reasonable surveying and engineering costs necessary to prepare this Contract and if Developer properly completes this Contract and subject to the City extension policy reference below.

It is understood that the facilities offer benefit for both the DEVELOPER and the CITY by serving the DEVELOPER'S development as well as other parcels within the service area. Accordingly, the CITY shall reimburse the DEVELOPER the cost for the facilities shown in the cost estimate and any revision thereof to which the City has agreed in writing and pursuant to the terms of City of Nacogdoches Code of Ordinances, Article VIII, Extension of Water and Sanitary Sewer Systems, as such may be amended.

3.2 The DEVELOPER understands the request for reimbursement from the City will require the submission and verification of all appropriate associated costs for easements, engineering, surveying, labor and materials. Reimbursement will also require a Certificate of Construction Completion sealed by a registered Texas Professional Engineer and written acceptance.

3.3 The DEVELOPER understands and agrees that payment by the City of the agreed reimbursement will be as soon as practical but not to exceed 6 months after final acceptance by the City provided such funds are appropriated by the CITY.

4. EFFECTIVE DATE OF CONTRACT

4.1 The effective date of this contract for all purposes shall be the date of acceptance of the project, followed by a one-year warranty for all work and Facilities.

5. TERMINATION

5.1 This contract may be terminated in whole or in part by mutual consent of DEVELOPER and CITY at any time prior to acceptance of the project by the CITY. Notwithstanding anything contained herein to the contrary, any material breach by either party hereto to perform any of the duties or the obligations assumed by such party hereunder or to faithfully keep and perform any of the terms, conditions and provisions hereof shall be cause for termination of this agreement by either party in the manner set forth in this paragraph. The following breaches, defaults or failures to perform a duty or obligation shall be considered to be a material breach:

- a. Failure by DEVELOPER to complete the construction of the facilities in such a condition that satisfies all written City Policies or Ordinances, and Chapter 217 of the Texas Commission on Environmental Quality rules.
- b. Breach by either party of any term of this contract.

5.2 The Parties agree to give each other reasonable notice, agreed to be (30) thirty days written notice of proposed breaches, defaults or failures to perform prior to declaration of default. Without respect to whether or not a breach hereof is a material breach or a non-material breach and without respect to any cure of such breach, a second breach of the same nature, within (1) one year, violating any term or condition herein shall entitle the non-breaching party, after two (2) months written notice provided and without liability whatsoever on the part of the terminating party, to declare this agreement terminated. In event of termination of this agreement, all rights, powers and privileges of either party hereunder cease and neither party shall make a claim of any kind whatsoever against the other, its agents or representatives, by reason of such termination or act incident thereto.

5.3 Any failure by either party to so terminate this agreement or the acceptance of any benefits under this agreement for any period of time after such material breach, default or failure by the other party shall not be determined to be a waiver of any rights to terminate this agreement for any subsequent material breach, default or failure.

5.4 This Contract shall remain in effect for a term of (5) years from the date of acceptance unless terminated as outlined above. This Contract shall automatically renew upon each successive five (5) year anniversary unless the party wishing to terminate provides written notice to the other at least ninety (90) days prior to the next renewal date.

6. OWNERSHIP AND LIABILITY

6.1 No provision of this agreement shall be construed to create any type of joint or equity ownership of any property (other than that property herein transferred to CITY which shall be solely the property of the CITY) herein, any partnership or joint venture, nor shall same create any other rights or liabilities and DEVELOPER payments (whether past, present, or future) shall not be construed as granting DEVELOPER partial ownership of, pre-paid capacity in or equity in the CITY system.

6.2 Contracts made and entered into by either DEVELOPER or CITY for the construction, reconstruction or repair of any receiving facility shall include the requirement that the independent contractor (s) must provide adequate insurance protecting both the DEVELOPER and CITY as co-insureds. Such contract must also provide that the independent contractor (s) covenant to **INDEMNIFY**, to the extent allowed by law **HOLD HARMLESS**, and **DEFEND** both the DEVELOPER and CITY against any and all suits or claims for damages of any nature arising out of the performance of such contracts.

7. FORCE MAJEURE

7.1 If by any reason of force majeure either party hereto shall be rendered unable, wholly or in part to carry out its obligations under this agreement, other than the obligation of the DEVELOPER to make payments required under the terms hereof, then if such parties shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

7.2 The term "force majeure", as employed herein shall mean acts of God, strikes, terrorism, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and public, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, partial or entire failure of a City utility system.

8. NOTICES

8.1 Any notices, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either party to the other party must be in writing to the address of the Parties set out on Page 1.

The parties hereto shall indicate in writing any change that may occur in such respective addresses from time to time.

9. INSPECTION AND AUDIT

9.1 Complete records and accounts required to be maintained by each party hereto shall be kept for the period required by the State of Texas for retention of such records. Each party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and / or state auditors.

10. MISCELLANEOUS

10.1 This agreement is subject to all applicable federal and state laws and any applicable permits, amendments, orders or regulations of any state or federal governmental authority having or asserting jurisdiction, but nothing contained herein shall be constructed as a waiver of any right to question or contest any such law, order, rule or regulation in any forum having jurisdiction.

10.2 The parties both agree to make in writing and abide by any changes in this agreement made necessary by any new amended or revised state or federal regulation.

10.3 Provisions of this contract may be modified or altered by mutual agreement reduced to writing and both parties signing after being properly authorized by the governing bodies of both parties.

11. WAIVER, REMEDY AND SEVERABILITY

11.1 No waiver by either party hereto of any term or condition of this agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

11.2 In addition to any other remedy as may be provided by law, this agreement shall be specifically enforceable by the parties hereto. This agreement shall be governed by and construed in accordance with the laws

of the State of Texas and any applicable laws of the United States of America. Venue for any action shall be in Nacogdoches County, Texas.

11.3 It is agreed that, in the event any term or provision herein contained is held to be invalid by any court or competent jurisdiction the invalidity of such term or provision contained herein, this agreement shall then continue as if such invalid term or provision had not been contained herein.

11.4 It is agreed that the signing of this contract supersedes all prior contracts and understandings with the CITY relating to the wastewater system other than past due payments of predecessors in title. There are no representations, warranties, understandings, or agreements, whether written or oral, expressed or implied, other than those specifically set forth in this agreement.

IN TESTIMONY WHEREOF, after proper action by the respective governing bodies of the parties hereto, we have caused these presents to be executed in quadruplicate copies, each of which is considered to be an original and the seals of the respective parties to be affixed on the date above written.

Signed the _____ day of _____, 20__.

City of Nacogdoches

ATTEST:

City Secretary

By: _____
Mayor

(Seal)

ETX Park Fund #1 LP
Developer

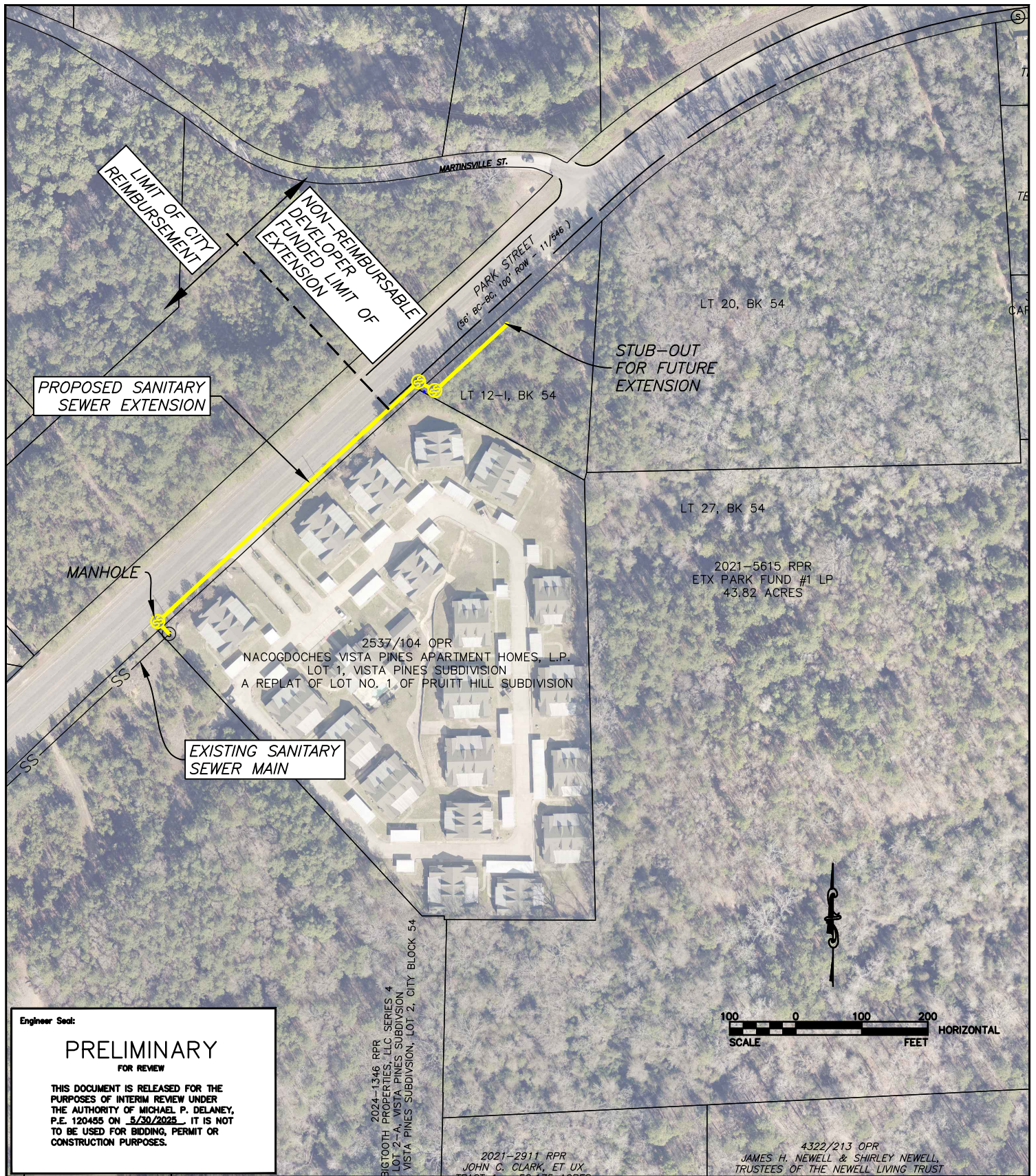
By: _____
Brent D. Beal, Managing Partner

THE STATE OF TEXAS

COUNTY OF NACOGDOCHES

This instrument was acknowledged before me on the _____ day of
_____, 20____, by _____.

NOTARY PUBLIC, STATE OF TEXAS



Engineer Seal:

PRELIMINARY FOR REVIEW

THIS DOCUMENT IS RELEASED FOR THE PURPOSES OF INTERIM REVIEW UNDER THE AUTHORITY OF MICHAEL P. DELANEY, P.E. 120455 ON 5/30/2025. IT IS NOT TO BE USED FOR BIDDING, PERMIT OR CONSTRUCTION PURPOSES.

2024-1346 RPR
BIGTOOTH PROPERTIES, LLC SERIES 4
LOT 2, VISTA PINES SUBDIVISION
VISTA PINES SUBDIVISION, LOT 2, CITY BLOCK 54

2021-2911 RPR
JOHN C. CLARK, ET UX

4322/213 OPR
JAMES H. NEWELL & SHIRLEY NEWELL,
TRUSTEES OF THE NEWELL LIVING TRUST

1	ISSUED FOR UTILITY EXTENSION AGREEMENT	05/29/25
No.	Revision/Issue	Date

**TWO FIFTEEN
CONSULTING**
ENGINEERS + SURVEYORS

412 North St.
Nacogdoches, TX 75601
P: 836-588-0505

TELE F-1748
T8PLS 10184888

**EXHIBIT B
SCHEMATIC LAYOUT
PARK ST. SEWER
EXTENSION
ETX PARK FUND #1, LP
NACOGDOCHES, TEXAS**

Scale:	SEE PLAN	Issue Date:	05/29/2025
Drawn By:	MPD	Checked By:	MPD
File:	25025_300.dwg	Drawing No.	EX B
THIS DRAWING AND OTHER RELATED DOCUMENTS, INCLUDING DOCUMENTS ON ELECTRONIC MEDIA, WERE PREPARED BY TWO FIFTEEN CONSULTING AND SHALL REMAIN THE PROPERTY OF TWO FIFTEEN CONSULTING. ALL INFORMATION SHALL BE USED ONLY FOR DESCRIBING, CONSTRUCTING OR INSTALLING THE WORK SHOWN AT THE SITE OF THE WORK SPECIFIED HEREON. ANY OTHER USE OF THIS DRAWING, INCLUDING WITHOUT LIMITATION, ANY REPRODUCTION OR ALTERATION IS STRICTLY PROHIBITED, AND TWO FIFTEEN CONSULTING SHALL BE INDEMNIFIED FROM LIABILITY ARISING FROM THE CONSTRUCTION, USE, OR RESULT OF SUCH UNAUTHORIZED USE OR CHANGES.			

EXHIBIT C
UTILITY EXTENSION FOR ETX PARK FUND #1, LP
Preliminary Cost Estimate

ITEM	QUANTITY	UNIT	DESCRIPTION	COST	TOTAL
SANITARY SEWER					
1.	500	LF	6" ASTM D 3034 SDR 26 sanitary sewer, including tracer wire, trench excavation and backfill, all materials & labor; complete, in place	\$ 55.00	\$ 27,500.00
2.	240	LF	6" ASTM D 3034 SDR 26 sanitary sewer, including tracer wire, trench excavation and backfill, all materials & labor; complete, in place (No Reimbursement)	\$ 55.00	\$ 13,200.00
3.	110	LF	6" Uncased Driveway bore, including bore pit excavations and backfill, locking pipe mechanisms, all materials & equipment; complete in place	\$ 150.00	\$ 16,500.00
4.	1	EA	Manhole including fittings, adapters, etc., all materials & labor; complete, in place	\$ 6,250.00	\$ 6,250.00
5.	2	EA	Manhole including fittings, adapters, etc., all materials & labor; complete, in place (No Reimbursement)	\$ 6,250.00	\$ 12,500.00
6.	1	EA	Connect to existing manhole including all fittings, adapters, flushing, etc., all materials & labor; complete, in place	\$ 2,500.00	\$ 2,500.00
7.	1	EA	6" Sanitary Sewer Cleanout, including stub-out and marker at grade for future connection, all materials and labor; complete, in place (No Reimbursement)	\$ 2,000.00	\$ 2,000.00
8.	1	EA	6" Sanitary Sewer Service, including clean-out, stub-out, and marker at grade for future connection, all materials and labor; complete, in place (No Reimbursement)	\$ 2,000.00	\$ 2,000.00
9.	0.67	LS	Trench Safety Plan for cuts or pits in excess of 5 feet in depth	\$ 5,000.00	\$ 3,350.00
10.	0.33	LS	Trench Safety Plan for cuts or pits in excess of 5 feet in depth (No Reimbursement)	\$ 5,000.00	\$ 1,650.00
11.	0.67	LS	ROW Preparation, tree and stump removal, brush clearing, and site restoration, seed and fertilize, etc., including all materials & labors; complete, in place	\$ 10,000.00	\$ 6,700.00
12.	0.33	LS	ROW Preparation, tree and stump removal, brush clearing, and site restoration, seed and fertilize, etc., including all materials & labors; complete, in place (No Reimbursement)	\$ 10,000.00	\$ 3,300.00

Contingency	\$ 9,420.00
Contingency (No Reimbursement)	\$ 5,197.50
Engineering and Topographic Surveying	\$ 10,050.00
Engineering and Topographic Surveying (No Reimbursement)	\$ 4,950.00
Bid Documents Preparation and Bid & Construction Administration	\$ 5,025.00
Bid Documents Preparation and Bid & Construction Administration (No Reimbursement)	\$ 2,475.00
TOTAL	\$ 134,567.50

Portion Reimbursable by CITY	\$ 87,295.00
Portion Not Reimbursable by CITY	\$ 47,272.50



TWO FIFTEEN CONSULTING
TBPE F-17461
412 NORTH ST.
NACOGDOCHES, TEXAS
936-569-0505



City Council Meeting

Date: June 17, 2025

Agenda Item: 7.A.

PRESENTER:

ITEM/SUBJECT: Receive a presentation and consider approval of a Bond Ordinance by Hilltop Securities. (Director of Finance)

SUMMARY/BACKGROUND:

FINANCIAL:

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

CITY CONTACT: Todd Simoneaux, Director of Finance
simoneauxt@nactx.us
(936) 559-2533

ATTACHMENTS:

PRESENTER: Juan Pollette, City Planner

ITEM/SUBJECT: Public Hearing: Discuss and consider action on Zoning Case ZON2025-07 regarding a zone change from B-2, General Business to R-2, Single Family Residential district for one (1) parcel of land approximately 0.34 acres $\pm$ in size, more particularly described by Nacogdoches Central Appraisal District Parcel 23897; and generally located east of Old Tyler Road approximately 0.50 miles north of the intersection of Powers Street and Old Tyler Road. (City Planner)

SUMMARY/BACKGROUND: The applicant is requesting a zone change from B-2, General Business, to R-2, Single Family Residential, for the purpose of constructing a single-family home on the subject property. The property is currently undeveloped and fronts Old Tyler Road. The R-2 zoning district is intended to provide for slightly higher-density residential areas. Lots in this area must be 6,000 square feet or larger.

Adjacent Land Use & Zoning

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

Direction	Comprehensive Plan	Current Zoning	Land Use
North	Single Family Residential	B-2, General Business	Single Family Residential
South	Single Family Residential	B-2, General Business	Undeveloped
East	Single Family Residential	R-4, Multi-Family	Undeveloped
West (across Old Tyler Rd.)	Single Family Residential	B-2, General Business	Single-Family Residential

The subject property is surrounded by a mix of zoning districts and land uses. To the north, south and west, the adjacent properties are zoned B-2, General Business, but are developed with single-family homes. Across Old Tyler Road to the west, properties are zoned B-2, General Business and R-2, Single Family Residential, and are primarily developed as single-family homes. To the east is an undeveloped R-4, Multi-Family tract that was approved for dirt extraction late last year, with work operations now complete. This varied land use pattern contributes to the transitional character of the corridor.

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;

While the subject property is currently zoned B-2, General Business, the immediate vicinity includes a mix of zoning designations. Many nearby properties, particularly those fronting Old Tyler Road, are developed with single-family homes despite being zoned for commercial use. The introduction of a single-family residence on an undeveloped lot aligns with the existing residential development pattern in the area and is not expected to negatively impact surrounding property values.

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 proposed rezoning to R-2, Single Family Residential, is not expected to impede the normal and orderly development of surrounding vacant properties. The subject property is located along Old Tyler Road and serves a mix of residential and commercial development. Given that many nearby properties are mostly developed with single-family homes, the requested zoning would be consistent with the existing development pattern in the immediate area.

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

Adequate supporting facilities are available to serve the proposed use. The subject property has direct access to Old Tyler Road, a collector street with an 80-foot right-of-way that is capable of accommodating residential traffic. Public utilities are available at the site, including an 8-inch water main located along Old Tyler Road and a 6-inch sewer main located within an easement along the southern property line. These existing infrastructure improvements are sufficient to support the development of a single-family residence, and no additional upgrades are anticipated to be necessary for the proposed use.

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;

The proposed single-family residential use will require only a single driveway and on-site parking, which can be accommodated on the subject property without adversely impacting adjacent developments or public traffic flow. The design and placement of the driveway and parking areas will be reviewed at the time of permitting to ensure compliance with city standards for safety, visibility, and separation from adjacent driveways.

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

The proposed use as a single-family residence is not anticipated to generate offensive odors, fumes, dust, noise, or vibration. Single-family residential uses are generally considered low-impact and compatible with surrounding residential and mixed-use areas. Any future development on the site will be required to comply with applicable building codes and city ordinances designed to minimize potential nuisances.

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

As a single-family residential use, any exterior lighting installed on the property will be typical of residential development and is not expected to adversely affect neighboring properties. Any lighting fixtures will be required to be directional or shielded as necessary to minimize glare and prevent light spillover onto adjacent properties, ensuring compatibility with the surrounding residential and mixed-use contexts.

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

The City of Nacogdoches does not currently require specific landscaping or screening standards for single-family residential development.

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

Future Land Use

Per the 2003 Comprehensive Plan, the Future Land Use Plan (FLUP) Map designates the subject property as *Single Family Residential*. The *Single Family Residential* FLUP category is described as, “Conventional one-family detached dwellings (also includes duplexes).” R-2 meets this Comprehensive Plan designation.

Land Use Policies, Goals & Objectives

This rezoning is a response to the current needs for single-family residential growth and therefore Staff believes it fits into the goals of the Comprehensive Plan; specifically, the goal to encourage *Growing Inward – Long-term growth in appropriate areas to achieve an efficient, diverse, and balanced pattern of land uses*. Some of the targeted objectives include:

- Promote growth where adequate infrastructure exists.
- Encourage infill development where appropriate (utilities, compatibility, etc.)
- Ensure that development within targeted growth areas will not reduce the adequacy of public facilities and services.

Staff believes the FLUP designation of the property is consistent with the proposed zoning, and the request is in compliance with the Comprehensive Plan.

PUBLIC ENGAGEMENT:

- May 20, 2025 – Staff mailed thirteen (13) public meeting notice letters to property owners within 200 feet and four (4) notice postcards to property owners within 200–500 feet. Staff have not received any letters in opposition or in favor of the request from the neighboring residents.
- May 25, 2025 – Legal ad published in the Daily Sentinel newspaper.
- June 9, 2025 - Planning & Zoning Commission heard this item and voted unanimously (3-0) to recommend approval of the zone change.

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.

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, City Planner
pollettej@nactx.us
(936) 559-2559

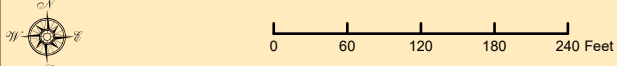
- ATTACHMENTS:**
1. Aerial Map
 2. Zoning Map
 3. Future Land Use Map
 4. Notification Map
 5. Site Photos
 6. Ordinance

ZON2025-07 Aerial Map



Legend

- Buildings
- City Limit
- Parcels
- Area of Interest



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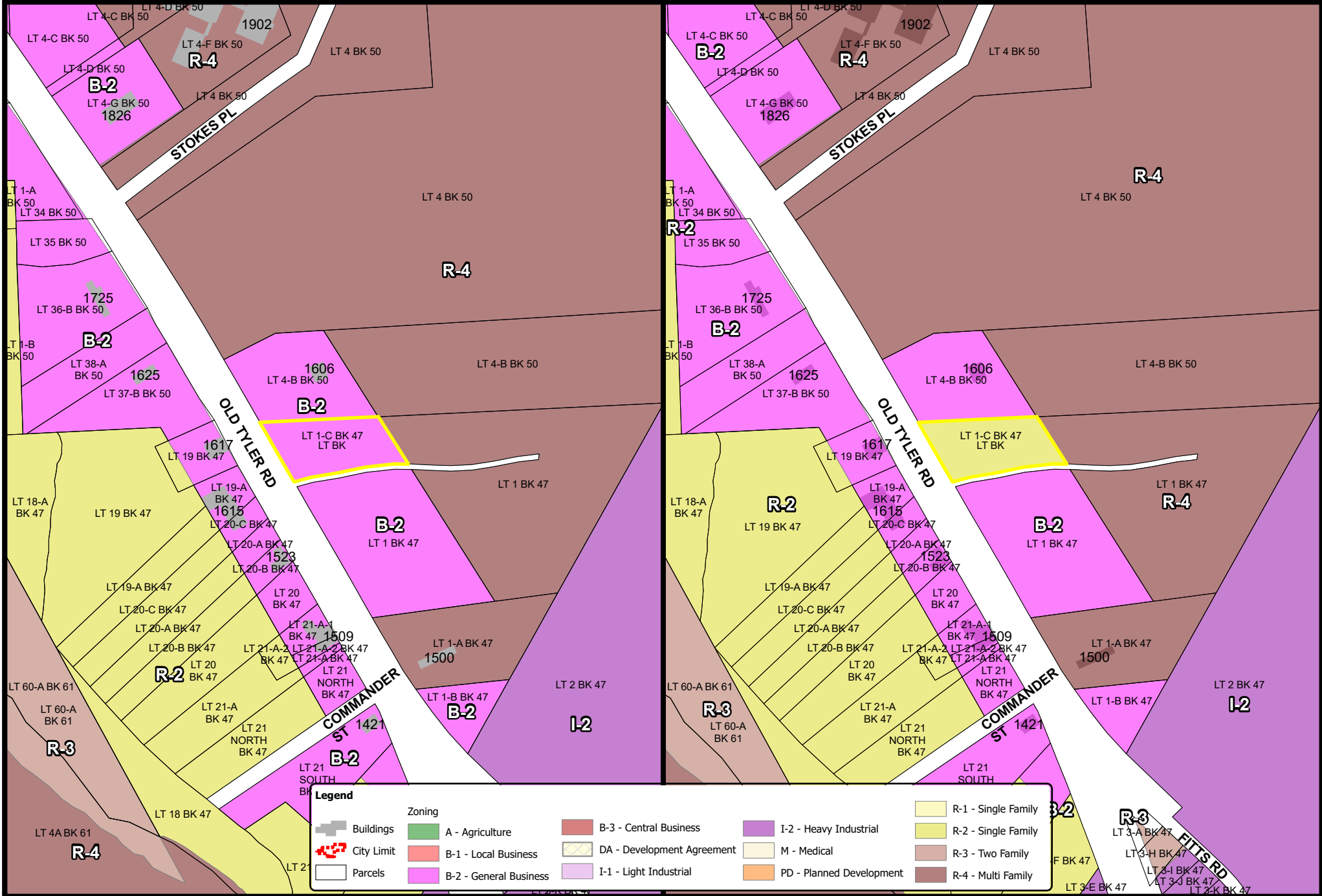
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Existing Zoning

ZON2025-07

Proposed Zoning

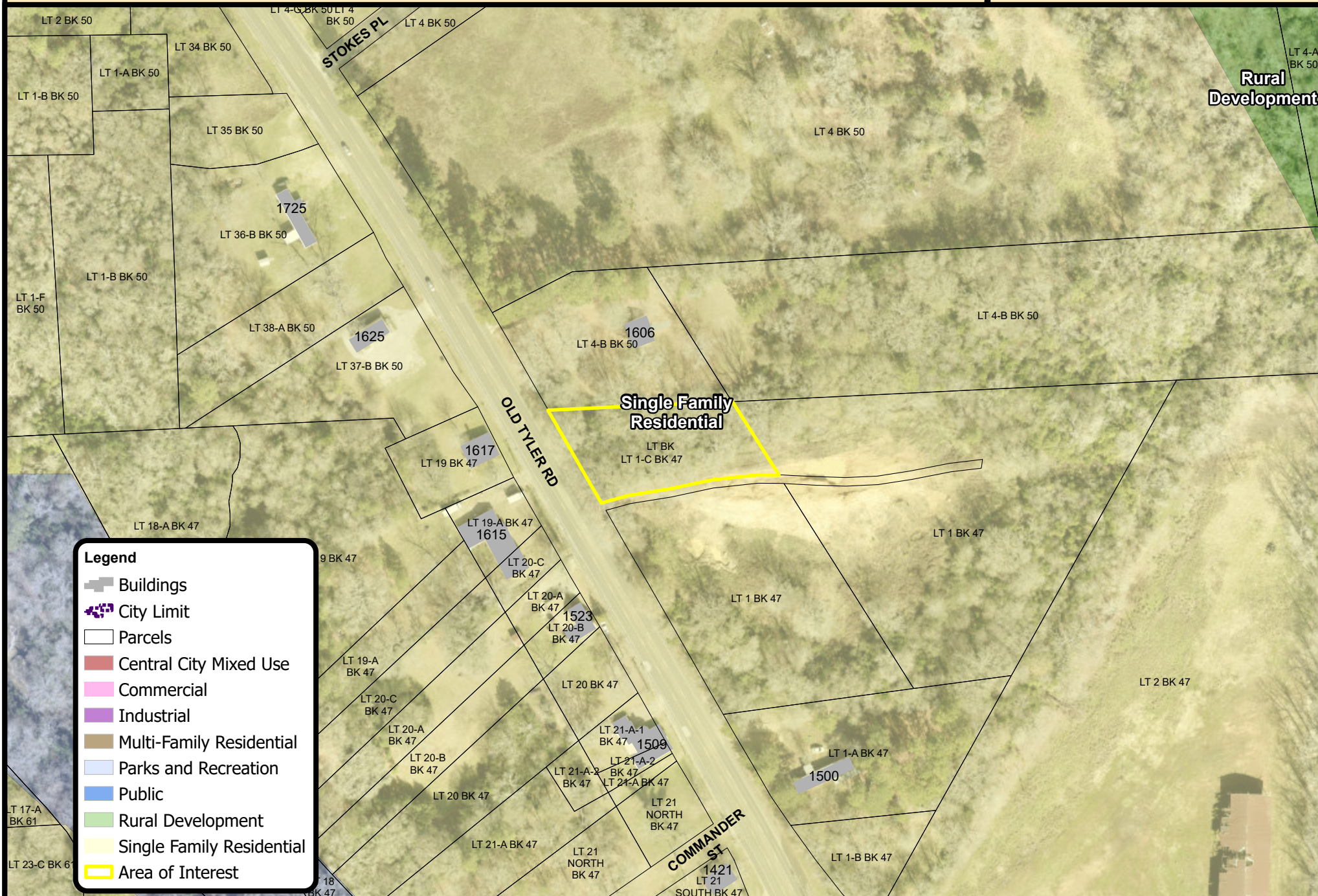


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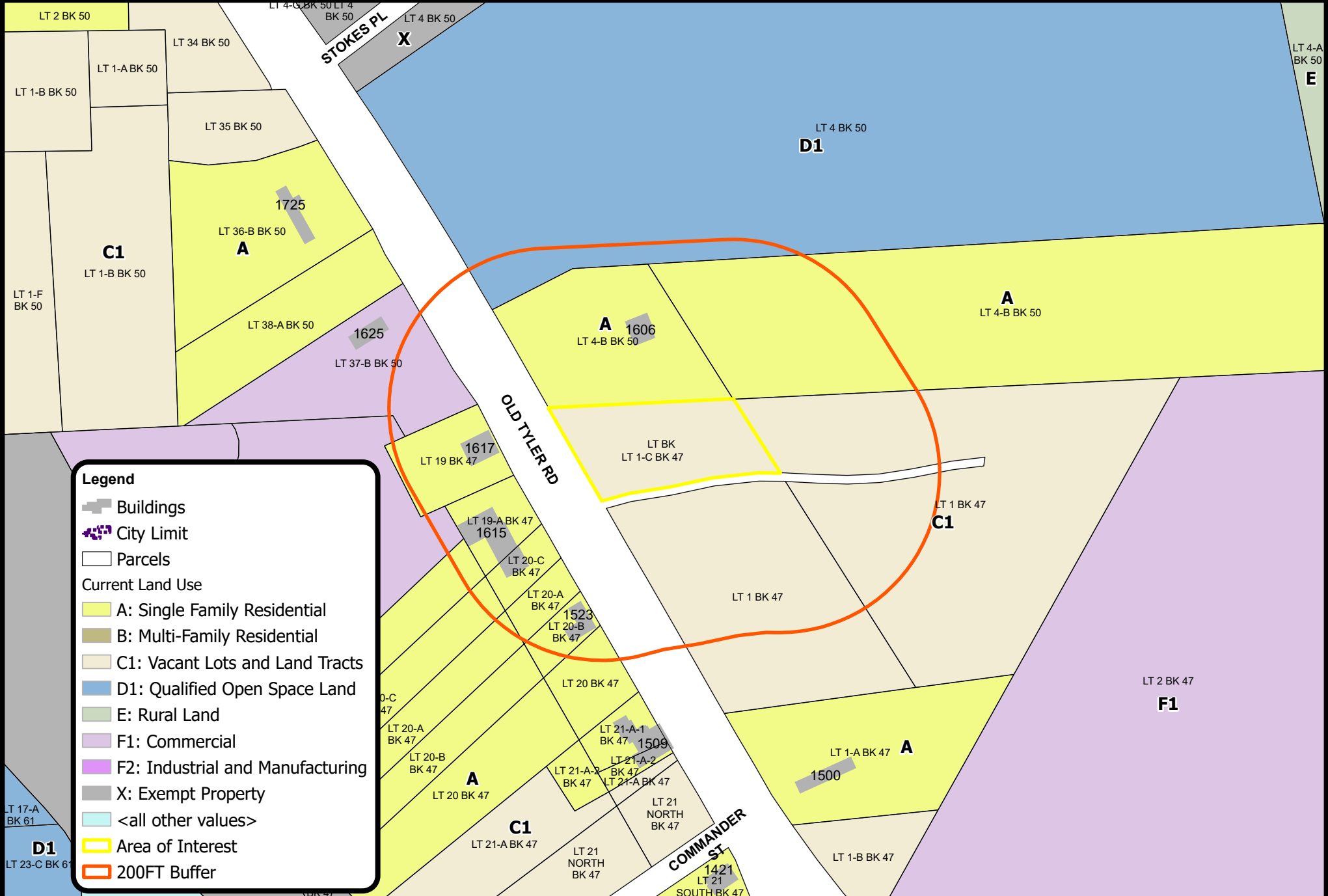
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Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location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

ZON2025-07 Future Land Use Map



ZON2025-07 Notification Map



A horizontal number line with tick marks at 0, 60, 120, 180, and 240. The unit is labeled as "Feet".

Date Created: 05/13/25 10:15 | ArcGIS Pro 3.2.2

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.

ZON2025-07 Site Photos

Subject property



Adjacent residential property to the west



Adjacent residential property to the north



ORDINANCE NO.

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, AMENDING THE BOUNDARIES OF A ZONING DISTRICT WITHIN THE CITY OF NACOGDOCHES FROM B-2, GENERAL BUSINESS TO R-2, SINGLE FAMILY DISTRICT FOR ONE (1) PARCEL OF LAND APPROXIMATELY 0.34 ACRES ± IN SIZE, MORE PARTICULARLY DESCRIBED BY NACOGDOCHES CENTRAL APPRAISAL DISTRICT PARCEL NO. 23897. THIS PARCEL IS GENERALLY LOCATED ON THE EAST SIDE OF OLD TYLER ROAD, APPROXIMATELY 0.50 MILES NORTH OF THE INTERSECTION OF POWERS STREET AND OLD TYLER ROAD, 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 properties described above and depicted in “**Exhibit A**” are currently zoned B-2, General Business; and

WHEREAS, the property owner has requested the zoning classification of said property to be changed to R-2, Single-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 B-2, General Business to R-2, Single-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 _____ day of June 2025, by a vote of _____ (ayes) to _____ (nays) of the City Council of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
RANDY JOHNSON, Mayor

ATTEST:

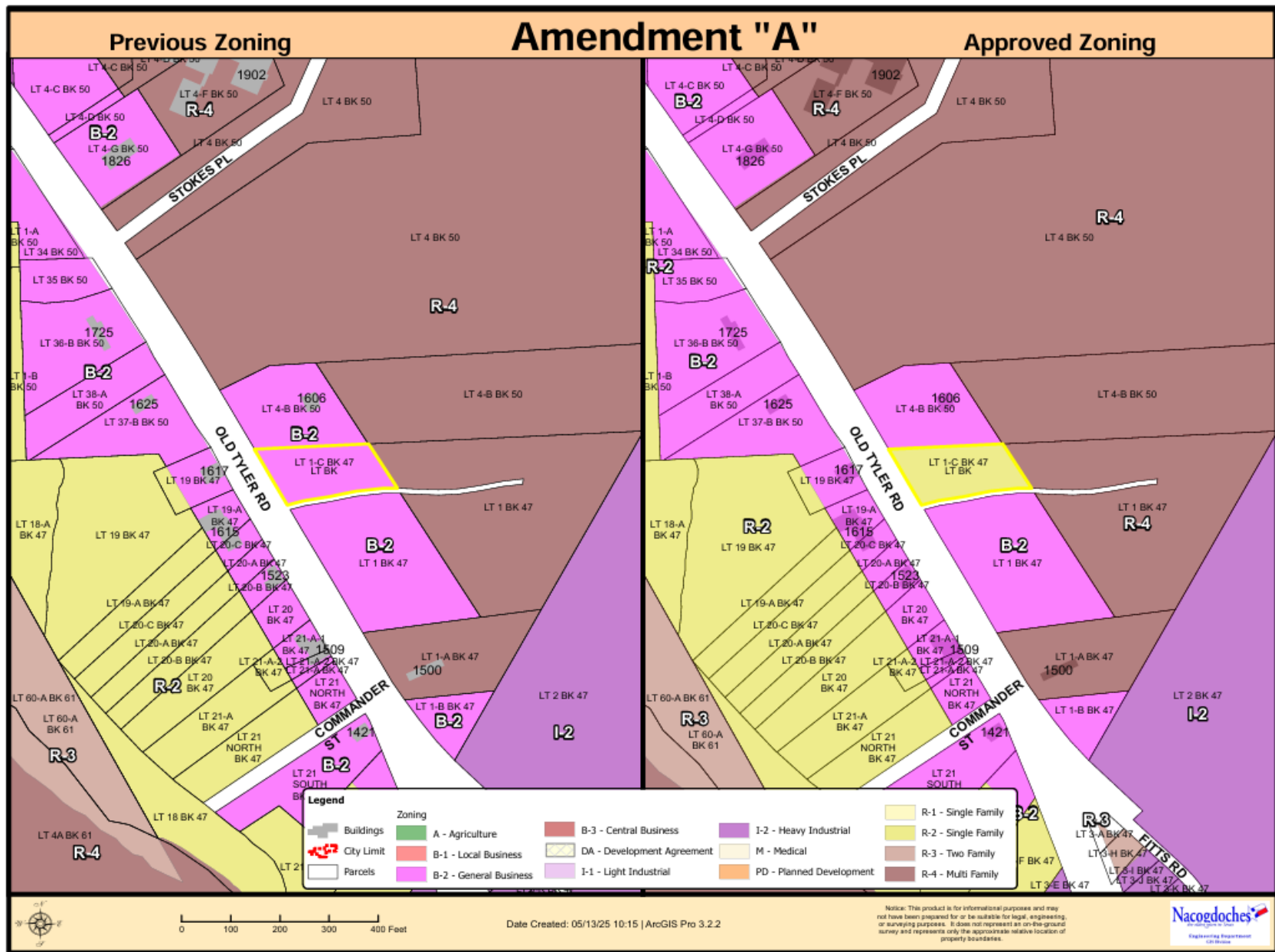
RHONDA LEWIS, City Secretary

APPROVED AS TO FORM:

JERRY BAKER, City Attorney

APPROVED AS TO CONTENT:

JUAN POLLETTE, City Planner



PRESENTER: Juan Pollette, City Planner

ITEM/SUBJECT: Public Hearing: Discuss and consider action on Zoning Case ZON2025-08 regarding a zone change from I-1, Light Industrial, to R-4, Multi-family district for two (2) parcels of land approximately 1.16 acres $\pm$ in size, more particularly described by Nacogdoches Central Appraisal District Parcels 23169 and 23166; and a zone change from B-2, General Business to R-4, Multi-family for one parcel of land approximately 0.25 acres $\pm$ in size, more particularly described by Nacogdoches Central Appraisal District Parcel 23167; and generally located on the west side of South Pecan Street, approximately 500 feet west of the intersection of South Pecan Street and South Fredonia Street. (City Planner)

SUMMARY/BACKGROUND: The applicant, Roy Rodriguez, is requesting a zoning change for three parcels located on South Pecan just west of the intersection of South Pecan and South Fredonia Street. Two of the subject parcels are currently zoned Light Industrial, I-1 and one is zoned B-2, General Business. The applicant is requesting that all three parcels be rezoned to R-4, Multi-Family to allow for the construction of residential structures.

The subject properties front a local street and are located within a predominantly residential use area, despite the surrounding non-residential zoning designations. A railroad track runs along the rear of the subject properties, creating a buffer from the residential and commercial uses to the south. Additionally, the subject parcels lie within a designated FEMA flood zone. All new structures in this area are required to be constructed at least two feet above the Base Flood Elevation (BFE), in accordance with local floodplain development regulations.

Adjacent Land Use & Zoning

The subject properties are zoned I-1, Light Industrial and B-2, General Business and are undeveloped. The surrounding zoning and land uses are as follows:

Direction	Comprehensive Plan	Current Zoning	Land Use
North	Rural Development	B-2, General Business	Residential
South (Across R.R. Tracks)	Rural Development	I-1, Light Industrial	Commercial
East (Across S. Pecan St.)	Rural Development & Industrial	I-1, Light Industrial & B-2, General Business	Residential & Commercial
West	Rural Development	I-1, Light Industrial	Commercial

The subject properties are located in a transitional area with a mix of zoning districts and land uses. To the north, the properties abut existing single-family homes that are zoned B-2, General Business. To the south, adjacent properties are zoned Light Industrial (I-1) and are developed with a mix of commercial and residential uses.

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 proposed R-4 zoning is compatible with the surrounding area and serves as an appropriate transitional district between residential and non-residential uses. The subject properties are situated between single-family homes to the north, zoned B-2, and a mix of commercial and residential uses to the south, zoned Light Industrial. The R-4 designation provides a buffer that is more consistent with the area's existing residential character while allowing for lower-intensity development than the current industrial and commercial zoning.

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 proposed R-4 zoning is not expected to impede the orderly development of surrounding properties. The area is already developed with a mix of residential and commercial uses, and the requested zoning is consistent with the existing development pattern. The R-4 district supports continued residential use and provides a logical transition between more intense zoning to the south and residential areas to the north, supporting balanced and coordinated growth.

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 South Pecan Street which is a local two laned concrete road with a ROW of approximately 35 feet. The properties have access to public utilities with 6-inch water and sewer mains located along South Pecan 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;

Any future development on the subject properties will be required to meet City standards for driveways and parking, ensuring safe and convenient access. No adverse impacts to the general public or adjacent properties are anticipated as a result of the proposed zoning change.

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

Any future development will be required to comply with all applicable City codes related to nuisance prevention and property maintenance, ensuring compatibility with surrounding uses.

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

Any future lighting on the subject properties will be required to comply with City regulations to ensure it is appropriately shielded and directed. Lighting will be designed to prevent glare or spillover onto adjacent properties, maintaining compatibility with the surrounding residential and commercial uses.

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

Any possible future multifamily development on the property will be required to comply with the City's commercial district landscaping and screening regulations.

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 properties as *Rural Development*. This FLUP category is described as “Sparsely-populated areas with limited development that are still distinct from more urbanized areas. It also includes areas that are gradually transitioning into urban uses and development.” This FLUP category identifies areas with limited development that are gradually transitioning into more urban uses. The proposed R-4 zoning aligns with this intent by supporting residential development in a manner consistent with the area's ongoing transition from industrial and commercial uses to residential character. Staff finds that this request is generally consistent with the goals of the Comprehensive Plan, specifically in *Avoiding Undesirable Development Outcomes* by ensuring compatible development when differing land use types or intensities are located in close proximity.

PUBLIC ENGAGEMENT:

May 20, 2025 – Staff mailed sixteen (16) public meeting notice letters to property owners within 200 feet and twenty (20) notice postcards to property owners within 200–500 feet. Staff has not received any letters in opposition or in favor of the request from the neighboring residents.

- May 25, 2025 – Legal ad published in the Daily Sentinel newspaper.
- June 9, 2025 - The Planning and Zoning Commission heard this item and voted unanimously (3-0) to recommend approval of the zone change

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.

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, City Planner
pollettej@nactx.us
(936) 559-2559

ATTACHMENTS:

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

ZON2025-08 Aerial Map



Legend

- Buildings
- City Limit
- Parcels
- Area of Interest



0 80 160 240 320 Feet

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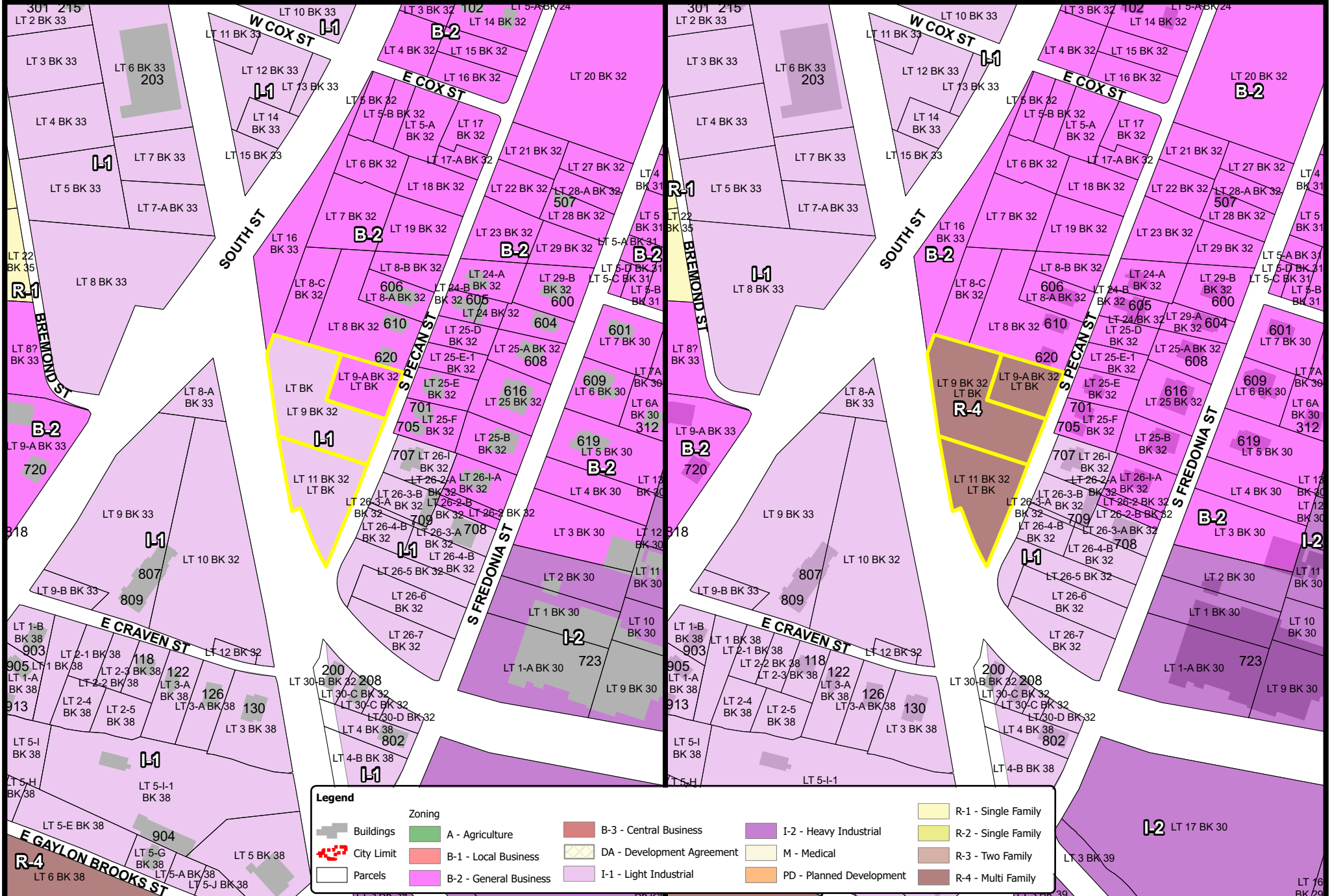
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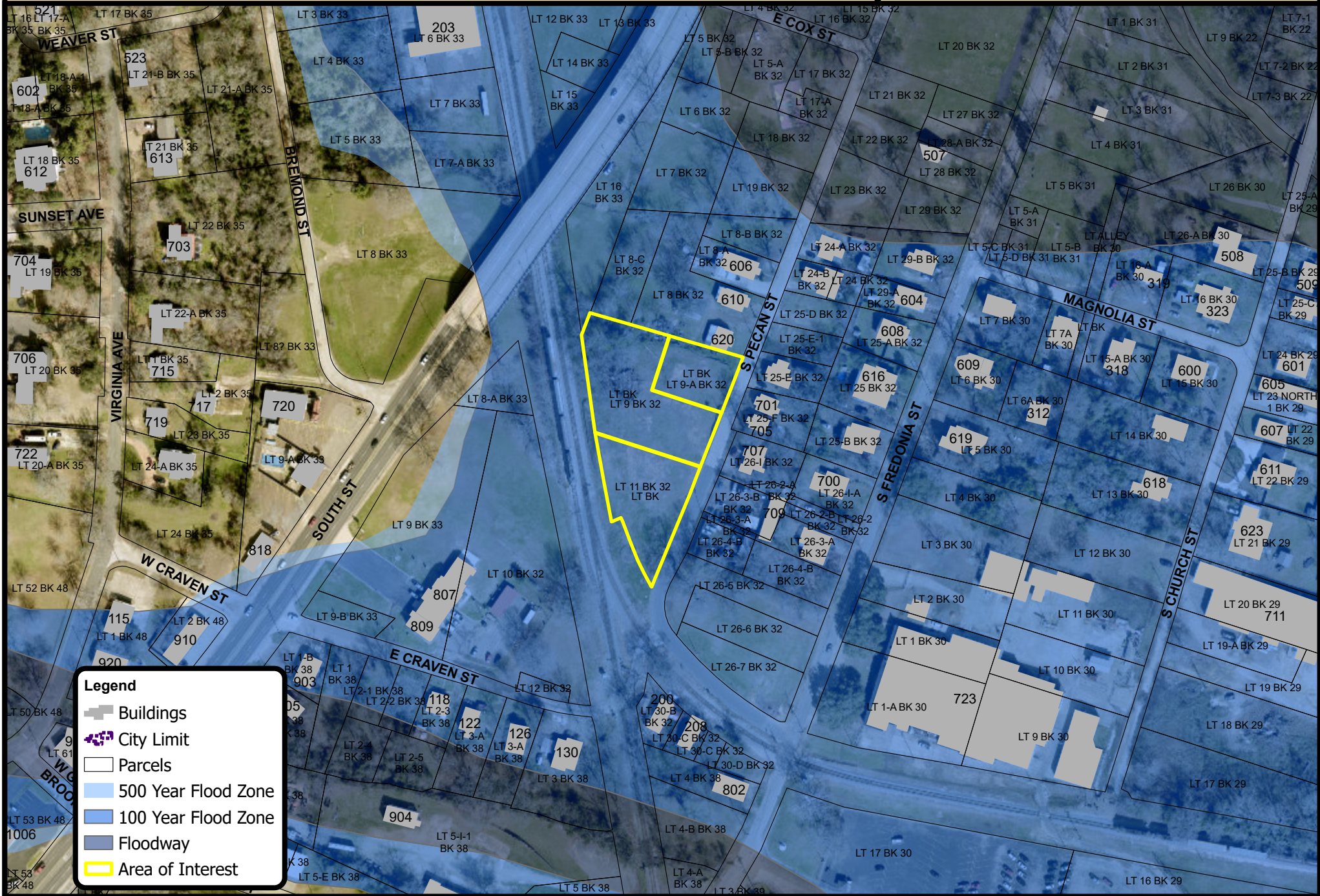
Existing Zoning

ZON2025-08

Proposed Zoning



ZON2025-08 Flood Map

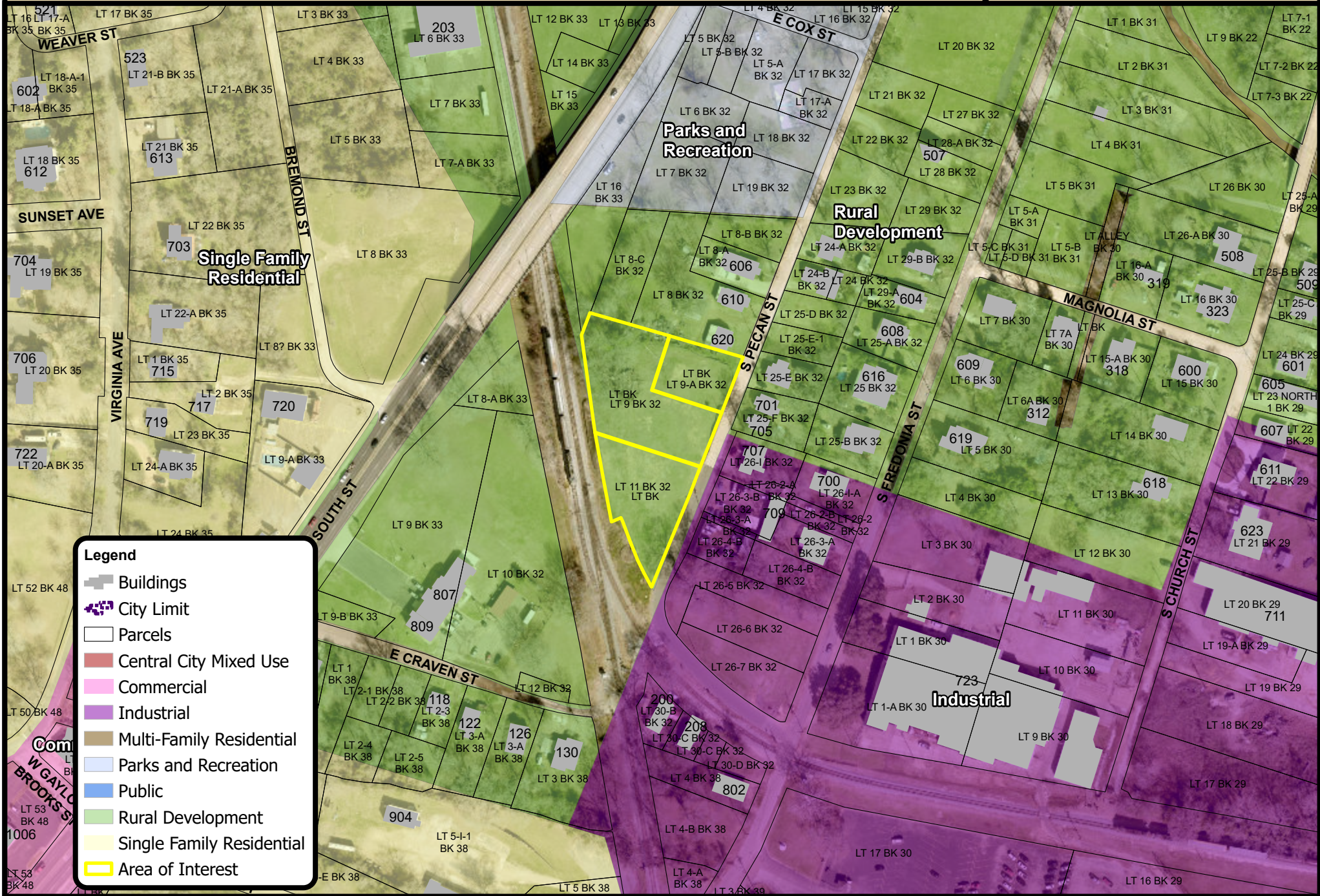


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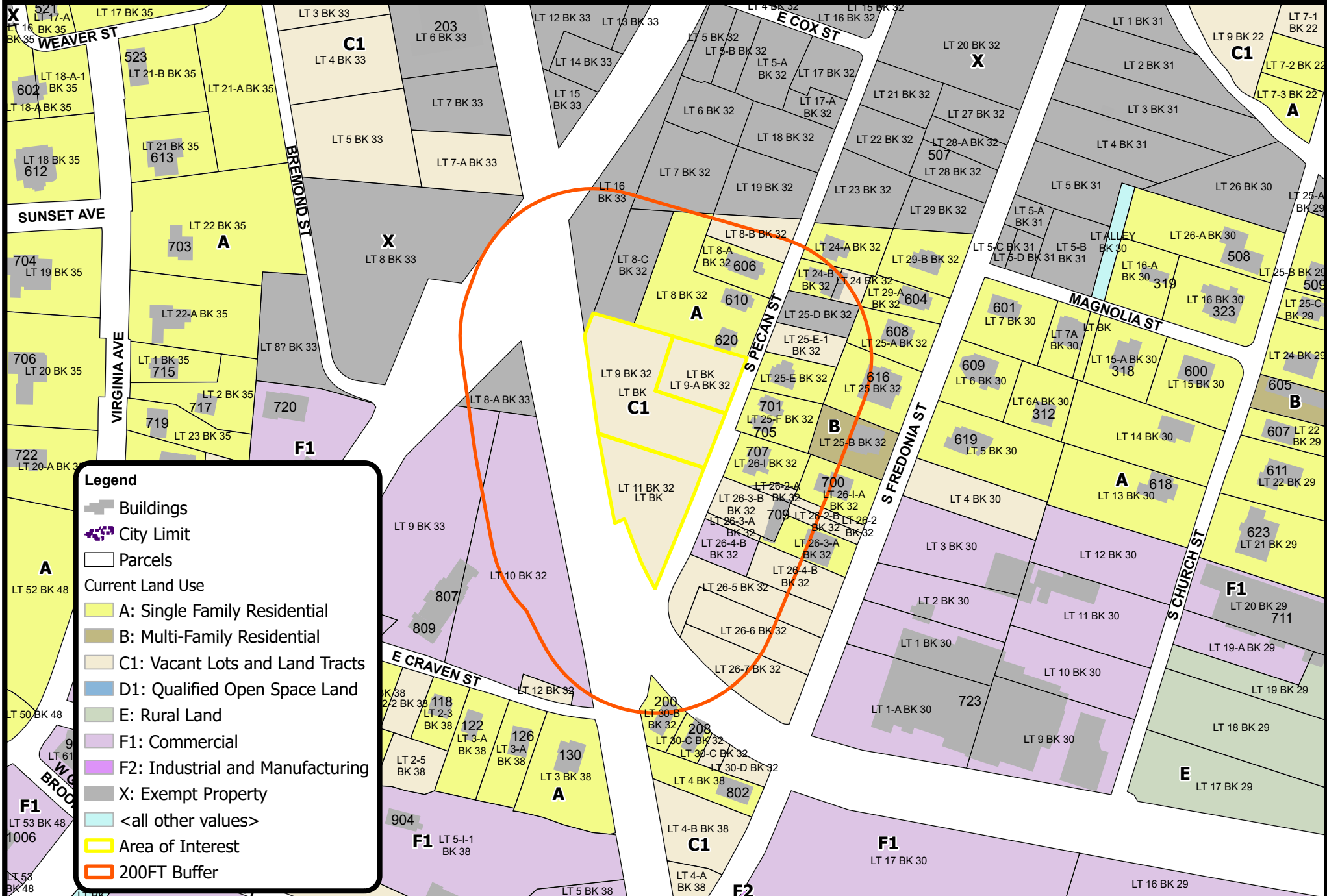
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ZON2025-08 Future Land Use Map



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.

ZON2025-08 Notification Map



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.

ZON2025-08 Site Photos

Subject property



Adjacent residential property to the north



Adjacent commercial property to the east



ORDINANCE NO.

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, AMENDING THE BOUNDARIES OF A ZONING DISTRICT WITHIN THE CITY OF NACOGDOCHES FROM I-2, LIGHT INDUSTRIAL TO R-4, MULTI-FAMILY FOR TWO (2) PARCELS OF LAND APPROXIMATELY 1.16 ACRES ± IN SIZE, MORE PARTICULARLY DESCRIBED BY THE NACOGDOCHES COUNTY APPRAISAL DISTRICT PARCEL NOS. 23169 & 23166; AND A ZONE CHANGE FROM B-2, GENERAL BUSINESS TO R-4, MULTI-FAMILY FOR ONE PARCEL OF LAND APPROXIMATELY 0.25 ACRES ± IN SIZE, MORE PARTICULARLY DESCRIBED BY THE NACOGDOCHES COUNTY APPRAISAL DISTRICT PARCEL NO. 23167; AND GENERALLY LOCATED ON THE WEST SIDE OF SOUTH PECAN STREET, APPROXIMATELY 500 FEET WEST OF THE INTERSECTION OF SOUTH PECAN STREET AND SOUTH FREDONIA STREET, 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 properties described above and depicted in “**Exhibit A**” are currently zoned I-1, Light Industrial and B-2, General Business; and

WHEREAS, the property owner has requested the zoning classification of said property to be changed to R-4, Multi-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 I-1, Light Industrial and B-2, General Business to R-4, Multi-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 _____ day of June 2025, by a vote of _____(ayes) to _____ (nays) of the City Council of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
RANDY JOHNSON, Mayor

ATTEST:

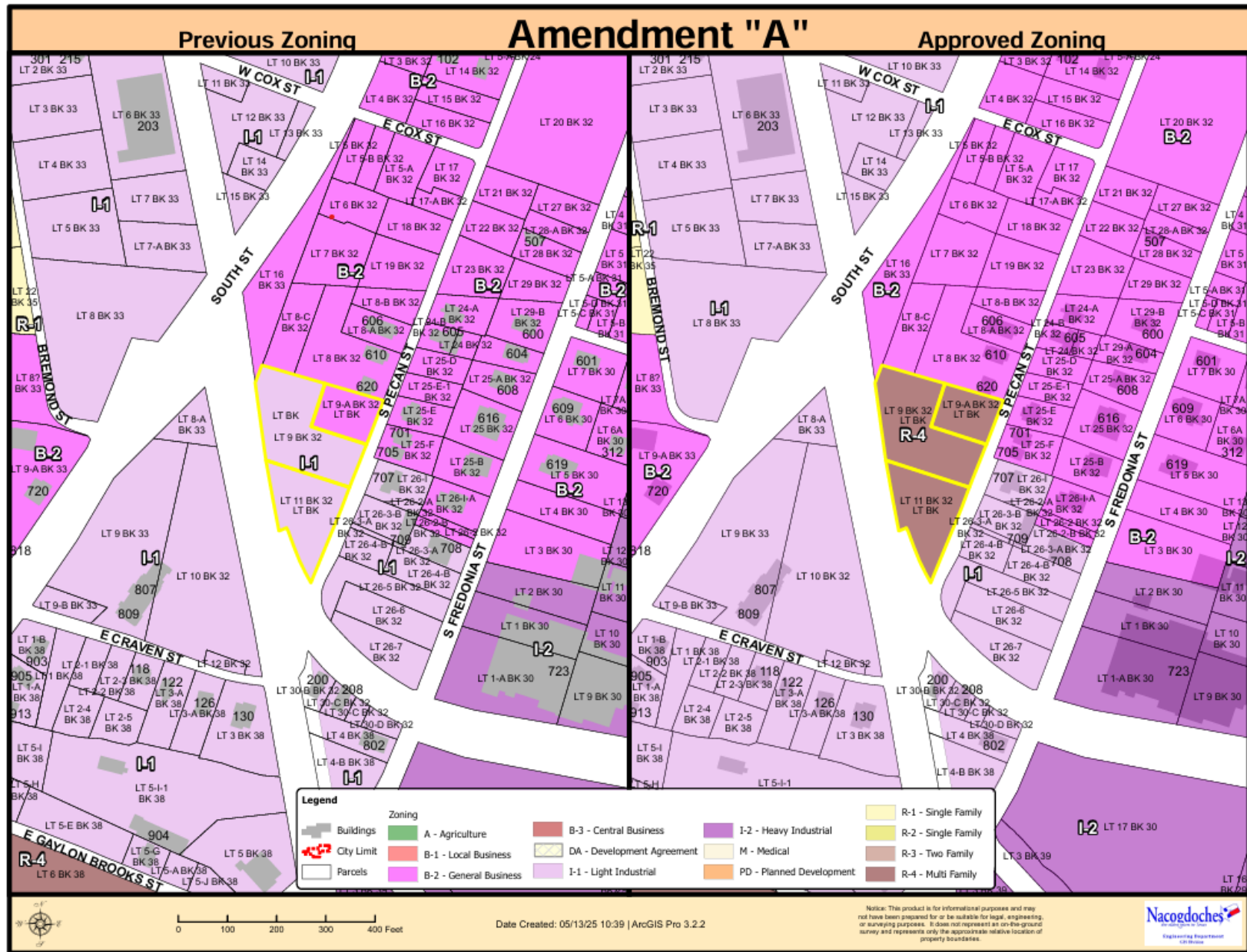
RHONDA LEWIS, City Secretary

APPROVED AS TO FORM:

JERRY BAKER, City Attorney

APPROVED AS TO CONTENT:

JUAN POLLETTE, City Planner



PRESENTER: Case Opperman, Director of Public Works

ITEM/SUBJECT: Consider approval of a contract by and between the City of Nacogdoches and Drewery Construction Co., Inc. for the 2025 Street Paving Project in the total amount of \$2,180,788.60. (Director of Public Works/City Engineer)

SUMMARY/BACKGROUND: The 2023 City of Nacogdoches Bond Election included \$10 million in City street improvements. The first tranche of bond sales included \$2.5 million of that and staff has been developing the 2025 Street Paving Project for use of those funds. This spring, approximately \$400,000 of the bond funds were used for curb and gutter repair and valley gutter installations on the streets included in the paving project. Those improvements having been completed, improvements on the streets, themselves, are ready to begin.

As described by 2025 Street Paving Project solicitation no. 25-10-127, the base bid and alternate bid no. 1 for this project will include reconstruction of five (5) streets, milling and asphalt inlay on eight (8) streets and patching and overlay of fifteen (15) streets, as well as ancillary work needed. Alternate Bids 2 and 4 were for fly-ash stabilization of the Base and Alt. 1 bid streets, respectively, and Alternate Bids 3 and 5 were for cement stabilization of those streets. Fly-ash stabilization is an alternative to cement stabilization which reduces the future street cracking that is prevalent with cement. It is sometimes more difficult to obtain but is more preferable when budget allows, which is why the two stabilization methods were listed as alternate bid items which could be awarded independently once bids were received.

On June 10, 2025, the City received bids for this work. Three (3) contractors submitted bids, as follows:

	Drewery Construction	L.S. Equipment	Texas Materials
Base Bid	\$1,806,107.90	\$2,068,530.00	\$2,680,262.39
Alt. Bid 1	\$212,336.40	\$214,092.50	\$362,766.72
Alt. Bid 2	\$101,060.00	\$105,950.00	\$177,507.00
Alt. Bid 3	\$61,532.50	\$105,950.00	\$104,972.00
Alt. Bid 4	\$61,284.30	\$68,978.00	\$109,197.48
Alt. Bid 5	\$40,856.20	\$68,978.00	\$69,243.30
Total (Base, Alts. 1, 2, 4)	\$2,180,788.60	\$2,457,550.50	\$3,329,733.59

Drewery Construction Co., Inc. was found to be the lowest bidder for the desired bid award scenario which includes the base bid and alternate bids 1, 2 and 4. They are a Nacogdoches-based contractor who has successfully completed many street paving projects for the City in the

past. There is adequate budget available for this contract utilizing the remainder of the Tranche 1 bond funds and Street Maintenance Fee funds.

FINANCIAL:

Item is budgeted:

Account No.: 45 680.37

Account Name: *Proposition F (Streets) – Project Construction*

Amount: \$ 2,086,646.88

Item is budgeted:

Account No.: 27.90 680.30

Account Name: *Capital Projects Fund - Street Maintenance*

Amount: \$ 94,141.72

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

Infrastructure

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

ATTACHMENTS:

1. Project Map
2. Bid Tab
3. Contract Documents
4. PowerPoint

2025 Street Paving Project

Oakview Drive
North Street to 608 Oakview
Mill and Inlay

Concrete Swale
See Exhibit

Oakview Drive
608 Oakview to Meadowview Drive
Patch and Overlay

Concrete Intersection at Northway Drive
See Exhibit

Timberwood Drive
Patch & Overlay

Redwood Drive
Patch & Overlay

Chaparral Drive
Reconstruct w/Stabilization

Chimney Rock Intersection
Full Depth Patch

Glen Hollow Drive
Reconstruct w/Stabilization

W. Starr Avenue
North Street to Pearl Street
Mill and Inlay

West of Pearl Street
Patch & Overlay

Add. Alt. Bid 1
E. Oak Ln.
Reconstruct w/Stabilization

Rob Ln., Edgewood Ln.,
Rosewood Ln.
Patch & Overlay

Virginia - Reedy to 2006 Virginia
Patch and Overlay

Virginia - 2006 Virginia to Weaver
Mill and Inlay

W. Gaylon Brooks
Reconstruct w/Stabilization

Zula Street
Patch & Overlay

Arthur Weaver Street, Fox Street, Brown Street
Patch & Overlay

Colston Street
Reconstruct w/Stabilization

Shirley Street
Mill and Inlay

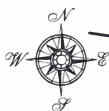
Patton Street, Leak Street
Mill and Inlay

Laurel Lane
Mill and Inlay

Sharon Street, Yolunda Street, Ila Street
Patch & Overlay

Legend

- 2025 Street Paving
- City Limit
- Streets



0 0.125 0.25 0.5 0.75 Miles

Refer to Street Summary Sheet
for Repair Schemes and Quantities
per street



Bid Summary

City of Nacogdoches 2025 Street Paving Project

Bid: 6/10/25 2:00 PM

				Drewery Construction Co., Inc. Nacogdoches, TX		L.S. Equipment Co., Inc. Henderson, TX		Texas Materials Group Lufkin, TX	
Item	Quan	Unit	Description	Unit Price	TOTAL	Unit Price	TOTAL	Unit Price	TOTAL
Base Bid									
1.	1	LS	Mobilization/Demobilization	\$105,000.00	\$105,000.00	\$250,000.00	\$250,000.00	\$385,254.14	\$385,254.14
2.	8,235	tons	2" overlay, Type D hot mix asphaltic concrete, including tack coat of SS-1 @ 0.10 gal/SY, herbicide treatment, vegetation removal, all materials & labor; complete, in place	\$163.00	\$1,342,305.00	\$175.00	\$1,441,125.00	\$200.72	\$1,652,929.20
3.	8,150	SY	6" pulvermix in-place existing pavement and base, surface prime coat of MC-30 @ 0.15 gal/SY, haul and disposal of excess material to location specified by City, all materials & labor; complete, in place	\$5.70	\$46,455.00	\$12.00	\$97,800.00	\$23.49	\$191,443.50
4.	33,593	SY	Mill existing pavement and base to depth of 2" in accordance with TxDOT Standard Specifications for Construction of Highways, Streets and Bridges, Item 354, latest edition; including haul and disposal to locations as directed by City	\$4.30	\$144,449.90	\$5.00	\$167,965.00	\$3.21	\$107,833.53
5.	26	SY	Asphalt street patching (thin patch-asphalt only), including all sawcuts, re-compaction, preparation, Type D hot mix asphaltic concrete, haul and disposal, all materials & labor; complete, in place	\$33.00	\$858.00	\$45.00	\$1,170.00	\$470.48	\$12,232.48
6.	453	SY	Asphalt street patching (full depth, 6" asphalt), including all sawcuts, subgrade preparation, full depth Type D hot mix asphaltic concrete, haul and disposal, all materials & labor; complete, in place	\$80.00	\$36,240.00	\$90.00	\$40,770.00	\$388.94	\$176,189.82
7.	1	LS	Type D hot mix asphaltic concrete level-up of road edges on W. Starr Avenue, all depths, including tack coat of SS-1 @ 0.10 gal/SY, all materials & labor; complete, in place	\$7,300.00	\$7,300.00	\$10,000.00	\$10,000.00	\$36,899.72	\$36,899.72
8.	1	LS	Install white fog line pavement striping on W. Starr Avenue, in accordance with Manual on Uniform Traffic Control Devices (MUTCD), all materials and labor; complete, in place	\$2,500.00	\$2,500.00	\$4,500.00	\$4,500.00	\$4,400.00	\$4,400.00
9.	40	EA	Install white thermoplastic stop bars at intersections specified in Summary Sheet, in accordance with Manual on Uniform Traffic Control Devices (MUTCD), all materials and labor; complete, in place	\$675.00	\$27,000.00	\$205.00	\$8,200.00	\$220.00	\$8,800.00
10.	1	LS	Concrete Intersection on Oakview Drive, poured in halves, in accordance with plans and details, including all sawcuts, preparation, concrete, joints, asphalt patching and tie-ins, materials and labor; complete, in place	\$54,000.00	\$54,000.00	\$32,500.00	\$32,500.00	\$68,200.00	\$68,200.00
11.	1	LS	Concrete Swale on Oakview Drive, in accordance with plans and details, including all sawcuts, preparation, concrete, curb replacements, asphalt patching and tie-ins, materials and labor; complete, in place	\$18,000.00	\$18,000.00	\$4,500.00	\$4,500.00	\$22,000.00	\$22,000.00
12.	80	CY	Undercut of unsuitable material, by excavation, and replace with crushed concrete or approved crushed stone, compacted, all materials & labor; complete, in place	\$275.00	\$22,000.00	\$125.00	\$10,000.00	\$176.00	\$14,080.00
Base Bid Total					\$1,806,107.90		\$2,068,530.00		\$2,680,262.39

				Drewery Construction Co., Inc. Nacogdoches, TX		L.S. Equipment Co., Inc. Henderson, TX		Texas Materials Group Lufkin, TX	
Item	Quan	Unit	Description	Unit Price	TOTAL	Unit Price	TOTAL	Unit Price	TOTAL
Additive Alternate Bid 1									
<i>E. Oak Lane, Rob Lane, Edgewood Lane, Rosewood Lane</i>									
13.	1,031	tons	2" overlay, Type D hot mix asphaltic concrete, including tack coat of SS-1 @ 0.10 gal/SY, herbicide treatment, vegetation removal, all materials & labor; complete, in place	\$163.00	\$168,053.00	\$175.00	\$180,425.00	\$224.68	\$231,645.08
14.	5,306	SY	6" pulvermix in-place existing pavement and base, surface prime coat of MC-30 @ 0.15 gal/SY, haul and disposal of excess material to location specified by City, all materials & labor; complete, in place	\$6.40	\$33,958.40	\$5.00	\$26,530.00	\$16.94	\$89,883.64
15.	40	SY	Asphalt street patching (full depth, 6" asphalt), including all sawcuts, subgrade preparation, full depth Type D hot mix asphaltic concrete, haul and disposal, all materials & labor; complete, in place	\$80.00	\$3,200.00	\$100.00	\$4,000.00	\$926.45	\$37,058.00
16.	3	EA	Install white thermoplastic stop bars at intersections specified in Summary Sheet, in accordance with Manual on Uniform Traffic Control Devices (MUTCD), all materials and labor; complete, in place	\$675.00	\$2,025.00	\$212.50	\$637.50	\$220.00	\$660.00
17.	20	CY	Undercut of unsuitable material, by excavation, and replace with crushed concrete or approved crushed stone, compacted, all materials & labor; complete, in place	\$255.00	\$5,100.00	\$125.00	\$2,500.00	\$176.00	\$3,520.00
Alternate Bid 1 Total					\$212,336.40		\$214,092.50		\$362,766.72

Additive Alternate Bid 2									
<i>Chaparral Drive, Colston Street, Glen Hollow Drive, W. Gaylon Brooks Street</i>									
18.	8,150	SY	Fly Ash Stabilization of pulvermixed pavement and base to depth of 6", 10% Class C Fly Ash placement at application rates specified in plans, including materials, placement and mixing; complete, in place	\$12.40	\$101,060.00	\$13.00	\$105,950.00	\$21.78	\$177,507.00
Alternate Bid 2 Total					\$101,060.00		\$105,950.00		\$177,507.00

Additive Alternate Bid 3									
<i>Chaparral Drive, Colston Street, Glen Hollow Drive, W. Gaylon Brooks Street</i>									
19.	8,150	SY	Cement Stabilization of pulvermixed pavement and base to depth of 6", 3% Cement placement at application rates specified in plans, including materials, placement and mixing; complete, in place	\$7.55	\$61,532.50	\$13.00	\$105,950.00	\$12.88	\$104,972.00
Alternate Bid 3 Total					\$61,532.50		\$105,950.00		\$104,972.00

				Drewery Construction Co., Inc. Nacogdoches, TX		L.S. Equipment Co., Inc. Henderson, TX		Texas Materials Group Lufkin, TX	
Item	Quan	Unit	Description	Unit Price	TOTAL	Unit Price	TOTAL	Unit Price	TOTAL
Additive Alternate Bid 4									
E. Oak Lane									
20.	5,306	SY	Fly Ash Stabilization of pulvermixed pavement and base to depth of 6", 10% Class C Fly Ash placement at application rates specified in plans, including materials, placement and mixing; complete, in place	\$11.55	\$61,284.30	\$13.00	\$68,978.00	\$20.58	\$109,197.48
Alternate Bid 4 Total					\$61,284.30		\$68,978.00		\$109,197.48
Additive Alternate Bid 5									
E. Oak Lane									
21.	5,306	SY	Cement Stabilization of pulvermixed pavement and base to depth of 6", 3% Cement placement at application rates specified in plans, including materials, placement and mixing; complete, in place	\$7.70	\$40,856.20	\$13.00	\$68,978.00	\$13.05	\$69,243.30
Alternate Bid 5 Total					\$40,856.20		\$68,978.00		\$69,243.30
Total Base & Alt. Bids 1, 2 and 4					\$2,180,788.60		\$2,457,550.50		\$3,329,733.59





**BIDDING
and
CONTRACT DOCUMENTS**

FOR

**CONSTRUCTION SERVICES
FOR
2025 STREET PAVING PROJECT**

Bid #: 25-10-127

**DUE DATE
JUNE 10, 2025 @ 2:00 PM**

City of Nacogdoches, Texas
City Hall
202 E. Pilar
Nacogdoches, TX 75961
936-559-2516

www.nactx.us



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INSTRUCTIONS TO BIDDERS

1.0 NOTICE

Sealed bids addressed to the City of Nacogdoches Engineering Office, 202 Pilar St., Suite 239, Nacogdoches, TX 75961, will be received for **Construction Services for 2025 Street Paving Project** until **2:00 PM, Tuesday, June 10, 2025** after which time all qualified bids will be publicly opened and read aloud at **City Hall Conference Room 203**. Bids received after that time will be returned unopened. No fax or email bids will be accepted.

LOCATION AND DESCRIPTION OF PROJECT

Pulvermixing, stabilization and overlay of five (5) streets, milling and inlay on eight (8) streets and patching and overlay of fifteen (15) streets, including striping on one (1) street and installation of forty-three (43) stop bars, one (1) concrete swale and one (1) concrete intersection.

A Pre-bid Meeting will be held at City Hall Conference Room 203 at 10:00 AM on June 4, 2025. This meeting is not mandatory, but attendance is highly recommended.

COPIES OF BIDDING DOCUMENTS

A complete set of Bidding and Contract Documents may be viewed and downloaded free of charge at www.civcastusa.com or on the City website at <https://www.nactx.us/bids.aspx>.

The successful bidder will be required to furnish a Payment Bond and Performance Bond in the amount of the contract. Bidders may not withdraw their Bid Proposal within 60 calendar days of the bid opening date.

Sealed bids shall be clearly marked with the words “Sealed Bid, 2025 Street Paving Project” and addressed to the City of Nacogdoches. Bids shall be delivered using one of the following methods:

Hand-deliver to:
Engineering Office
202 Pilar Street, Suite 239
Nacogdoches, TX 75961

Mail to:
Attn: Engineering
PO Box 635030
Nacogdoches, Texas 75963

Ship to (FedEx, UPS, DHL, etc.):
Attn: Engineering
202 East Pilar, Suite 239
Nacogdoches, Texas 75961

A Certified Cashier's Check or an acceptable Bid Bond in an amount of not less than five (5) percent of the total amount bid shall accompany each bid proposal.

2.0 DEFINITION OF TERMS

In order to simplify the language throughout this bid, the following definitions and those defined in the Contract Documents shall apply:

BIDDER - A contractor who submits a Bid directly to the City.

BIDDING DOCUMENTS - the Advertisement, Instructions to Bidders, the Proposal, Special Provisions, Technical Specifications and the proposed Contract Documents (including all Addenda issued prior to the receipt of Bids).

CITY – Same as City of Nacogdoches.

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 State Constitution and Laws.

CONTRACT – An agreement between the City and a Supplier to furnish supplies and/or services over a designated period of time during which repeated purchases are made of the commodity specified.

CONTRACTOR – The successful Bidder(s) of this bid request.

CITY – The government of the City of Nacogdoches, Texas.

OWNER – City of Nacogdoches.

SUB-CONTRACTOR – Any contractor hired by the Contractor or Supplier to furnish materials and services specified in this bid request.

SUCCESSFUL BIDDER - the lowest, qualified, responsible and responsive Bidder to whom the City (on the basis of the City's evaluation as hereinafter provided) makes an award.

SUPPLIER – Same as Contractor.

3.0 COPIES OF BIDDING DOCUMENTS

A complete set of Bidding and Contract Documents may be viewed and downloaded free of charge at www.civcastusa.com or on the City website at <https://www.nactx.us/bids.aspx>.

Complete sets of Bidding Documents must be used in preparing Bids; the City assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

4.0 COMMUNICATION

The Owner's Representative for all communication regarding the Bidding and Contract Documents, including specifications and drawings is:

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

No oral questions and other interpretations or clarification will be considered official or binding.

5.0 PRE-BID CONFERENCE

A Pre-bid Meeting will be held at **City Hall Conference Room 203** at **10:00 AM on June 4, 2025**. This meeting is not mandatory, but attendance is highly recommended.

Representatives of the Owner will be present to discuss the project. Bidders are highly encouraged to attend and participate in the conference. Owner's Representative will transmit to all prospective

bidders of record such Addenda as he considers necessary in response to questions arising at the conference.

6.0 GENERAL BID PROVISIONS

- a. The Invitation to Bid as advertised will be considered an inclusion of the specifications and conditions.
- b. Bid proposals will be submitted on the forms provided by Owner. All figures must be written in ink or typewritten. However, mistakes may be crossed out, corrections inserted adjacent thereto and initiated in ink by the person signing the proposal. Do not use a whiteout or other cover products on mistakes.
- c. Formal advertised bids indicate date and time by which the bids must be received at the designated location. Bids received after that time will be returned unopened to the bidder.
- d. The bidder will note any exceptions to the conditions of this bid. If no exceptions are stated, it will be understood that all general and specific conditions will be complied with, without exception.
- e. Bidders may request withdrawal of a posted sealed proposal prior to the scheduled bid opening time, provided the request for withdrawal is submitted to the City of Nacogdoches in writing. Owner reserves the right to reject any and all bids by reason of this request.
- f. If it becomes necessary to revise any part of this bid, a written addendum will be provided to all bidders. Owner is not bound by any oral representations, clarifications, or changes made in the written specifications by Owner's employees, unless such clarification of change is provided to bidders in written addendum form from the City of Nacogdoches.
- g. Pursuant to Local Government Code 271.9051, if the bid is less than \$100,000 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. Otherwise, all bids will be awarded to the lowest responsible bidder. The determination of the lowest responsible bidder may involve all or some of the following factors: price, conformity to specifications, financial ability to perform the contract, previous performance, facilities and equipment, availability of repair parts, qualifications and experience, delivery promise, payment terms, compatibility as required, other costs, and other objectives and accountable factors which are reasonable.
- h. Owner may give an environmental preference to 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;
- i. Bidders may be disqualified and rejection of proposals may be recommended to the Owner for any (but not limited to) of the following causes: 1) Failure to use the proposal form furnished by the Owner; 2) Lack of signature by an authorized representative on the proposal form; 3) Failure to properly complete the proposal; 4) Evidence of collusion among proposers; 5) Omission of a certified Cashier's Check or Bid Bond (if required) proposal guarantee; 6) Unauthorized alteration of bid form; 7) Lack of appropriate qualifications and experience relative to the size and scope of the work proposed; 8) Unsatisfactory performance; 9) Failure to complete projects or 10) Loaded or unbalanced bids. Owner reserved the right to waive any minor informality or irregularity.

- j. Whenever in this invitation, any particular materials, process and/or equipment are indicated or specified by patent, proprietary or brand name, or by name of manufacture, such wording will be deemed to be used for the purpose of facilitating description of the material, process and/or equipment desired and will be deemed to be followed by the words "or equal." Contractor shall provide exactly such items in his bid as described, unless approved pursuant to Paragraph 12.0 herein.
- k. Samples of items shall be furnished, if requested by the Owner, without charge, and if not destroyed, shall be returned upon request at the bidder's expense.
- l. It is agreed that the successful bidder will not assign, transfer, convey or otherwise dispose of the contract or its right, title or interest in or to the same, or any part thereof, without previous written consent of Owner and any sureties.
- m. Contractor must provide audited financial statements, if requested, to the City.
- n. Prices in the Bid Proposal shall be presented in the format requested (Unit Price, Lump Sum, etc.)
- o. No freight or delivery charges will be accepted unless shown on bid.
- p. Owner is exempt from State Retail Tax and Federal Excise Tax. The price bid must be net, exclusive of taxes.
- q. All bidders will comply with all Federal, State, and local laws relative to conducting business in the City of Nacogdoches. The laws of the State of Texas will govern as to the interpretation, validity, and effect of this bid, its award and any contract entered into.
- r. 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 operate to void all proposals of that particular bid solicitation or request.
- s. Minority business enterprises 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.

7.0 QUALIFICATIONS OF BIDDERS

To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five days of City's request, written evidence, such as financial data, previous experience, present commitments and other such data as may be called for below. Each Bid must contain evidence of the Bidder's qualifications to do business in the State of Texas or covenant to obtain such qualification prior to award of the contract.

In determining a bidder's qualifications, the following factors will be considered:

- A. Work previously completed by the bidder and whether the bidder:
 - a. maintains a permanent place of business;
 - b. has experience in completing at least five (5) or more similar street rehabilitation projects within the last five (5) years, or some combination thereof, showing the size, scope and customer of each project;
 - c. has adequate plant and equipment to do the work properly and expeditiously;
 - d. has paid or settled all claims for payment promptly;
 - e. has appropriate technical experience;
 - f. has job references for work of similar size and scope to the project; and
 - g. satisfactory performance and completion of public, or comparable, projects.

B. The safety record of the Bidder, of the corporation, partnership, or institution represented by the Bidder, or of any one acting for such firm, corporation, or partnership.

Each Bidder may be required to show that he has properly completed similar type work and that no claims are now pending against such work. No bid will be accepted from any bidder who is engaged in any work that would impair his ability to fully execute, perform or finance this work. The General/Subcontractors Experience Data Sheet following the proposal must be filled out and submitted with the bid for consideration. Failure to include a completed Data Sheet may result in the rejection of the bid.

8.0 EXAMINATION OF CONTRACT DOCUMENTS AND SITE

A. It is the responsibility of each Bidder before submitting a Bid to:

- a. examine the Contract Documents thoroughly;
- b. visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work;
- c. consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work;
- d. study and carefully correlate Bidder's observations with the Contract Documents;
- e. notify the Owner's Representative of all conflicts, errors or discrepancies in the Contract Documents; and
- f. visit with local utilities, including cable companies, and other entities that may have underground or above-ground infrastructure in the work area for infrastructure location.

B. Information and data reflected in the Contract Documents with respect to underground facilities at or contiguous to the site is based upon information and data from the Owner's files for its underground facilities and information and data furnished by owners of other underground facilities. Owner does not assume responsibility for the accuracy or completeness thereof.

C. Before submitting a Bid each Bidder will be responsible to make or obtain such explorations, at bidders expense and not to be added into cost of bid if accepted (tests and data concerning physical conditions - surface, subsurface and underground facilities - at or contiguous to the site, or otherwise) which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

D. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment or disposal of spoil are to be provided by the Contractor. Contractor is responsible for obtaining all permits required for any of the before mentioned purposes prior to beginning work in accordance with the Standard Form Of Agreement, Paragraph 35 Permits and Licenses.

E. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this section, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and

such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

9.0 INTERPRETATIONS and ADDENDA

All questions about the meaning or intent of the Contract Documents are to be directed to the Owner. Interpretations or clarification considered necessary by the Owner's Representative in response to such questions will be issued by Addenda and mailed or otherwise delivered to all parties recorded by the Owner's Representative as having received the Bidding Documents. Questions received less than 48 hours prior to opening of Bids will not be answered. Only questions answered by formal written Addenda will be binding. No oral and other interpretations or clarification will be considered official or binding.

Addenda may also be issued to modify the Bidding Documents as deemed advisable by the City.

To properly qualify his bid, each Bidder shall, prior to filing his Bid, check the receipt of all Addenda or letters of clarification issued and acknowledge such receipt on the Proposal Form or on a separate attachment to the bid. Bids without such acknowledgment of all issued Addenda and letters of clarification may cause your bid to be considered non-responsive. Such Addenda and letters of clarification shall become a part of the executed contract and modify the contract documents accordingly.

10.0 BID SECURITY

Bidders must submit with their Bids a Cashier's Check or a Certified Check in the amount of five (5%) percent of the maximum amount of Bid payable without recourse to the City of Nacogdoches, Texas, or a bid bond in the same amount from a surety company holding permit from the State of Texas to act as a surety, as a guarantee that Bidder will enter into a contract and execute bond and guarantee forms within fifteen (15) days after notice of award of contract. Bids without checks, as stated above, or acceptable bid bond may not be considered.

Bid Security shall be in effect from the opening of the Bid and will be retained until a Bidder has executed the Agreement and furnished the required contract security, whereupon the Bid Security will be returned. A Bidder may withdraw its Bid at any time until the Agreement is signed. However, it will forfeit its Bid Security in doing so if no material mistake was made in the Bid.

The Bid Security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required contract security, whereupon the Bid Security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within fifteen (15) days after the Notice of Award, the Owner may annul the Notice of Award and the Bid Security of that Bidder will be forfeited. The Bid Security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until 5 days after the Agreement is executed whereupon Bid Security furnished by such Bidders will be returned. Bid Security with Bids which are not competitive will be returned within seven days after the Bid opening.

11.0 CONTRACT TIME

The times for Substantial Completion and Final Completion are set forth in the Special Provisions and will be included in the Agreement. It will be necessary for the Successful Bidder

to satisfy the City of the Bidder's ability to achieve Substantial Completion and Final Completion within the times designated in the Special Provisions.

12.0 SUBSTITUTE OR "OR EQUAL" ITEMS

The materials and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution. No substitution will be considered unless a written request for approval has been submitted by the Bidder and has been received by the Owner's Representative at least five (5) working days prior to the date for receipt of Bids or until after the contract for the work has been signed. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Bidder. The Owner's Representative's decision of approval or disapproval of a proposed substitution shall be final. If the Owner's Representative approves any proposed substitution before the date for receipt of bids, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

13.0 BID FORM

All blanks on the Bid Form must be completed in ink or by typewriter. Unfilled blanks may result in the bid being disqualified.

Any financial amounts written in words will supersede amounts written by numbers in the Bid Form.

Bids by corporations must be executed in the corporate name by the corporate officer authorized to sign for the corporation, accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown below the signature.

Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and accompanied by evidence of authority to sign. The fiscal address of the partnership must be shown below the signature.

All names must be typed or printed below the signature.

The Bid shall contain an acknowledgment of receipt of all Addenda. The numbers and dates of which must be filled in on the Bid Form or on a separate attachment to the Bid.

The address and telephone number(s) for communication regarding the Bid must be shown.

All of the data on the GENERAL/SUBCONTRACTORS EXPERIENCE AND DATA INFORMATION sheet must be completely filled in.

14.0 SUBMISSION OF BIDS

A Bid shall be submitted at the time and place indicated in the Advertisement. It shall be enclosed in an opaque sealed envelope, marked with the project title, name and address of the Bidder. The Bid shall be accompanied by the Bid Security and other required documents. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

Each Bidder should, prior to filing his Bid, check the receipt of all Addenda or letters of clarification issued and acknowledge such receipt on the outside of the envelope containing his Bid proposal.

15.0 MODIFICATION AND WITHDRAWAL OF BIDS

Bids may be modified or withdrawn by an appropriate document duly executed, in the described manner that a Bid must be executed and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

If prior to the award of the contract by the City Council, any Bidder files a duly signed, written notice with Owner's Representative and promptly thereafter demonstrates to the reasonable satisfaction of Owner's Representative that there was a material mistake in the preparation of his Bid, that Bidder may withdraw his Bid and the Bid Security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

16.0 OPENING OF BIDS

Properly prepared Bids will be opened publicly and read aloud. A summary of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of Bids. A tabulation of the Bids which are read will be available upon request as soon as it has been assembled and verified.

Bids received after the specified time of the opening will be returned unopened.

17.0 BIDS TO REMAIN SUBJECT TO ACCEPTANCE

All bids will remain subject to acceptance, for 60 days after the date of the Bid opening, but the Owner may, in its sole discretion, release any Bid and return the Bid Security prior to that date.

18.0 AWARD OF CONTRACT

Owner reserves the right to reject any and all Bids, to waive any and all informalities and irregularities not involving price, time, or changes in the Work and to disregard all non-conforming, non-responsive, unbalanced or conditional Bids. Owner reserves the right to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

In evaluating Bids, the Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, time of construction, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

Owner may consider the qualifications and experience of subcontractors, suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of subcontractors, suppliers, and other persons and organizations must be submitted as provided. Owner may also consider the operating costs, maintenance requirements, performance data and

guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed subcontractors, suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

Pursuant to Local Government Code 271.9051, if the bid is less than \$100,000 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.

Otherwise, all bids will be awarded to the lowest responsible bidder. The determination of the lowest responsible bidder may involve all or some of the following factors: price, conformity to specifications, financial ability to perform the contract, previous performance, facilities and equipment, availability of repair parts, qualifications and experience, delivery promise, payment terms, compatibility as required, other costs, and other objectives and accountable factors which are reasonable.

If the contract is to be awarded, Owner will give the Successful Bidder a Notice of Award within 60 days after the day of the Bid opening.

Bid prices may be compared after adjusting for differences in the time designated in the Bid for Substantial Completion. The adjusting amount will be determined at the rate set forth in the Standard Form of Agreement for liquidated damages indicated for Substantial Completion for each day after the desired date appearing in the City's Standard Form of Agreement, Paragraph 23.

19.0 CONTRACT SECURITY

Paragraph 28 BOND PROVISIONS of the Standard Form of Agreement set forth Owner's requirements as to performance and payment Bonds. When the Successful Bidder delivers the executed Agreement to the Owner, it must be accompanied by the required performance and payment Bonds.

20.0 SIGNING OF AGREEMENT

The Successful Bidder shall execute the Contract and provide proof of insurance as detailed in the Standard Form of Agreement based on Staff recommendation prior to Council action. Within 15 days of Award, all required Bonds shall be delivered to the Owner. A fully executed contract will be presented to the Successful Bidder.

21.0 PERSONAL INTEREST

Bidders shall comply with all applicable ordinances and with state law pertaining to conflict of interest and required disclosures, including, but not limited to, TEXAS LOCAL GOVERNMENT CODE, Chapter 171.

22.0 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.

For purposes of this section, the following definitions apply:

“Interested party” means a person who has a controlling interest in a business entity with whom the City contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker intermediary, advisor, or attorney for the business entity.

"Controlling interest" means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.

"Intermediary," means a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

1. Receives compensation from the business entity for the person's participation;
2. Communicates directly with the City on behalf of the business entity regarding the contract; and
3. Is not an employee of the business entity.

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 of 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.

CONTRACTOR'S PROPOSAL



ADDENDUM 1

Date: June 6, 2025
To: All Interested Parties
From: Case Opperman, PE – Director of Public Works/City Engineer
Subject: City of Nacogdoches 2025 Street Paving Project

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

- Haul off and disposal of excess material will be to the City Public Works Yard (3812 NW Stallings Drive)
- Traffic control to be provided by Contractor as part of Mobilization/Demobilization bid item
- Item 7 – level up of edges on W. Starr between North Street and Pearl Street to be completed after milling and before asphalt paving
- Item 8 – Fog line striping on W. Starr to be 4" white reflective paint, only on section between North Street and Pearl Street
- Items 9 and 16 – Thermoplastic stop bars to be 24" wide and extend to the center of the roadway
- Item 11 – Concrete swale on Oakview Drive to be constructed as a whole, not in halves; barricaded on each side while curing
- City will adjust all manholes and valves prior to concrete pours and asphalt paving; will require contractor communication prior to final surface installations
- Materials testing to be responsibility of the Contractor

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

Summer Wheaton

Authorized Representative

Drewery Construction Company, Inc.

Company/Firm

6/10/2025

Date

City of Nacogdoches 2025 Street Paving Project

BID FORM

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
<u>Base Bid</u>					
1.	1	LS	Mobilization/Demobilization	\$ <u>105,000.00</u>	\$ <u>105,000.00</u>
			<u>One Hundred Five Thousand Dollars</u> <u>and No Cents</u> per LS (written in words)		
2.	8,235	tons	2" overlay, Type D hot mix asphaltic concrete, including tack coat of SS-1 @ 0.10 gal/SY, herbicide treatment, vegetation removal, all materials & labor; complete, in place	\$ <u>163.00</u>	\$ <u>1,342,305.00</u>
			<u>One Hundred Sixty-Three Dollars</u> <u>and No Cents</u> per ton (written in words)		
3.	8,150	SY	6" pulvermix in-place existing pavement and base, surface prime coat of MC-30 @ 0.15 gal/SY, haul and disposal of excess material to location specified by City, all materials & labor; complete, in place	\$ <u>5.70</u>	\$ <u>46,455.00</u>
			<u>Five Dollars</u> <u>and Seventy Cents</u> per SY (written in words)		
4.	33,593	SY	Mill existing pavement and base to depth of 2" in accordance with TxDOT Standard Specifications for Construction of Highways, Streets and Bridges, Item 354, latest edition; including haul and disposal to locations as directed by City	\$ <u>4.30</u>	\$ <u>144,449.90</u>
			<u>Four Dollars</u> <u>and Thirty Cents</u> per SY (written in words)		
5.	26	SY	Asphalt street patching (thin patch-asphalt only), including all sawcuts, re-compaction, preparation, Type D hot mix asphaltic concrete, haul and disposal, all materials & labor; complete, in place	\$ <u>33.00</u>	\$ <u>858.00</u>
			<u>Thirty-Three Dollars</u> <u>and No Cents</u> per SY (written in words)		
6.	453	SY	Asphalt street patching (full depth, 6" asphalt), including all sawcuts, subgrade preparation, full depth Type D hot mix asphaltic concrete, haul and disposal, all materials & labor; complete, in place	\$ <u>80.00</u>	\$ <u>36,240.00</u>
			<u>Eighty Dollars</u> <u>and No Cents</u> per SY (written in words)		
7.	1	LS	Type D hot mix asphaltic concrete level-up of road edges on W. Starr Avenue, all depths, including tack coat of SS-1 @ 0.10 gal/SY, all materials & labor; complete, in place	\$ <u>7,300.00</u>	\$ <u>7,300.00</u>
			<u>Seven Thousand Three Hundred Dollars</u> <u>and No Cents</u> per LS (written in words)		

City of Nacogdoches 2025 Street Paving Project

BID FORM

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
8.	1	LS	Install white fog line pavement striping on W. Starr Avenue, in accordance with Manual on Uniform Traffic Control Devices (MUTCD), all materials and labor; complete, in place	\$ <u>2,500.00</u>	\$ <u>2,500.00</u>
			<u>Two Thousand Five Hundred Dollars</u> <u>and No Cents</u> per LS (written in words)		
9.	40	EA	Install white thermoplastic stop bars at intersections specified in Summary Sheet, in accordance with Manual on Uniform Traffic Control Devices (MUTCD), all materials and labor; complete, in place	\$ <u>675.00</u>	\$ <u>27,000.00</u>
			<u>Six Hundred Seventy-Five Dollars</u> <u>and No Cents</u> per EA (written in words)		
10.	1	LS	Concrete Intersection on Oakview Drive, poured in halves, in accordance with plans and details, including all sawcuts, preparation, concrete, joints, asphalt patching and tie-ins, materials and labor; complete, in place	\$ <u>54,000.00</u>	\$ <u>54,000.00</u>
			<u>Fifty-Four Thousand Dollars</u> <u>and No Cents</u> per LS (written in words)		
11.	1	LS	Concrete Swale on Oakview Drive, in accordance with plans and details, including all sawcuts, preparation, concrete, curb replacements, asphalt patching and tie-ins, materials and labor; complete, in place	\$ <u>18,000.00</u>	\$ <u>18,000.00</u>
			<u>Eighteen Thousand Dollars</u> <u>and No Cents</u> per LS (written in words)		
12.	80	CY	Undercut of unsuitable material, by excavation, and replace with crushed concrete or approved crushed stone, compacted, all materials & labor; complete, in place	\$ <u>275.00</u>	\$ <u>22,000.00</u>
			<u>Two Hundred Seventy-Five Dollars</u> <u>and No Cents</u> per CY (written in words)		

Additive Alternate Bid 1

E. Oak Lane, Rob Lane, Edgewood Lane, Rosewood Lane

13.	1,031	tons	2" overlay, Type D hot mix asphaltic concrete, including tack coat of SS-1 @ 0.10 gal/SY, herbicide treatment, vegetation removal, all materials & labor; complete, in place	\$ <u>163.00</u>	\$ <u>168,053.00</u>
			<u>One Hundred Sixty-Three Dollars</u> <u>and No Cents</u> per ton (written in words)		

City of Nacogdoches 2025 Street Paving Project

BID FORM

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
14.	5,306	SY	6" pulvermix in-place existing pavement and base, surface prime coat of MC-30 @ 0.15 gal/SY, haul and disposal of excess material to location specified by City, all materials & labor; complete, in place	\$ <u>6.40</u>	\$ <u>33,958.40</u>
			<u>Six Dollars</u> <u>and Forty Cents</u> per SY (written in words)		
15.	40	SY	Asphalt street patching (full depth, 6" asphalt), including all sawcuts, subgrade preparation, full depth Type D hot mix asphaltic concrete, haul and disposal, all materials & labor; complete, in place	\$ <u>80.00</u>	\$ <u>3,200.00</u>
			<u>Eighty Dollars</u> <u>and No Cents</u> per SY (written in words)		
16.	3	EA	Install white thermoplastic stop bars at intersections specified in Summary Sheet, in accordance with Manual on Uniform Traffic Control Devices (MUTCD), all materials and labor; complete, in place	\$ <u>675.00</u>	\$ <u>2,025.00</u>
			<u>Six Hundred Seventy-Five Dollars</u> <u>and No Cents</u> per EA (written in words)		
17.	20	CY	Undercut of unsuitable material, by excavation, and replace with crushed concrete or approved crushed stone, compacted, all materials & labor; complete, in place	\$ <u>255.00</u>	\$ <u>5,100.00</u>
			<u>Two Hundred Fifty-Five Dollars</u> <u>and No Cents</u> per CY (written in words)		

Additive Alternate Bid 2

Chaparral Drive, Colston Street, Glen Hollow Drive, W. Gaylon Brooks Street

18.	8,150	SY	Fly Ash Stabilization of pulvermixed pavement and base to depth of 6", 10% Class C Fly Ash placement at application rates specified in plans, including materials, placement and mixing; complete, in place	\$ <u>12.40</u>	\$ <u>101,060.00</u>
			<u>Twelve Dollars</u> <u>and Forty Cents</u> per SY (written in words)		

City of Nacogdoches 2025 Street Paving Project

BID FORM

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
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Additive Alternate Bid 3

Chaparral Drive, Colston Street, Glen Hollow Drive, W. Gaylon Brooks Street

19.	8,150	SY	Cement Stabilization of pulvermixed pavement and base to depth of 6", 3% Cement placement at application rates specified in plans, including materials, placement and mixing; complete, in place	\$ <u>7.55</u>	\$ <u>61,532.50</u>
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Seven Dollars
and Fifty-Five Cents
per SY (written in words)

Additive Alternate Bid 4

E. Oak Lane

20.	5,306	SY	Fly Ash Stabilization of pulvermixed pavement and base to depth of 6", 10% Class C Fly Ash placement at application rates specified in plans, including materials, placement and mixing; complete, in place	\$ <u>11.55</u>	\$ <u>61,284.30</u>
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Eleven Dollars
and Fifty-Five Cents
per SY (written in words)

Additive Alternate Bid 5

E. Oak Lane

21.	5,306	SY	Cement Stabilization of pulvermixed pavement and base to depth of 6", 3% Cement placement at application rates specified in plans, including materials, placement and mixing; complete, in place	\$ <u>7.70</u>	\$ <u>40,856.20</u>
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Seven Dollars
and Seventy Cents
per SY (written in words)

BID SUMMARY

BASE BID TOTAL (Items 1-12) \$1,806,107.90

One Million Eight Hundred Six Thousand One Hundred Seven Dollars and Ninty Cents

BASE BID TOTAL (written in words)

ALTERNATE BID 1 TOTAL (Items 13-17) \$212,336.40

Two Hundred Twelve Thousand Three Hundred Thirty Six Dollars and Forty Cents

ALTERNATE BID 1 TOTAL (written in words)

City of Nacogdoches 2025 Street Paving Project

BID FORM

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
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ALTERNATE BID 2 TOTAL (Item 18) \$101,060.00

One Hundred One Thousand Sixty Dollars and No Cents

ALTERNATE BID 2 TOTAL (written in words)

ALTERNATE BID 3 TOTAL (Item 19) \$61,532.50

Sixty-One Thousand Five Hundred Thirty-Two Dollars and Fifty Cents

ALTERNATE BID 3 TOTAL (written in words)

ALTERNATE BID 4 TOTAL (Item 20) 61,284.30

Sixty-One Thousand Two Hundred Eighty-Four Dollars and Thirty Cents

ALTERNATE BID 4 TOTAL (written in words)

ALTERNATE BID 5 TOTAL (Item 21) 40,856.20

Forty Thousand Eight Hundred Fifty-Six Dollars and Twenty Cents

ALTERNATE BID 5 TOTAL (written in words)

TOTAL CALENDAR DAYS TO SUBSTANTIAL COMPLETION 120

BY: Summer Wheaton

Summer Wheaton / Vice President

Printed Name

Title

COMPANY: Drewery Construction Company, Inc.

Phone No. 936-560-1534

902 SE Stallings Dr.

Nacogdoches,

TX

75961

Address

City

State

Zip

**GENERAL/SUB-CONTRACTOR'S EXPERIENCE
AND
DATA INFORMATION**

Name of Company: Drewery Construction Company, Inc.

Company Years in Business: 45 Years

List Municipal Projects
(Similar Projects in Size and Scope Completed in Last Five Years)

Project	Municipality	\$ Amount	Type	Date
Nacogdoches Park St. Repairs	Nacogdoches	197,972.80	Road Repairs	Oct 2024
Nacogdoches 2023 Streets	Nacogdoches	1,379,370.94	Paving	March 2024
City of Center 2023 Streets	Center	800,496.96	Road Repairs/Paving	March 2023
Nacogdoches 2022 St. Pave #1	Nacogdoches	852,496.96	Paving	Dec 2022
Nacogdoches 2022 Seal Coat	Nacogdoches	373,179.85	Seal Coat	Dec 2022
City of Center 2020 Streets	Center	\$1,625,429.55	Paving	Jan 2022

Superintendent & Project Manager Information

Include Superintendent proposed for the project, years of experience as superintendent,
project manager proposed for the project, and years experience as project manager

Superintendent	Years Experience	Projects
Charles Eberenz	42	Numerous Hwy, City and Private projects

Project Manager	Years Experience	Projects
Tommy Jacobs	42	Numerous Hwy, City and Private projects

References: Name 5 projects of similar work, giving owner's name, representative's name, project engineer's name, and telephone numbers for each

1. City of Center 2024, 2023, 2022, 2020, Etc		Reconstruction & Paving
Everett Griffith, Jr. & Associates		Bob Staehs PE 903-658-2065

2. TxDOT Nacogdoches FM 2609 & 1878		Reconstruction & Paving
TxDOT Nacogdoches Area Office		Randal Cooper 936-564-7782

3.		

4.		

5.		

CERTIFICATION OF BID

The undersigned affirms that they are duly authorized to execute this Contract, that this bid has not been prepared in collusion with any other Bidder, and that the contents of this bid have not been communicated to any other Bidder prior to the official opening of this bid. To the extent this Contract is considered a Contract for goods or services subject to § 2270.002 Texas Government Code, Bidder certifies that it: i) does not boycott Israel; and ii) will not boycott Israel during the term of the Agreement. Additionally, the undersigned affirms that the firm is willing to sign the enclosed Standard Form of Agreement (if applicable).

Signed By: Summer Wheaton Title: Vice President

Typed Name: Summer Wheaton Company Name: Drewery Construction Company, Inc.

Phone No: 936-560-1534 Fax No: 936-560-3282

Email: summer.d@dreweryinc.com

Bid Address: 902 SE Stallings Dr., Nacogdoches, TX 75964
P.O. Box or Street City State Zip

Remit Address: 902 SE Stallings Dr., Nacogdoches, TX 75964
P.O. Box or Street City State Zip

Federal Tax ID No: 75-1704639

DUNS No: 02-603-4835

Date: 6/10/2025

THE
CINCINNATI CASUALTY COMPANY
CINCINNATI, OHIO

Bid Bond
PUBLIC CONTRACTS

KNOW ALL MEN BY THESE PRESENTS, that we Drewery Construction Company, Inc.

902 SE Stallings Drive Nacogdoches, TX 75964

as Principal, hereinafter called the Principal, and THE CINCINNATI CASUALTY COMPANY, 6200 South Gilmore Road, Fairfield, Ohio 45014-5141, a corporation duly organized under the laws of the State of Ohio, as Surety, hereinafter called the Surety, are held and firmly bound unto

City of Nacogdoches 203 E Pilar Street, Nacogdoches, TX 75961

as Obligee, hereinafter called the Obligee, in the sum of five percent of the greatest amount bid

Dollars (\$ 5% of GAB),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

City of Nacogdoches Street Rehabilitation

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal within the period specified therein for acceptance (60 days if no period is specified) and the Principal shall enter into a Contract with the said Obligee in accordance with the terms of said bid and give bond for the faithful performance thereof within the period specified (30 days if no period is specified); or if the Principal shall, in the case of failure to do so, indemnify the Obligee against any loss the Obligee may suffer directly arising by reason of such failure, not to exceed the penalty of this bond, then this obligation shall be null and void; otherwise to remain in full force and effect.

Signed and sealed this 6th

day of June 2025

Drewery Construction Company, Inc.

(Principal)

(Seal)

By:

Summer Wheaton

SUMMER WHEATON/VICE PRESIDENT

THE CINCINNATI CASUALTY COMPANY

(Seal)

By:

Layla Smith
Layla Smith

Attorney-in-Fact

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY and THE CINCINNATI CASUALTY COMPANY, corporations organized under the laws of the State of Ohio, and having their principal offices in the City of Fairfield, Ohio (herein collectively called the "Companies"), do hereby constitute and appoint

Terry Morgan; Layla Smith; Brandy Hillyer; Betty Collier; Monica Posey and/or Benjamin Bartlett

of Lufkin, Texas

their true and legal Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and deliver on behalf of the Companies as Surety, any and all bonds, policies, undertakings or other like instruments, as follows:

Any such obligations in the United States, up to
Fifty Million and No/100 Dollars (\$50,000,000.00).

This appointment is made under and by authority of the following resolutions adopted by the Boards of Directors of The Cincinnati Insurance Company and The Cincinnati Casualty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the President or any Senior Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company.

RESOLVED, that the signature of the President or any Senior Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Vice-President and the Seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS WHEREOF, the Companies have caused these presents to be sealed with their corporate seals, duly attested by their President or any Senior Vice President this 16th day of March, 2021.



STATE OF OHIO)SS:
COUNTY OF BUTLER)

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Stephen A. Ventre

On this 16th day of March, 2021 before me came the above-named President or Senior Vice President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, to me personally known to be the officer described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of said Companies and the corporate seals and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporations.



Keith Collett

Keith Collett, Attorney at Law
Notary Public – State of Ohio

My commission has no expiration date.
Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Vice-President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, hereby certify that the above is the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Power of Attorney is still in full force and effect.

Given under my hand and seal of said Companies at Fairfield, Ohio, this 6th day of June, 2025



Ed H

CONDITIONS OF AGREEMENT

CONDITIONS OF AGREEMENT

CONTRACT DOCUMENTS

STANDARD SPECIFICATIONS FOR CONSTRUCTION--CITY OF NACOGDOCHES

FACILITIES: All building construction and related installations shall conform to the City's latest adopted editions of the International Building Code, National Electric Code, and the Uniform Plumbing Code and the Nacogdoches Standards for the Design and Construction of Public Improvements. All other City of Nacogdoches codes and ordinances shall also apply.

CIVIL CONSTRUCTION: These specifications shall be used in conjunction with the City of Nacogdoches' Standard Specifications of Water and Sewer Construction and Street Construction and is hereby incorporated by reference. All City of Nacogdoches codes and ordinances shall apply.

Any discrepancies between the City standards and these specifications shall be clarified per the instructions in Paragraph 9.0, "INTERPRETATIONS AND ADDENDA" in the instructions to Bidders.

GENERAL CONDITIONS OF AGREEMENT

The Standard Form of Agreement between Owner and Contractor shall be governing conditions of this contract.

SPECIAL PROVISIONS OF AGREEMENT

- A. **MEASUREMENTS:** All work not specifically set forth as a pay item in the Proposal shall be considered a subsidiary obligation of the Contractor and all costs in connection therewith shall be included in the various unit prices listed in the Proposal.
- B. **QUANTITIES:** Where unit quantities are shown on each bid item of the Proposal, they shall be construed to represent approximate quantities of Work to be completed. Final quantities will be determined by measurement on the site of the completed Work. Work performed outside of specified limits will not be included in final measurement. Bidders are hereby notified that no incidental items of the Work will be paid for unless it is listed in the Proposal form as a pay item.
- C. **EXPLOSION, COLLAPSE AND UNDERGROUND HAZARDS (XCU):** Contracts where trenching depths exceed twelve (12) feet shall require additional coverage for the following General Liability hazards:

Explosion
Collapse

Applies to blasting operations
Applies to excavation and grading work adjacent to structure

Underground

Applies to excavation, burrowing, trenching, tunneling, etc. For example, severing an electrical line during excavation operations.

An additional premium may be assessed by contractor's insurance provider. Successful contractor is responsible for assessing depth based on plans and specifications contained herein.

- D. **TRAFFIC CONTROL:** When work is performed in or immediately adjacent to a public street right-of-way, the Contractor shall submit to the City Engineer a traffic control plan for each public right-of-way he enters prior to the pre-construction meeting. This plan shall be in conformance to the Texas Manual on Uniform Traffic Control Devices. Once reviewed, the plans will be returned to the Contractor with comments.

Approved Traffic Control Plans shall be in the possession of the contractor on site during all work within the designated right of way.

- E. **MATERIAL STAGING:** Contractor is responsible for identifying and securing a suitable site for the storage of materials and other construction related items unless such a site is specifically identified in the plans.
- F. **PERMITS:** Contractor will be required to get permits pursuant to contract documents; however, the city will waive the fees.
- G. **STORM WATER PERMIT:** For construction areas disturbing more than one (1) acre of land, Contractor shall provide a Storm Water Pollution Prevention Plan and all related inspections, rain gages, signage, subsidiary to the contract.
- H. **SURVEY:** The Owner will provide a one-time survey staking of key construction points, bench marks, horizontal controls, building corners, or utility appurtenances as deemed necessary by the City Engineer. Additional construction staking, or replacement staking, will be at the contractor's expense.
- I. **CONTRACTOR PARKING and BATHROOMS:** Unless noted otherwise in the bid documents and plans, the installation of temporary bathroom facilities on the site will not be allowed. Parking for construction related vehicles, worker vehicles, and other equipment may be limited at the construction site. The Contractor should anticipate the need to provide an off-site parking subsidiary to the bid price in the contract.
- J. **FIELD OFFICES:** The Contractor will not be required to maintain a field office at the construction site. In the event that the Contractor wishes to have a temporary project office, approval will be required by the Owner. The cost for the installation of all utilities will be paid by the Contractor.
- K. **DRAINAGE AND EROSION CONTROLS:** The contractor will be responsible for designing, installing and maintaining interim drainage and erosion controls for the construction site.

Surface drainage channels, culverts, or other features will be maintained by the contractor in such a way to minimize the impacts from storm water to offsite properties.

- L. CONTRACT FORMS, BONDS AND CERTIFICATES: The Standard Form of Agreement bond forms listed below will be made a part of the executed contract documents and are made a part of these specifications:

CITY OF NACOGDOCHES STANDARD FORM OF AGREEMENT BETWEEN THE
OWNER AND THE CONTRACTOR

PERFORMANCE BOND

PAYMENT BOND

These forms are not to be filled in by the bidder at the time of submitting his proposal.

STANDARD FORM OF AGREEMENT FOR CONSTRUCTION

CITY OF NACOGDOCHES CONSTRUCTION AGREEMENT

This Agreement is entered into by and between the **City of Nacogdoches**, a Texas home-rule municipal corporation (the "City") and **Drewery Construction Co., Inc.** (the "Contractor"), for **Construction Services for 2025 Street Paving Project** located in Nacogdoches, Texas (the "Project").

1. DEFINITIONS

1.01. Calendar Day. A "calendar day" is any day of the week or month, no days being excepted.

1.02. City. Whenever the word "City" is used, it shall mean and be understood as referring to the City of Nacogdoches, Texas.

1.03. City's Representative. Whenever the words "City's Representative" or "Representative" are used, it shall mean and be understood as referring to the City Manager or his delegate, who shall act as City's agent. The City's Representative may inspect and issue instructions but shall not directly supervise the Contractor.

1.04. Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices times the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City.

1.05. Contract Documents. The term "Contract Documents" shall mean those documents listed in Paragraph 2.01.

1.06. Contractor. Whenever the word "Contractor" is used, it shall mean the person(s), partnership, or corporation who has agreed to perform the work embraced in this Agreement and the other Contract Documents.

1.07. Extra Work. The term "Extra Work" shall mean and include work that is **not** covered or contemplated by the Contract Documents but that may be required by City's Representative and approved by the City in writing **prior** to the work being done by the Contractor.

1.08. Final Completion. The term "Final Completion" shall mean that all the work has been completed, all final punch list items have been inspected and satisfactorily completed, all payments to materialmen and subcontractors have been made, all documentation and warranties have been submitted, and all closeout documents have been executed and approved by the City.

1.09. Interpretation of Phrases. Whenever the words "directed", "permitted", "designated", "required", "considered necessary", "prescribed", or words of like import are used, it is understood that the direction, requirement, permission, order, designation, or prescription of City's Representative is intended. Similarly, the words "approved", "acceptable", "satisfactory", or words of like import shall mean approved by, accepted by, or satisfactory to City's Representative.

1.10. Nonconforming work. The term "nonconforming work" shall mean work or any part thereof that is rejected by City's Representative as not conforming with the Contract Documents.

1.11. Parties. The "parties" are the City and the Contractor.

1.12. Project. The term "Project" shall mean and include all that is required to obtain a final product that is acceptable to the City. The term "work" shall have like meaning.

1.13. Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with 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.

1.14. Substantially Completed. The term "Substantially Completed" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including retainage, however, shall be withheld until Final Completion and acceptance of the work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.

1.15. Work. The term "work" as used in this Agreement shall mean and include all that is required herein to obtain a final product that is acceptable to the City. The term "Project" shall have like meaning. This Project includes the following: **Construction Services for 2025 Street Paving Project** located in Nacogdoches, Texas.

1.16. Working Day. A "working day" means any day not including Saturdays, Sundays, or legal holidays.

2. **CONTRACT DOCUMENTS**

2.01. The Contract Documents and their priority shall be as follows:

- 2.01.01. This signed Agreement
- 2.01.02. Addendum to this Agreement
- 2.01.03. General Conditions
- 2.01.04. Special Conditions
- 2.01.05. Technical specifications
- 2.01.06. Drawings
- 2.01.07. Instructions to Bidders and any other notices to Bidders or Contractor
- 2.01.08. Performance bond, Payment bonds, Bid bonds and Special bonds
- 2.01.09. Contractor's Proposal

2.02. Where applicable, the Contractor will be furnished three (3) sets of plans, drawings, specifications, and related Contract Documents for its use during construction. Plans and specifications provided for use during construction shall be furnished directly to the Contractor only.

2.03. The Contractor shall distribute copies of the plans and specifications to suppliers and subcontractors as necessary. The Contractor shall keep one (1) copy of the plans and specifications accessible at the work

site with the latest revisions noted thereon. For proper execution of the work contemplated by this Agreement, additional sets of drawings, plans and specifications may be purchased by the Contractor.

2.04. All drawings, specifications, and copies thereof furnished by the City shall not be re-used on other work, and with the exception of one (1) copy of the signed Contract Documents, all documents, including sets of the plans and specifications and “as built” drawings, are to be returned to the City on request at the completion of the work. All Contract Documents, models, mockups, or other representations are the property of the City. In the event of inconsistencies within or between parts of the Contract Documents, the Contractor shall (1) provide the better quality or greater quantity of Work, or (2) comply with the more stringent requirement, either or both in accordance with the City’s interpretation. The terms and conditions of this Clause 2.04, however, shall not relieve the Contractor of any of the obligations set forth in Paragraphs 8.01. and 8.02.

3. AWARD OF CONTRACT

3.01. Upon the award of the contract by the City Council, the parties shall execute this Agreement, and the Contractor shall deliver to City's Representative all documents, bonds, and certificates of insurance required herein.

3.02. **Time is of the essence in this Agreement.** Accordingly, the Contractor shall be prepared to perform the work in the most expedient and efficient possible manner in order to complete the work by the times specified in this Agreement for Substantial Completion and Final Completion. In addition, the Contractor's work on the Project shall be commenced on the date to be specified in the notice to proceed. The notice to proceed may be given by oral notification or set by City's Representative at the post-contract award conference. **The notice to proceed may not be given, nor may any work be commenced, until this Agreement is fully executed and complete, including all required exhibits and other attachments, particularly those required under Paragraphs 27 and 28 (Insurance & Bonds).**

3.03. **Contract Amount.** Except in the event of a duly authorized change order approved by the City as provided in this Contract, and in consideration of the Contractor’s final completion of all work in conformity with this Contract, the City shall pay the Contractor an amount not to exceed **Two Million One Hundred Eighty Thousand Seven Hundred Eighty-Eight and 60/100 Dollars (\$ 2,180,788.60).**

4. CITY'S REPRESENTATIVE

4.01. The Contractor shall forward all communications, written or oral, to the City through the City's Representative.

4.02. The City's Representative may periodically review and inspect the work of the Contractor.

4.03. The City's Representative shall appoint, from time to time, such subordinate supervisors or inspectors as City's Representative may deem proper to inspect the work performed under this Agreement and ensure that said work is performed in accordance with the plans and specifications.

4.04. The Contractor shall regard and obey the directions and instructions of City's Representative, any subordinate supervisors or inspectors appointed by the City provided such directions and instructions are consistent with the obligations of this Agreement.

4.05. Should the Contractor object to any orders by any subordinate supervisor or inspector, the Contractor may, within two (2) days from receipt of such order, make written appeal to City's Representative for his decision.

5. INDEPENDENT CONTRACTOR

5.01. In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor, as an independent contractor, shall be responsible for the final product contemplated under this Agreement. Except for materials furnished by the City, the Contractor shall supply all materials, equipment and labor required for the execution of the work on the Project. The Contractor shall have ultimate control over the execution of the work under this Agreement. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors except to the limited extent provided for in this Agreement.

5.02. The Contractor shall retain personal control and shall give its personal attention to the faithful prosecution and completion of the work and fulfillment of this Agreement. The subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Contractor from its obligations to the City under this Agreement. The Contractor shall appoint and keep on the Project during the progress of the work a competent Project Manager and any necessary assistants, all satisfactory to City's Representative, to act as the Contractor's representative and to supervise its employees and subcontractors. All directions given to the Project Manager shall be binding as if given to the Contractor. Adequate supervision by competent and reasonable representatives of the Contractor is essential to the proper performance of the work, and lack of such supervision shall be grounds for suspending the operations of the Contractor and is a breach of this Agreement.

5.03. Unless otherwise stipulated, the Contractor shall provide and pay for all labor, materials, tools, equipment, transportation, facilities, and drawings, including engineering, and any other services necessary or reasonably incidental to the performance of the work by the Contractor. It shall be the responsibility of the Contractor to furnish a completed work product that meets the requirements of the City. Any additional work, material, or equipment needed to meet the intent of this specification shall be supplied by the Contractor **without** claim for additional payment, even though not specifically mentioned herein.

5.04. Any injury or damage to the Contractor or the Project caused by an act of God, natural cause, a party or entity not privy to this Agreement, or other force majeure shall be assumed and borne by the Contractor.

6. DISORDERLY EMPLOYEES

The Contractor agrees to employ only orderly and competent employees skillful in the performance of the type of work required, and agrees that whenever City's Representative shall inform the Contractor in writing that any person or persons on the work are, in his opinion, incompetent, unfaithful, or disorderly, such person or person shall be discharged from the work and shall not again be re-employed on the site or the Project without City's Representative's written permission.

7. HOURS OF WORK

The Contractor may work Monday through Friday from 7 a.m. to 6 p.m., exclusive of Saturdays, Sundays, or legal holidays. The Contractor may work overtime, weekends, and holidays only when approved in advance by the City's Representative. The time for Substantial Completion shall not be affected in any way by inclusion of this section or by the City's consent or lack of consent to work outside of the times specified in this Agreement.

8. NATURE OF THE WORK

8.01. It is understood and agreed that the Contractor has, by careful examination, studied and compared the various Drawings and other Contract Documents, satisfied itself as to the nature and location of the work, the conditions of the ground and soil, the nature of any structures, the character, quality, and quantity of the material to be utilized, the character of equipment and facilities needed for and during the prosecution of the work, the time needed to complete the work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, including but not limited to weather, and all other matters that in any way affect the work under this Agreement. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered, or which reasonably should have been discovered by the Contractor shall be reported promptly to the City as a request for information in such form as the City may require. However, the Contractor shall not perform any act or do any work on the Project that places the safety of persons at risk or potentially damages materials or equipment used in the Project, and the Contractor shall do nothing that would render any test or tests erroneous.

8.02. Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the City, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or which reasonably should have been discovered or made known to the Contractor shall be reported promptly to the City.

8.03. If the Contractor fails to perform the obligations of Paragraphs 8.01. and 8.02., the Contractor shall pay such costs and damages to the City as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the City for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized or reasonably should have recognized such error, inconsistency, omission or difference and knowingly failed to report it to the City.

9. POST-AGREEMENT AWARD MEETINGS

9.01. Prior to the commencement of the work, the parties shall meet and attend a post-agreement award meeting at the time and place determined by City's Representative. At the post-agreement award meeting, the parties shall meet, discuss, and finalize all schedules, including commencement date, and/or specifications submitted for review. No later than ten (10) days prior to the post-agreement award meeting, the Contractor shall submit to City's Representative the following documents:

- (a) Schedules of work contemplated, including the starting and ending date, as well as an indication of the completion of stages of work hereunder.
- (b) The names and addresses of all proposed subcontractors in writing.
- (c) Schedules of the starting and ending dates of subcontractors and the scope of work contemplated for subcontractors.
- (d) Name, local office, phone number and addresses and, home phone numbers for the Contractor and its Project Superintendent/Manager.
- (e) For construction projects, four (4) copies of all shop and/or setting drawings or schedules for the submission thereof.
- (f) Where applicable, materials procurement schedules and material supplier names, addresses and phone numbers.

9.02. The City's Representative, within five (5) working days after the initial post-agreement award conference or any other meetings, may submit minutes of the meeting to the Contractor. The Contractor shall thereafter have five (5) working days to review the minutes and make its objections, changes, or reductions thereto in writing. The Contractor shall thereafter sign the minutes and promptly return them to City's Representative. Where there is disagreement, City's Representative will make the final determination.

10. PROGRESS OF WORK

10.01. Unless otherwise specifically provided, the Contractor shall prosecute its work at such time and sessions, in such order of precedence, and in such manner as shall be most conducive to the economy of the Project; provided, however, that the order and time of prosecution shall be such that the Project shall be Substantially Completed in accordance with this Agreement, the plans and specifications, and within the time of completion designated in the schedules agreed upon by the parties.

10.02. Further, the parties shall be subject to the following:

- (a) The Contractor shall submit a progress schedule and payment schedule of the work contemplated by this Agreement at the initial post-agreement award meeting and subsequent meetings.
- (b) City's Representative shall be entitled to make objections to the Contractor's schedule submitted herein. The Contractor shall promptly resubmit a revised schedule to City's Representative.
- (c) The Project Superintendent/Manager shall coordinate its activities with City's Representative. If required by the City, the Contractor shall provide a weekly schedule of planned activities, which may be reviewed on a daily basis.
- (d) The Contractor shall submit, at such time as may reasonably be requested by City's Representative, additional schedules that shall list the order in which the Contractor proposes to carry on the work with dates at which the Contractor will start the several parts of the work and the estimated dates of completion of the several parts.

(e) The Contractor shall attend additional meetings called by City's Representative upon twenty-four (24) hours written notice unless otherwise agreed in writing by the parties.

(f) When the City is having other work done, either by agreement or by its own force, City's Representative may direct the time and manner of work done under this Agreement so that conflicts will be avoided and the various work being done by and for the City shall be coordinated.

(g) In the event that it is determined by the City that the progress of the work is not in accordance with the approved progress and payment schedule, the City may so inform the Contractor and require the Contractor to take such action as is necessary to insure completion of the Project within the time specified.

10.03. The process of approving Contractor's schedules and updates to Contractor's schedules shall not constitute a warranty by the City that any non-Contractor milestones or activities will occur as set out in the Contractor's schedules. Approval of a contractor's schedules does not constitute a commitment by the City to furnish any City-furnished information or material any earlier than the City would otherwise be obligated to furnish that information or material under the Contract Documents. Failure of the Work to proceed in the sequence scheduled by Contractor shall not alone serve as the basis for a Claim for additional compensation or time. In the event there is interference with the Work which is beyond its control, Contractor shall attempt to reschedule the Work in a manner that will hold the additional time and costs beyond its control to a minimum. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedules and shall promptly advise the City of any delays or potential delays. In the event any schedule indicates any delays, the Contractor shall propose an affirmative plan to correct the delay. In no event shall any schedule constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the City and authorized pursuant to Change Order.

10.04. **Work Stoppage.** If in the judgment of either the City or City's Representative any of the work or materials furnished is not in strict accordance with this Agreement or any portion of the work is being performed so as to create a hazardous condition, they may, in their sole discretion, order the work of the Contractor or any sub contractor wholly or partially stopped until any objectionable person, work, or material is removed from the premises. Such stoppage or suspension shall neither invalidate any of the Contractor's performance obligations under this Agreement, including the time of performance and deadlines therefore, nor will any extra charge be allowed the Contractor by reason of such stoppage or suspension.

11. SITE CONDITIONS AND MANAGEMENT

11.01. Where the Contractor is working around or in existing structures, it shall verify conditions at the site, including but not limited to, door openings and passages. Any items constructed or manufactured off-site or outside of buildings shall be done so that they are not too bulky for existing facilities. The Contractor shall provide special apparatus as required to handle any such items. All special handling equipment charges shall be at the Contractor's expense. Further, Contractor shall include in its price for the Work, all labor, materials, equipment and/or engineering services required to protect the adjacent properties and/or structures from damage due to performance of the Work.

11.02. The Contractor shall be responsible for all power, light, and water required to perform the work.

11.03. Throughout the progress of the work, the Contractor shall keep the working area free from debris of all types, and remove from premises all rubbish, resulting from any work being done by him. At the

completion of the work, the Contractor shall leave the premises in a clean and finished condition. Any failure to do so may be remedied and charged back to the Contractor.

11.04. Layout of Work. Except as specifically provided herein, the Contractor shall lay out all work in a manner acceptable to City's Representative in accordance with applicable City of Nacogdoches codes and ordinances. City's Representative will review the Contractor's layout of all structures and any other layout work done by the Contractor at the construction meeting, or at the Contractor's request, but this review does not relieve the Contractor of the responsibility of accurately locating all work in accordance with the plans and specifications.

11.05. Lines and Grades. All lines and grades shall be furnished by the Contractor. Benchmarks and control stakes have been provided by the City's Representative. All benchmarks and control stakes shall be carefully preserved by the Contractor. In case of destruction or removal of the same by the Contractor, its subcontractors, or employees, such stakes, marks, etc. shall be replaced by the Contractor at the Contractor's expense. If the Contractor fails to do so, the City may do so and charge back the Contractor. Additional construction staking as needed for the work, including lines and grades, shall be the sole responsibility of the Contractor, and the Contractor shall receive no extra time or compensation therefor.

11.06. Contractor's Structures. The building or locating of structures for housing men or the erection of tents or other forms of protection will be permitted only at such places as City's Representative shall permit. The Contractor shall not damage the property where such structures are allowed and shall at all times maintain sanitary conditions in and about such structures in a manner satisfactory to the City. The City may charge the Contractor for any damage or injury to the City, its property, or third persons as a result of the location or use of such structures.

11.07. The Contractor and any entity over whom the Contractor has control shall not erect any sign on the Project site without the prior written consent of the City.

11.08. City may have other work related to the Project performed at the Project site during the time the Work is performed. Contractor should schedule its Work to coordinate with the work of other contractors and utilities with the understanding that some of that work may be performed at times other than as set out in the Contract Documents or as otherwise anticipated. City will endeavor to have such other work performed so as not to unduly interfere with Contractor's performance when Contractor notifies City of specific reasonable needs well in advance of those needs and where it is possible to do so. Although Contractor should anticipate some delays and interference to its sequence of Work because of work by other contractors and utilities, and will not be entitled to either an extension of time or additional compensation because of them, in the event of substantial delay caused by another contractor or a utility, after advance notice of its needs by Contractor, Contractor will be entitled to make a claim for an extension of time as provided herein.

11.09. When two or more contractors, including Contractor, are employed on related or adjacent work or obtain materials from the same material source, or when work must be completed by one contractor before another can begin, each shall conduct his operations in such a manner as not to cause any unnecessary delay or hindrance to the other. Each contractor, including Contractor if applicable, shall be responsible to the other for all damage to work, to persons, or to property caused to the other by his operations, and for loss caused the other due to unreasonable or unjustified delays or failure to finish the work or portions thereof, or furnish materials within the time requested. Should Contractor cause damage to the work or property of any separate contractor at the Project site, or should any claim arising out of Contractor's separate contractor at the Project site, or should any claim arising out of Contractor's performance of the Work at the Project site

be made by any separate contractor against Contractor, City or other consultants, or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute. **Contractor shall, to the fullest extent permitted by applicable laws, indemnify and hold City harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of architects, attorneys and other professionals and court costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against City to the extent based on a claim arising out of Contractor's negligence.**

12. MATERIALS

12.01. Materials or work described in words that when so applied have well-known technical or trade meaning shall be held to refer to such recognized standards. All work shall be done and all materials furnished in strict conformity with this Agreement, the other Contract Documents, and recognized industry standards. When specific products, systems or items of equipment are referred to in the Contract Documents, any ancillary devices necessary for connecting the products, systems or items of equipment shall also be provided. When standards, codes, manufacturer's instructions and guarantees are required by the Contract Documents, the current edition at the time of Contract execution shall apply, unless another edition is specified in the Contract Documents. References to standards, codes, manufacturer's instructions and guarantees shall apply in full, except (1) they do not supersede more stringent standards set out in the Contract Documents, and (2) any exclusions or waivers that are inconsistent with the Contract Documents do not apply.

12.02. All materials shall be approved by the City prior to purchase by the Contractor. Unless otherwise specified herein, the Contractor shall purchase all materials and equipment outright and shall not subject the materials and equipment utilized in the Project to any conditional sales agreement, bailment, lease, or other agreement reserving unto seller any right, title, or interest therein. Title to all materials, but not risk of loss, shall pass to the City upon delivery to the Project.

12.03. Where the City deems it necessary to supply materials, it may furnish to the Contractor the list of materials set forth in the attached "List of City Furnished Materials". Upon receipt of said materials, the Contractor shall immediately furnish to the City a written receipt. Moreover, the Contractor shall, on behalf of the City, accept delivery of the materials set forth in the attached "List of Materials Ordered by the City". Under such circumstances, the Contractor shall promptly forward to the City for payment the supplier's invoice together with the Contractor's receipt in writing for such materials.

- (a) Upon acceptance of the materials furnished or ordered by the City, the Contractor warrants that it shall properly handle, transport, store and safeguard the materials.
- (b) Further, the Contractor shall repair, repaint or replace any and all materials or any part thereof damaged or stolen while in its possession. Such materials are considered to be in the Contractor's possession from the moment the Contractor either accepts delivery of the materials or signs a receipt accepting delivery of said materials until the Project is accepted by the City's Representative.
- (c) Before transporting any of the materials furnished or ordered by the City, the Contractor shall establish to the City's satisfaction that it has obtained insurance against losses, theft, damage, equal to or greater than the amounts spent by the City in securing said materials. It shall be incumbent upon the Contractor to verify the cost of materials.

(d) The City shall not be obligated to furnish materials in excess of the quantities, size, kind, and type set forth in the attached List of City Furnished Materials and List of Materials Ordered by the City. If the City furnishes, and the Contractor accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the City.

(e) Upon delivery, the Contractor shall promptly receive, unload, transport, and handle all materials and equipment on the List of Materials Ordered by the City at its expense and shall be responsible for all shipping costs.

12.04. Materials and supplies shall be new and of good quality. Upon request, the Contractor shall supply proof of quality and manufacturer. No refurbished, reconditioned, or other previously utilized materials or supplies will be used without the prior signed authorization of City's Representative. The Contractor may utilize substitutes of equal quality and function only upon the prior written authorization of the City's Representative. The City's Representative may require documentation as to quality and function, including manufacturer's specifications, to insure that the proposed substitute is equal to the required material or supply. The City's Representative shall have sole discretion over the use of substitute materials and supplies. Contractor shall bear the risk of any delay in performance caused by submitting substitutions.

12.05. Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other perils is solely the responsibility of the Contractor.

13. ENTRY, OBSERVATION, TESTING & POSSESSION

13.01. The City reserves the right to enter the Project site or sites by such employee(s) or agent(s) as it may elect for the purpose of inspecting the work. The City further reserves the right to enter the Project site or sites for the purpose of performing such collateral work as the City may desire.

13.02. The City's Representative shall have the right, at all reasonable times, to observe and test the work. The Contractor shall make necessary arrangements and provide proper facilities and access for such observation and testing at any location where the work or any part thereof is in preparation or progress. The Contractor shall ascertain the scope of any observation that may be contemplated by City's Representative and shall give ample notice as to the time each part of the work will be ready for observation.

13.03. The City's Representative may require Contractor to remove, dismantle, or uncover completed work. If the work is not in accordance with the plans, specifications, or other Contract Documents, the Contractor shall pay the costs of repair and restoration of the work required to be removed, dismantled, or uncovered. Unless Contractor is obligated to provide advance notice of inspection, prior to covering up the work, and fails to do so, if the work is in accordance with the plans, specifications, and other Contract Documents, the City shall pay the costs of repair and restoration of the work.

13.04. City shall have the right to take possession of and use any completed or partially completed portions of the Project prior to the time for completing the entire Project or such portions which may not have expired. The parties agree and understand that possession and use shall not constitute an acceptance of any work not completed in accordance with this Agreement. Further, insurance changes required to keep Contractor's insurance in effect shall be the responsibility of Contractor.

14. REJECTED WORK

14.01. All work deemed not in conformity with this Agreement as determined by the City in its sole discretion, may be rejected by the City. City's Representative may reject any work found to be defective or not in accordance with the Contract Documents, regardless of the stage of the work's completion or the time or place of discovery of such defects or inconsistencies and regardless of whether City's Representative has previously accepted the work through oversight or otherwise. Neither observations nor inspections, tests, or approvals made by City's Representative, or other persons authorized under this Agreement to make such observations, inspections, tests, or approvals, shall relieve the Contractor from the obligation to perform the work in accordance with the requirements of this Agreement and the other Contract Documents.

14.02. If the work or any part thereof is rejected by the City, it shall be deemed by City's Representative as not in conformity with this Agreement. Any remedial action required, as set forth herein, shall be at the Contractor's expense, as follows:

- (a) The Contractor may be required, at the City's option, after notice from City's Representative, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.
- (b) If the City deems it inexpedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum may be made by the City at the City's sole discretion.

15. SUBCONTRACTING & SUBCONTRACTORS

15.01. The Contractor agrees that it will retain personal control and will give its personal attention to the fulfillment of this Agreement. The Contractor further agrees that subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Contractor from its full obligation to the City as provided by this Agreement.

15.02. Subcontractors must be approved by City's Representative prior to hiring or beginning any work on the Project. If City's Representative judges any subcontractor to be failing to perform the work in strict accordance with the drawings and specifications, the Contractor, after due notice, shall discharge the same, but this shall in no way release the Contractor from its obligations and responsibility under this Agreement. Every subcontractor shall be bound by the terms and provisions of this Agreement and the Contract Documents as far as applicable to their work. 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.

16. PAYMENT

16.01. The City stipulates that it is an exempt organization as defined by the Limited Sales, Excise and Use Tax Act and, as such, is exempt from the payment of the sales tax on materials and supplies used in the performance of this Contract. The Contractor shall issue exemption certificates to its suppliers and Subcontractors in lieu of said sales tax for all such materials and supplies, and said exemption certificates must comply with the State Comptroller's Ruling No. 95-0.07 and shall be subject to the provision of the State Comptroller's Ruling No. 95-0.09, effective October 1, 1969.

16.02. Progress Payment Applications. The Contractor shall submit applications for payment as provided for herein. Applications for payment will be processed by the City's Representative. Before the first Application for Payment, the Contractor shall submit to the City a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City may require. This schedule, unless objected to by the City, shall be used as a basis for reviewing the Contractor's Applications for Payment. On or before the 15th day of each month, the Contractor shall submit to City's Representative, for approval or modification, a statement showing as completely as practicable the total value of the actual work performed by the Contractor and accepted by the City up to and including the last day of the *preceding* month. The statement shall also include the value of all materials not previously submitted for payment which have been delivered to the site but have not yet been incorporated into the work.

16.03. Progress Payments. On or before the **30th** calendar day following the City's receipt of a progress payment application made in conformity with Paragraph 16.02, the City shall pay to the Contractor the approved amount of the progress payment based on the Contractor's applications for payment, and the recommendation and approval of City's Representative. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage of work completed by the Contractor and approved by the City, but in each case less the aggregate of payments previously made, less retainage, and less amounts as City's Representative shall determine and the City may withhold in accordance with this Agreement. Upon Final Completion, including the delivery of all close out documents, such as "as built" drawings, warranties, guarantees, required additional materials, releases, operation and maintenance manuals, and acceptance of the work in accordance with this Agreement, the City shall pay the remainder of the balance due under this Agreement, less any sums withheld under other terms of this Agreement and less the retainage, which shall be retained for a period of thirty (30) calendar days from the date of Final Completion. Acceptance of retainage by Contractor shall constitute a Waiver and Release of all claims by Contractor.

16.04. Retainage. From each approved statement, the City shall retain until final payment, ten percent (10%), where the full contract amount is less than \$400,000.00, and five percent (5%), where the full contract amount is \$400,000.00 or more. The City may also retain from each approved statement any other sums authorized under the terms of this Agreement.

16.05. If the actual amount of work to be done and the materials to be furnished differ from estimates and where the basis for payment is the unit price method, then payment shall be for the actual amount of accepted work done and materials furnished on the Project.

16.06. Reduction in the scope or quantity of work on unit price items shall merely reduce the number of units. In the event that materials have been delivered prior to notice of such reduction, the City will have the option either to pay freight & transportation costs and any re-stocking charges actually incurred by the Contractor or to purchase the materials. The Contractor shall never be entitled to anticipated or lost profits on the deleted or reduced portion of a job, whether bid on a unit price or lump sum basis.

16.07. The Contractor shall have the sole obligation to pay any and all charges or fees and give all notices necessary to and incidental to the lawful prosecution of the work hereunder. The Contractor shall not and shall have no authority whatsoever to obligate the City to make any payments to another party nor make any promises or representation of any nature on behalf of the City, without the specific written approval of the City.

16.08. The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the City may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

16.09. Unless otherwise provided in the Contract Documents:

- (a) allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (b) Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Amount but not in the allowances;
- (c) whenever costs are more than or less than allowances, the Contract Amount shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Paragraph 16.9(a) and (2) changes in the Contractor's costs under Paragraph 16.9(b).

16.10. **Suspension of Payments.** The City, at any time, may suspend monthly progress payments on the work if it determines that the projected liquidated damages may exceed retainage. The City, at any time, may suspend monthly progress payments if it believes that the Contractor will not complete the work due to actual default or that the Contractor has represented or done some act that indicates that it will not complete the work in accordance with this Agreement or within the time period submitted in its bid. Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Paragraph.

16.11. **Withhold Funds.** Regardless of any bond, the City may, on account of subsequently discovered evidence and in addition to the retainage withheld under Paragraph 16.04, withhold funds or nullify all or part of any acceptance or certificate to such extent as may be necessary to protect itself from loss on account of any of the following, or as otherwise provided in this Agreement:

- (a) Defective work.
- (b) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.
- (c) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.
- (d) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.
- (e) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.
- (f) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.
- (g) City's determination of an amount of liquidated damages.
- (h) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.
- (i) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.

Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Paragraph.

16.12. The Parties agree that the City or the state auditor, if state funds are used to fund this contract, may conduct an audit or investigation of any entity receiving funds from the City directly or indirectly through a subcontract under the contract. The acceptance of funds under the contract or subcontract acts as acceptance of the authority of the City or the state auditor to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the City or the state auditor with access to any information the City or the auditor considers relevant to the investigation.

17. EXTRA WORK CHARGES

17.01. No changes shall be made, nor will bills for changes, alterations, modifications, deviations, and extra orders be recognized or paid for except upon the written order from authorized personnel of the City.

17.02. For "Extra Work", as defined in Paragraph 1.07 and authorized through written change orders, and pursuant to Section 252.048(d) of the Texas Local Government Code, the original contract price may not be increased by more than ***twenty-five percent (25%)***. Written change orders that do not exceed ***twenty-five percent (25%)*** of the original contract amount may be made or approved by the City Manager or his delegate if the change order is less than ***Fifty Thousand Dollars (\$50,000.00)***. Changes in excess of ***Fifty Thousand Dollars (\$50,000.00)*** must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non included cost.

17.03. The Contractor shall complete all work as specified or indicated in the Contract Documents. The Contractor shall complete all Extra Work in connection therewith. All work and materials shall be in strict conformity with the specifications. The Substantial Completion of the work shall not excuse the Contractor from performing all the work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents. In the event that the Contractor fails to perform the work as required for Substantial Completion or Final Completion, the City may contract with a third party to complete the work and the Contractor shall assume and pay the costs of the performance of the work as contracted.

(a) It is agreed that the Contractor shall perform all Extra Work under the direction of City's Representative when presented with a written work order signed by City.

(b) **No claim for Extra Work of any kind will be allowed unless ordered in writing by the City.** In case any orders or instructions appear to the Contractor to involve Extra Work for which it should receive compensation or an adjustment in the construction time, it shall make written request to City's Representative for a written order from City authorizing such Extra Work.

(c) Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefor, and the City insists upon its performance, then the Contractor shall proceed with the work after making written requests for written orders in a change order and shall keep adequate and accurate account of the actual field costs therefor, as provided under Method C.

(d) It is also agreed that the compensation to be paid to the Contractor for performing Extra Work shall be determined by one or more of the following methods:

Method A - By agreed unit prices, or

Method B - By agreed lump sum, or

Method C - If neither Method A nor Method B is agreed upon before the Extra Work is commenced, then the Contractor shall be paid the actual field cost of the work.

(e) **Method A - Unit Prices.** The Contractor agrees to perform Extra Work for the unit prices in the Contractor's Proposal. The Contractor also agrees and warrants that when it is necessary to construct units not shown in the Contract Documents, it shall construct such units for a price arrived at as follows:

(1) The cost of materials shall be determined by the invoices;

(2) The cost of labor shall be the reasonable cost thereof, as determined by the City, but in no event shall it exceed an amount determined by calculating the ratio of the total labor costs to the total costs to the total material costs in the section of the Proposal involved, and multiplying the cost of materials for the unit in question by this ratio. Provided, however, that the ratio shall be calculated for only those units that are similar to the new unit for which a price is to be determined.

(f) **Method B - Lump Sum.** The lump sum shall be reasonably close to the amount for similar work previously done or combinations of similar units. Invoices for materials used shall be provided in support of the agreed lump sum.

(g) **Method C - Actual Field Costs.** The actual field cost is hereby defined to include the cost of all applicable workmen and laborers, as well as materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used for such Extra Work, plus actual transportation charges necessarily incurred, together with other costs reasonably incurred directly on account of such Extra Work, including social security, old age benefits, maintenance bonds, public liability, property damage, worker's compensation, and all other insurance as may be required by law or ordinances or required and agreed to by the City or City's Representative. City's Representative may direct the form in which accounts of the actual field costs shall be kept and records of these accounts shall be made available to City's Representative. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using one hundred percent (100%), unless otherwise specified, of the latest schedule of equipment and ownership expenses adopted by the Associated General Contractors of America. Where practical, the terms and prices for the use of machinery and equipment shall be incorporated in the written Extra Work order. Actual field costs shall not exceed the prevailing market price therefor within reasonable tolerances as determined by City's Representative. The amount due to Contractor for costs other than actual field costs shall be calculated in accordance with the following standards:

(1) No indirect or consequential damages will be allowed.

(2) All costs must be directly and specifically shown to be caused by a proven wrong. No recovery shall be based on a comparison by planned expenditures to total actual expenditures or on estimated losses of labor efficiency, or on a comparison of planned

manloading to actual manloading, or any other analysis that is used to show damages indirectly.

- (3) Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong.
- (4) The maximum daily limit on any recovery for delay shall be the amount established by the Contractor for job overhead costs, defined in the pay applications, divided by the total number of days specified for completion called for in the original Contract. Absent an overhead amount in the Schedule of Values, the amount estimated by Contractor for job overhead cost shall be used.

18. TIME OF COMPLETION

18.01. The date of beginning, the time for Substantial Completion and Final Completion of work as specified in this Agreement are of the essence in this Agreement.

18.02. The work embraced by this Agreement shall be commenced on the date specified in the notice to proceed. Said notice to proceed will be given in written form or set by the City's Representative at the post-award conference.

18.03. The work shall be Substantially Completed within the time bid, which shall run from the date when the notice to proceed is given by City's Representative. The Contractor has bid **120 calendar days** for the time within which it shall reach Substantial Completion of the Project.

18.04. The work shall reach Final Completion and be ready for final payment within **thirty (30) calendar days** from the date of Substantial Completion.

19. SUBSTANTIAL COMPLETION

19.01. The Contractor shall notify City's Representative when, in the Contractor's opinion, the contract is Substantially Completed. Within ten (10) calendar days after the Contractor has given City's Representative written notice that the work has been Substantially Completed, City's Representative shall inspect the work for the preparation of a final punch list.

(a) If City's Representative and the City find that the work is not Substantially Completed, then they shall so notify the Contractor who shall then complete the work. City's Representative shall not be required to provide a list of unfinished work.

(b) If the City Representative and City find that the work is Substantially Completed, the City shall issue to the Contractor its certificate of Substantial Completion.

19.02. The Substantial Completion of the work shall not excuse the Contractor from performing all of the work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents.

20. FINAL COMPLETION

20.01. Contractor shall notify the City's Representative when it believes that the work has reached Final Completion as defined in Paragraph 1.08. If the City's Representative and the City accept and deems such work Finally Complete, then Contractor shall be so notified and certificates of completion and acceptance, as provided herein, shall be issued. A complete itemized statement of this Agreement account, certified by the City's Representative as correct, shall then be prepared and delivered to Contractor. Contractor or City, as the case may be, shall pay the balance due as reflected by said statement within thirty (30) calendar days.

20.02. The Contractor shall procure all required certificates of acceptance or completions issued by state, municipal, or other authorities and submit the same to the City. The City may withhold any payments due under this Agreement until the necessary certificates are procured and delivered.

20.03. Neither the final payment nor any acceptance nor certificate nor any provision of this Agreement shall relieve the Contractor of any responsibility for faulty workmanship or materials. At the option of the City, the Contractor shall remedy any defects and pay for any damage to other work which may appear after final acceptance of the work.

21. DELAYS

21.01. The Contractor, in undertaking to complete the work within the times herein fixed, has taken into consideration and made allowance for all hindrances and delays incident to such work, whether growing out of delays in securing material or workmen or delays arising from inclement weather or otherwise.

21.02. The City may, in its sole discretion, delay the work during inclement weather in order to preserve the Project, insure safety of work forces, and the preservation of materials and equipment. In such event and upon a written request from the Contractor, the City may grant an extension of time pursuant to Paragraph 22 to offset for such stoppage of the work.

21.03. In the event of delays resulting from changes ordered in the work by the City or other delays caused by the City or for the City's convenience, the Contractor may apply to the City for recovery of incidental expenses resulting from increased storage costs or other costs necessary to protect the value of the work. In no event shall any consequential or other damages be allowed or any other charges or claims be made by the Contractor for hindrances or delays resulting from any other cause.

22. EXTENSIONS OF TIME

The Contractor has submitted its proposal in full recognition of the time required for the completion of this Project, taking into consideration all factors including, but not limited to the average climatic range and industrial conditions. The Contractor has considered the liquidated damage provision of this Agreement and understands and agrees that it shall not be entitled to, nor will it request, an extension of time for either Substantial Completion or Final Completion, except when the work has been delayed by one or more of the following:

- (1) an act or neglect of the City, the City's Representative, employees of the City, or other contractors employed by the City;
- (2) by changes ordered in the work, or reductions thereto approved in writing;

- (3) by "rain days" (days with rainfall in excess of one-tenth of an inch) during the term of this Agreement that exceed the average number of rain days for such term for this locality, both as determined by the Texas A&M University weather service; or
- (4) by other causes that the City and the Contractor agree may reasonably justify delay and that were beyond the Contractor's reasonable control and ability to estimate, predict, or avoid, such as delays caused by unforeseen labor disputes, fire, natural disasters, acts of war, and other rare and unpredictable events. This term does **not** include normal delays incident to the delivery of materials, tools, or labor that reasonably could have been predicted and/or accounted for in the Contractor's proposal or decision to bid.

If one or more of the foregoing conditions is present, the Contractor may apply in writing for an extension of time, within thirty (30) days of the occurrence of the event causing the delay, submitting therewith all written justification as may be required by the City's Representative. Within ten (10) calendar days after receipt of a written request for an extension of time, which is supported by all requested documentation, the City shall, in writing and in its sole discretion, grant or deny the request. Under no circumstances shall any extension of time by the City be valid and binding unless it is in writing and in conformity with the other terms of this Agreement.

23. LIQUIDATED DAMAGES

23.01. The time for the Substantial and Final Completion of the work described herein are reasonable times for the completion of each, taking into consideration all conditions, including but not limited to the average climatic conditions and usual industrial conditions prevailing in this locality. The amount of liquidated damages for the Contractor's failure to meet the deadlines for Substantial and/or Final Completion are fixed and agreed on by the Contractor because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment or from final payment.

23.02. As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Paragraph 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of **Five Hundred and no/100 DOLLARS (\$500.00)** for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

24. CHARGES FOR INJURY OR REPAIR

24.01. The Contractor shall be liable for any damages incurred or repairs made necessary by reason of its work and/or caused by it. Repairs of any kind required by the City will be made and charged to the Contractor by the City.

24.02. The Contractor shall take the necessary precautions to protect any areas adjacent to its work.

24.03. The work specified consists of all work, materials, and labor required by the City to repair any damage to the property of the City, including but not limited to structures, roadways, curbs, parking areas, and sidewalks.

25. WARRANTY

25.01. Upon issuance of a certificate of Final Completion, the Contractor warrants for a period of one (1) year as follows:

The Contractor warrants that all labor and materials provided to the City under this Agreement shall be new unless otherwise approved in advance by City's Representative and that all work will be of good quality, free from faults and defects, and in conformance with this Agreement, the other Contract Documents, and recognized industry standards.

25.02. All work not conforming to these requirements, including but not limited to unapproved substitutions, may be considered defective.

25.03. This warranty is in addition to any rights or warranties expressed or implied by law and in addition to any consumer protection claims arising from misrepresentations by the Contractor.

25.04. Where more than a one (1) year warranty is specified for individual products, work, or materials, the longer warranty shall govern.

25.05. This warranty obligation shall be covered by any performance or payment bonds tendered in compliance with this Agreement.

25.06. **Defective Work Discovered During Warranty Period.** If any of the work is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this Agreement within one (1) year after the date of the issuance of a certificate of Final Completion of the Work or a designated portion of the Work, whichever is longer, or within one (1) year after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this Agreement, the Contractor shall promptly correct the defective work at no cost to the City.

25.07. After receipt of written notice from the City to begin corrective work, the Contractor shall promptly begin the corrective work. The obligation to correct any defective work shall survive the termination of this Agreement. The guarantee to correct the defective work shall not constitute the exclusive remedy of City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.

25.08. If within ten (10) calendar days after the City has notified the Contractor of a defect, failure, or abnormality in the work, the Contractor has not started to make the necessary corrections or adjustments, the City is hereby authorized to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by the Contractor or its surety.

25.09. The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by the Contractor or by the surety.

25.10. The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be one (1) year after the installation or completion. The one (1) year warranty shall cover all work, equipment, and materials that are part of this Project, whether or not a warranty is specified in the individual section of the Contract Documents that prescribe that particular aspect of the work.

26. PAYMENT OF EMPLOYEES, SUBCONTRACTORS & SUPPLIERS

26.01. **Wage Rates.** Pursuant to Section 2258.023(a) of the Texas Government Code, wage rates paid by the Contractor and any subcontractor on this Project shall be not less than the general prevailing rate of per diem wages for work of a similar character in this locality as specified in the schedule of general prevailing rates of per diem wages attached hereto as Exhibit A.

26.02. **Statutory Penalty.** Pursuant to Section 2258.023(b) of the Texas Government Code, if the Contractor or any subcontractor violates the requirements of Paragraph 26.01, the Contractor or subcontractor as the case may be shall pay the City **Sixty Dollars (\$60.00)** for each worker employed for each calendar day or part of the day that the worker is paid less than the stipulated wage rates.

26.03. The Contractor and each subcontractor shall pay all of their employees engaged in work on the Project in full (less mandatory legal deductions) in cash or by check readily cashable, without discount, no less than once each week.

26.04. No later than the seventh (7th) calendar day following the payment of wages, the Contractor must file with City's Representative a certified, sworn, legible copy of such payroll. This shall contain the name of each employee, their classification, the number of hours worked on each day, rate of pay, and net pay. The affidavit shall state that the copy is a true and correct copy of such payroll and that no rebates or deductions (except as shown) have been made or will be made in the future from the wages therein shown.

26.05. **Payment of Subcontractors.** The Contractor shall be solely and exclusively responsible for compensating any of the Contractor's employees, subcontractors, materialmen and/or suppliers of any type or nature whatsoever and for insuring that no claims or liens of any type arising out of or incidental to the performance of any services performed pursuant to this Agreement are filed against any property owned by the City. In the event a statutory lien notice is sent to the City, the Contractor shall, where no payment bond covers the work, upon written notice from the City, immediately obtain a bond at its expense and hold the City harmless from any losses that may result from the filing or enforcement of any said lien notice. In the event that the Contractor defaults in the provision of the bond, the City may withhold such funds as are necessary to assure the payment of such claim until litigation determines to whom payment shall be made.

26.06. **Affidavit of Bills Paid.** Prior to Final Acceptance of the Project, the Contractor shall provide a notarized affidavit, attached as Exhibit E, stating that all bills for labor, materials, and incidentals incurred have been paid in full, that any claims from manufacturers, materialmen, and subcontractors have been released, and that there are no claims pending of which the Contractor has been notified.

27. INSURANCE

27.01. The Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The policies, coverages, limits and endorsements required are as set forth in Exhibit B.

28. BOND PROVISIONS

28.01. Pursuant to Section 2253.021 of the Texas Government Code, for all public works contracts with governmental entities, a payment bond is required if the Contract Amount exceeds \$50,000, and a performance bond is required if the Contract Amount exceeds \$100,000. Below those amounts, the City *may* require payment and/or performance bonds. In the event a performance or payment bond or both is required either by law or in the City's discretion, such bonds shall be executed in accordance with all requirements of Article 7.19-1 of the Texas Insurance Code, all other applicable law, and the following:

- (a) The Contractor shall execute performance and payment bonds for the full Contract Amount.
- (b) The bond surety shall be authorized under the laws of the State of Texas to provide a performance and payment bond and shall have attached proof of authorization of the surety to act in the performance and payment of bonds.
- (c) The Contractor shall provide original, sealed, and complete counterparts of the executed bonds in the forms required by the Contract Documents, which are attached as Exhibit C, together with valid original powers of attorney, **at the time of execution of this Agreement and prior** to the commencement of work. Copies of the executed bonds shall be attached hereto as **Exhibit C**.
- (d) The performance and payment bonds shall remain in effect for a period of one (1) year after Final Completion of the work and shall be extended for any warranty work to cover the warranty period.
- (e) If at any time during the execution of this Agreement in the required period thereafter, the bond or bonds become invalid or ineffective for any reason, the Contractor shall promptly supply within ten (10) days such other bond or bonds, which bond or bonds shall assure performance or payment as required.

28.02. The Contractor may make such changes and alterations as the City may require in the work or any part thereof without affecting the validity of this Agreement and any accompanying bond. If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for any claim for damages or anticipated profits. If the City makes changes or alterations that render useless any work already done or material already used in said work, then the City shall compensate the Contractor for any material or labor so used, and for any actual loss occasioned by such change due to actual expenses incurred in preparation for the work as originally planned, in accordance with the provisions of Article 17.

29. SURETY

29.01. If the Contractor has abandoned the Project or the City has terminated the contract for cause and the Contractor's Surety, after notice demanding completion is sent, fails to commence the completion of the work

in compliance with this Agreement, then the City at its option may provide for completion of the work in either of the following manners:

29.01.01. The City may employ such force of men and use of instruments, machinery, equipment, tools, materials, and supplies as said the City may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials, and supplies to said the Contractor, and the expense so charged shall be deducted and paid by the City out of such monies as may be due or that may thereafter at any time become due to the Contractor and Surety.

29.01.02. The City may, after notice published as required by law, accept sealed bids and let this Agreement for the completion of the work under substantially the same terms and conditions that are provided in this Agreement. In case of any increase in cost to the City under the new agreement as compared to what would have been the cost under this Agreement, such increase together with all of the City's damages due to Contractor's abandonment and/or default, including liquidated damages, as provided pursuant to Paragraph 38, entitled "TERMINATION FOR CAUSE" shall be charged to the Contractor and the surety shall be and remain bound therefor. However, should the cost to complete such new agreement prove to be less than that which would have been the cost to complete the work under this Agreement, the Contractor shall be credited therewith after all deductions are made in accordance with this Agreement.

29.02. Should the cost to complete the work exceed the Contract Amount and the Contractor fails to pay the amount due to the City within the time designated and there remains any machinery, equipment, tools, materials, or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City's Representative to exercise ordinary care to protect such property. After fifteen (15) calendar days from the date of said notice, City's Representative may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City's Representative may elect. City's Representative shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.

29.03. In the event the account shows that the cost to complete the work is less than that which would have been the cost to City had the work been completed by the Contractor under the terms of this Agreement, or when the Contractor shall pay the balance shown to be due by them to the City, then all machinery, equipment, tools, materials, or supplies left on the site of the work shall be turned over to the Contractor.

30. COMPLIANCE WITH LAW

30.01. The Contractor's work and materials shall comply with all state and federal laws, municipal ordinances, regulations, codes, and directions of inspectors appointed by proper authorities having jurisdiction.

30.02. The Contractor shall perform and require all subcontractors to perform the work in accordance with applicable laws, codes, ordinances, and regulations of the State of Texas and the United States and in compliance with OSHA and other laws as they apply to its employees. In the event any of the conditions of the specifications violate the code for any industry, then such code conditions shall prevail.

30.03. The Contractor shall follow all applicable state and federal laws, municipal ordinances, and guidelines concerning soil erosion and sediment control throughout the Project and warranty term.

30.04 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;

30.05 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;

31. SAFETY PRECAUTIONS

31.01. All safety measures, policies and precautions at the site are a part of the construction techniques and processes for which the Contractor shall be solely responsible. The Contractor is solely responsible for handling and use of hazardous materials or waste, and informing employees of any such hazardous materials or waste. The Contractor shall provide copies of all hazardous materials and waste data sheets to the Nacogdoches Fire Department marked "Attn.: Assistant Chief".

31.02. The Contractor has the sole obligation to protect or warn any individual of potential hazards created by the performance of the work set forth herein. The Contractor shall, at its own expense, take such precautionary measures for the protection of persons, property, and the work as may be necessary.

31.03. The Contractor shall be held responsible for all damages to property, personal injuries and/or death due to failure of safety devices of any type or nature that may be required to protect or warn any individual of potential hazards created by the performance of the work set forth herein; and when any property damage is incurred, the damaged portion shall immediately be replaced or compensated for by the Contractor at its own cost and expense.

31.04. Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in Paragraph 31.07, except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws (as hereafter defined at Paragraph 31.07). **In the event Contractor engages in any of the activities prohibited in this Paragraph 31.04 to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its respective officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from the activities prohibited in this Paragraph 31.04.**

31.05. In the event Contractor encounters on the Project site any Hazardous Substance, or what Contractor may reasonably believe to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project site, in a manner violative of any applicable Environmental Laws, Contractor shall immediately stop work in the area affected and report the condition to City in writing. The Work in the affected area shall not thereafter be resumed except by written authorization of City if in fact a Hazardous Substance has been encountered and has not been rendered harmless. In the event Contractor fails to stop the Work upon

encountering a Hazardous Substance at the Project site, **to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from Contractor's failure to stop the Work.**

31.06. City and Contractor may enter into a separate agreement and/or Change Order for Contractor to remediate and/or render harmless the Hazardous Substance, but Contractor shall not be required to remediate and/or render harmless the Hazardous Substance absent such agreement. Contractor shall not be required to resume work in any area affected by the Hazardous Substance until such time as the Hazardous Substance has been remediated and/or rendered harmless.

31.07. For purposes of this Agreement, the term "Hazardous Substance" shall mean and include any element, constituent, chemical, substance, compound, or mixture, which are defined as a hazardous substance by any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as "Environmental Laws"). It is the Contractor's responsibility to comply with this Paragraph 31.07 based on the law in effect at the time its services are rendered and to comply with any amendments to those laws for all services rendered after the effective date of any such amendments.

32. TRENCH SAFETY

The Contractor must comply with Texas law regarding trench excavation exceeding five feet in depth and in accordance with the following items:

32.01 The Contractor must comply with the requirements of Tex. Health & Safety Code Ann. §756.022-023 (Vernon 1992), as amended, and the requirements of 29 C.F.R., Sections 1926.650 through 1926.653 inclusive, "Excavation, Trenching and Shoring," of the Occupational Safety and Health Administration Standards, as amended.

32.02 The Contractor must include a separate pay item for trench safety complying with trench safety requirements, stating a unit price per linear foot of trench safety systems, as measured along the centerline of trench including manholes and other line structures.

32.03 Before beginning work on this project, the Contractor must submit to the City a complete trench safety program that complies with state and federal regulations. It is the sole duty, responsibility and prerogative of the Contractor, not the City, to determine the specific applicability of the designed trench safety systems to each field condition encountered on the project.

32.04 The Contractor must provide the City the name of the "competent person" required by OSHA standards to perform the trench safety inspections. The Contractor must make daily inspections to ensure

that the systems comply with all applicable laws and regulations, and must maintain a permanent record of daily inspections available for examination by the City or other government authority.

32.05 If evidence of possible cave-ins or slides is apparent, the Contractor must cease all work in the trench and surrounding area until the necessary precautions have been taken by the Contractor to safeguard personnel entering the trench.

33. INDEMNITY

33.01. CONTRACTOR SHALL PROTECT, DEFEND, HOLD HARMLESS AND INDEMNIFY THE CITY AND/OR ITS OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND OR/OR DESIGNEES FROM ANY AND ALL CLAIMS, DEMANDS, EXPENSES, LIABILITY, SUITS OR CAUSES OF ACTION, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES FOR INJURY TO ANY PERSON, INCLUDING DEATH, AND FOR DAMAGE TO ANY PROPERTY, TANGIBLE OR INTANGIBLE, OR FOR ANY BREACH OF CONTRACT ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THE WORK DONE BY ANY PERSON UNDER THIS CONTRACT. IT IS THE INTENT OF THE PARTIES THAT THIS PROVISION SHALL EXTEND TO, AND INCLUDE, ANY AND ALL CLAIMS, CAUSES OF ACTION OR LIABILITY CAUSED BY THE CONCURRENT, JOINT AND/OR CONTRIBUTORY NEGLIGENCE OF THE CITY, AN ALLEGED BREACH OF AN EXPRESS OR IMPLIED WARRANTY BY THE CITY OR WHICH ARISES OUT OF ANY THEORY OF STRICT OR PRODUCTS LIABILITY.

33.02 The defense of any claim shall be coordinated by Contractor with the City Attorney of the City of Nacogdoches, Texas when the City is named Defendant in any lawsuit and Contractor may not agree to any settlement without first obtaining the concurrence from the City Attorney. The Parties agree to furnish timely written notice to each other of any such claim.

33.03. The indemnifications contained in paragraphs 33.01 shall include but not be limited to the following specific instances:

(a) In the event the City is damaged due to the act, omission, mistake, fault or default of the Contractor, then the Contractor shall indemnify and hold harmless and defend the City for such damage.

(b) The Contractor shall indemnify and hold harmless and defend the City from any claims for payment for goods or services brought by any material suppliers, mechanics, laborers, or other subcontractors.

(c) The Contractor shall indemnify and hold harmless and defend the City from any and all injuries to or claims of adjacent property owners caused by the Contractor, its agents, employees, and representatives.

(d) The Contractor shall be responsible for any damage to the floor, walls, etc., caused by the Contractor's personnel or equipment during installation.

- (e) The Contractor shall also be responsible for the removal of all related debris.
- (f) The Contractor shall also be responsible for subcontractors hired by it.
- (g) The Contractor shall indemnify, hold harmless, and defend the City from any liability caused by the Contractor's failure to comply with applicable federal, state, or local regulations, that touch upon or concern the maintenance of a safe and protected working environment and the safe use and operation of machinery and equipment in that working environment, no matter where fault or responsibility lies.

33.04. The indemnification obligations of the Contractor under this section shall not extend to include the liability of any professional engineer, the architect, their consultants, and agents or employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the professional engineer, the architect, their consultants, and agents and employees of any of them, provided such giving or failure to give is the primary cause of the injury or damage.

33.05. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 33.01, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

34. RELEASE

The Contractor assumes full responsibility for the work to be performed hereunder, and hereby releases, relinquishes, and discharges the City, its officers, agents, 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 (whether employees of either party or other third parties) and any loss of or damage to any property (whether property of either of the parties hereto, their employees, or of third parties) that is caused by or 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 in the event of injury, death, property damage, or loss suffered by the Contractor, any subcontractor, or any person or organization directly or indirectly employed by any of them to perform or furnish work on the Project, this release shall apply regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City.

35. PERMITS AND LICENSES

The Contractor shall secure and pay for all necessary permits and licenses, governmental fees, and inspections necessary for the proper execution and completion of the work. During this Agreement term and/or period during which the Contractor is working, it shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work.

36. ROYALTIES AND LICENSING FEES

The Contractor shall pay all royalties and licensing fees. The Contractor shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of patents, materials and methods used in the Project. It shall defend all suits or claims for infringement of any patent rights. Further, if the Contractor has reason to believe that the design, service, process, or product specified is an infringement of a patent, it shall promptly give such information to City's Representative.

37. BREACH OF CONTRACT & DAMAGES

37.01. The City shall have the right to declare the Contractor in breach of this Agreement for cause when the City determines that this Agreement is not being performed according to its understanding of the intent and meaning of this Agreement. Such breach shall not in any way invalidate, abrogate, or terminate the Contractor's obligations under this Agreement.

37.02. Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to damages for breach of contract, upon but not limited to the following occurrences:

- (a) If the Contractor shall fail to remedy any default after written notice thereof from City's Representative, as City's Representative shall direct; or
- (b) If the Contractor shall fail for any reason other than the failure by City's Representative to make payments called upon when due; or
- (c) If the Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

38. TERMINATION FOR CAUSE

Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to terminate this Agreement in its entirety at any time for any of the following:

38.01. If the Contractor becomes insolvent, commits any act of bankruptcy, makes a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law for the relief of debtors and, after notice, fails to provide adequate assurance that it can remedy all of its defaults; or

38.02. If a receiver, trustee, or liquidator of any of the property or income of the Contractor shall be appointed; or

38.03. If the Contractor shall fail to prosecute the work or any part thereof with diligence necessary to insure its progress and completion as prescribed by the time schedules; or

38.04. If the Contractor shall fail to remedy any default within ten (10) calendar days after written notice thereof from City's Representative, as City's Representative shall direct; or

38.05. If the Contractor shall fail for any reason other than the failure by City's Representative to make payments called upon when due; or

38.06. If the Contractor abandons the Work.

38.07. If the Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

39. TERMINATION FOR CONVENIENCE

39.01. The performance of the work may be terminated at any time in whole or, from time to time, in part, by the City for its convenience. Any such termination shall be effected by delivery to the Contractor of a written notice (notice of termination) specifying the extent to which performance of the work is terminated, and the date upon which termination becomes effective.

39.02 In the event of termination for convenience, the Contractor shall only be paid the reasonable value of the Work performed prior to the effective date of the termination notice and shall be further subject to any claim the City may have against the Contractor under other provisions of this Agreement or as a matter of law. In the event of termination for convenience, Contractor Waives and Releases any claim for lost profit, other than profit on Work performed prior to the effective date of such termination.

40. RIGHT TO COMPLETE

If this Agreement is terminated for cause, the City shall have the right but shall not be obligated to complete the work itself or by others; and to this end, the City shall be entitled to take possession of and use such equipment, without rental obligation therefor, and materials as may be on the job site, and to exercise all rights, options, and privileges of the Contractor under its subcontracts, purchase orders, or otherwise; and the Contractor shall promptly assign such rights, options, and privileges to City. If the City elects to complete the work itself or by others, pursuant to the foregoing, then the Contractor and/or Contractor's surety will reimburse City for all costs incurred by the City (including, without limitation, applicable, general, administrative expenses, field overhead, the cost of necessary equipment, materials, field labor, additional fees paid to architects, engineers, attorneys or others to assist the City in connection with the termination and liquidated damages) in completing and/or correcting work by the Contractor that fails to meet any requirement of this Agreement or the other Contract Documents.

41. CLOSE OUT

41.01. After receipt of a notice of termination, whether for cause or convenience, unless otherwise directed by City's Representative, the Contractor shall, in good faith and to the best of its ability, do all things necessary in the light of such notice to assure the efficient and proper closeout of the terminated work (including the protection of City's property). Among other things, the Contractor shall, except as otherwise directed or approved by City's Representative, do the following:

- (a) Stop the work on the date and to the extent specified in the notice of termination;
- (b) Place no further orders or subcontracts for services, equipment, or materials, except as may be necessary for completion of such portion of the work as is not terminated;

(c) Terminate all orders and subcontracts to the extent that they relate to the performance of the work terminated by the notice of termination;

(d) Assign to City's Representative, in the manner and to the extent directed by it, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case, City's Representative shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(e) With the approval of City's Representative, settle all outstanding liabilities and all claims arising out of such termination, orders, and subcontracts;

(f) Deliver to City's Representative, when directed by City's Representative, all documents and all property, which if the work had been completed, Contractor would have been required to account for or deliver to City's Representative, and transfer title to such property to City's Representative to the extent not already transferred.

42. TERMINATION CONVERSION

Upon determination of Court of competent jurisdiction that termination of the Contractor pursuant to Paragraph 38 was wrongful and/or otherwise improper, such termination will be deemed converted to a termination for convenience pursuant to Paragraph 39 and Contractor's remedy for such termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Paragraph 39.

43. HIRING

During the term of this Agreement and for a period of one (1) year thereafter, the Contractor agrees not to solicit for hire any employee or employees of the City that were associated with work specified under this Agreement. In the event that this provision is breached by the Contractor, the Contractor agrees to pay the City damages in the amount equal to twelve (12) months of the employee's total compensation plus any legal expenses associated with enforcement of this provision.

44. ASSIGNMENT

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

45. EFFECTIVE DATE

The effective date of this contract shall be the date of award of the contract.

46. OTHER TERMS

46.01. **Invalidity.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to

replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

46.02. **Written Notice.** Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to any officer of the corporation for whom it is intended or if it is delivered or sent certified mail to the last business address as listed herein. Each party will have the right to change its business address by at least thirty (30) calendar days written notice to the other parties in writing of such change.

46.03. **Entire Agreement.** It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of the City, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder.

46.04. **Amendment.** No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

46.05. **Mediation.** After receipt of a Notice of Claim, the City may elect to refer the matter to the Architect, City's Representative or another party for review. Contractor will attend meetings called to review and discuss the Claims and mitigation of the problem, and shall furnish any reasonable factual backup for the Claim requested. The City may also elect to defer consideration of the Claim until the Work is completed, in which case the same review options shall be available to the City at the completion of the Work. At any stage, the City, at its sole discretion, is entitled to refer a Claim to mediation under the Construction Industry Mediation Rules of the American Arbitration Association, and, if this referral is made, Contractor will take part in the mediation process. The filing, mediation or rejection of a Claim does not entitle Contractor to stop performance of the Work. The Contractor shall proceed diligently with performance of the Contract during the pendency of any claim, excepting termination or under City's direction to stop the Work. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. The parties shall share the Mediator's fee and any filing fees equally and the Mediation shall be held in Nagadoches, Texas.

46.06. **Arbitration.** In the event of a dispute and upon the mutual written consent of both parties, the parties may agree to arbitration without waiving any of their other rights hereunder.

46.07. **Choice of Law and Place of Performance.** This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Nagadoches County, Texas, United States of America.

46.08. **Authority to do business.** The Contractor represents that it has a certificate of authority, authorizing it to do business in the State of Texas, a registered agent and registered office during the duration of this contract.

46.09. **Authority to Contract.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations.

46.10. 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. Regardless of funding by the State, by signature hereon affixed, the Contractor hereby certifies that:

- (a) 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
- (b) 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.
- (c) **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.
- (d) **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:

- (e) **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>.
- (f) **Terrorism Watch List.** Contractor 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. Contractor certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
- (g) **Critical Infrastructure.** If Contractor will be granted direct or indirect access to a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility, Contractor certifies that neither it or its parent company, is (1) majority owned by

citizens or governmental entities of China, North Korea, Russia or any other country designated by the Governor under Government Code 2274.0103, or (2) headquartered in any of those countries.

- (h) **Convictions.** Under Sections 2155.006, 23155.0061 and 2261.053 of the Texas Government Code, Contractor 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.
- (i) **COVID Vaccinations.** Contractor 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 Contractor's business.
- (j) **Boycotts.** (1) 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. (2) To the extent this Contract has a value of \$100,000 or more and Contractor 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, Contractor 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.*).

46.11. **Waiver.** Failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision nor in any way affect the validity of this Agreement, any part hereof, or the right of the City thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

46.12. **Headings, Gender, Number.** The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

46.13. **Agreement Read.** The parties acknowledge that they have had opportunity to consult with counsel of their choice, have read, understand and intend to be bound by the terms and conditions of this Agreement.

46.14. **Multiple Originals.** It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

46.15. **Notice of Indemnification.** City and Contractor hereby acknowledge and agree that this Agreement contains certain indemnification obligations and covenants.

DREWERY CONSTRUCTION CO., INC.

By: _____
Printed Name: _____
Title: _____
Date: _____

CITY OF NACOGDOCHES

By: _____
City Manager
Date: _____

APPROVED AS TO FORM:

City Attorney
Date: _____

APPROVED AS TO CONTENT:

Director of Public Works
Date: _____

Exhibit A
DAVIS BACON WAGE RATES

General Decision Number: TX20250028 01/03/2025

Superseded General Decision Number: TX20240028

State: Texas

Construction Type: Highway

Counties: Anderson, Angelina, Bosque, Camp, Cass, Cherokee, Erath, Falls, Fannin, Franklin, Freestone, Grimes, Hamilton, Henderson, Hill, Hood, Hopkins, Houston, Jack, Jasper, Lamar, Leon, Limestone, Madison, Marion, Milam, Morris, Nacogdoches, Navarro, Newton, Palo Pinto, Panola, Polk, Rains, Red River, Sabine, San Augustine, Shelby, Somervell, Titus, Trinity, Tyler, Van Zandt, Walker, Washington and Wood Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: 	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.
If the contract was awarded on or between January 1, 2015 and	. Executive Order 13658 generally applies to the

January 29, 2022, and the	contract.	
contract is not renewed or	. The contractor must pay all	
extended on or after January	covered workers at least	
30, 2022:	\$13.30 per hour (or the	
	applicable wage rate listed	
	on this wage determination,	
	if it is higher) for all	
	hours spent performing on	
	that contract in 2025.	

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/03/2025

SUTX2011-009 08/08/2011

	Rates	Fringes
CONCRETE FINISHER (Paving and Structures).....	\$ 13.38	**
ELECTRICIAN.....	\$ 20.92	
FORM BUILDER/FORM SETTER		
Paving & Curb.....	\$ 11.33	**
Structures.....	\$ 13.07	**
LABORER		
Asphalt Raker.....	\$ 11.34	**
Flagger.....	\$ 9.03	**
Laborer, Common.....	\$ 10.30	**
Laborer, Utility.....	\$ 11.53	**
Pipelayer.....	\$ 13.24	**
Work Zone Barricade		
Servicer.....	\$ 11.22	**
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor.....	\$ 12.35	**
Asphalt Distributor.....	\$ 14.36	**
Asphalt Paving Machine.....	\$ 12.92	**

Broom or Sweeper.....\$ 10.30 **
 Concrete Pavement
 Finishing Machine.....\$ 19.31
 Concrete Paving, Curing,
 Float, Texturing Machine....\$ 16.34 **
 Crane, Hydraulic 80 Tons
 or Less.....\$ 20.21
 Crane, Lattice boom 80
 Tons or less.....\$ 14.67 **
 Crane, Lattice boom over
 80 Tons.....\$ 17.49 **
 Crawler Tractor.....\$ 13.38 **
 Excavator 50,000 pounds or
 less.....\$ 13.88 **
 Excavator, Over 50,000
 pounds.....\$ 16.22 **
 Foundation Drill, Truck
 Mounted.....\$ 20.76
 Front End Loader 3 cu yd
 or Less.....\$ 12.89 **
 Front End Loader, over 3
 cu yd.....\$ 12.32 **
 Loader/Backhoe.....\$ 12.87 **
 Mechanic.....\$ 18.58
 Milling Machine.....\$ 12.86 **
 Motor Grader, Fine Grade....\$ 17.07 **
 Motor Grader, Rough.....\$ 15.12 **
 Pavement Marking Machine....\$ 13.17 **
 Reclaimer/Pulverizer.....\$ 10.46 **
 Roller, Asphalt.....\$ 11.68 **
 Roller, other.....\$ 10.30 **
 Scraper.....\$ 12.43 **
 Spreader Box.....\$ 13.68 **

Servicer.....\$ 13.83 **

Steel Worker (Reinforcing).....\$ 15.83 **

TRUCK DRIVER

Lowboy-Float.....\$ 14.30 **
 Off Road Hauler.....\$ 12.23 **
 Single Axle.....\$ 10.30 **
 Single or Tandem Axle Dump..\$ 12.28 **
 Tandem Axle Tractor with
 Semi Trailer.....\$ 12.50 **

 WELDERS - Receive rate prescribed for craft performing
 operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.75) or 13658 (\$13.30). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than "SU", "UAVG", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for

this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE:

UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c) (1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2) If an initial decision has been issued, then any interested

party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210.

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END OF GENERAL DECISION

Exhibit B
INSURANCE REQUIREMENTS

During the term of this Agreement Contractor's insurance policies shall meet the following requirements:

I. Standard Insurance Policies Required:

- A. Commercial General Liability
- B. Business Automobile Liability
- C. Umbrella / Excess Liability – required for contract amounts exceeding \$1,000,000
- D. Workers' Compensation
- E. Builder's Risk – provides coverage for contractor's labor and materials for a project during construction that involves a structure such as a building or garage. builder's risk policy shall be written on "all risks" form.

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 with a "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Limit of \$500,000.00 per occurrence for bodily injury and property damage with an annual

aggregate limit of \$1,000,000.00 which limits shall be endorsed to be per Project.

- C. Coverage shall be at least as broad as ISO form GC 00 01.
- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for 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, Personal & Advertising Liability; and Explosion, Collapse, and Underground coverage.

IV. Business Automobile Liability

- A. Business Automobile Liability insurance shall be written by a carrier with a “A:VIII” or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- C. Coverage shall be at least as broad as Insurance Service’s Office Number CA 00 01.
- 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 owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- F. Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of \$1,000,000.00.

V. Excess Liability

Umbrella form excess liability coverage following the form of the underlying coverage with a minimum limit of \$5,000,000.00 or the total value of the contract, whichever is greater, per occurrence/aggregate when combined with the lowest primary liability coverage, is required for contracts exceeding \$1,000,000 in total value.

- VI. Those policies set forth in Paragraphs III, IV, and V shall contain an endorsement naming the City as Additional Insured and further providing that the Contractor’s policies are primary to any self-insurance or insurance policies procured by the City. The additional insured endorsement shall be in a form at least as broad as ISO form GC 2026. 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. Contractor shall be responsible for all deductibles which may exist on any policies obtained in compliance with the terms of this Agreement. All coverage for subcontractors shall be subject to the requirements stated herein. All Certificates of Insurance and endorsements shall be

furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit D, and approved by the City before work commences.

VII. Workers Compensation Insurance

- A. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers compensation insurance policy: either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- B. Workers compensation insurance shall include the following terms:
1. Employer's Liability minimum limits of \$1,000,000.00 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.
- C. Pursuant to the explicit terms of Title 28, Section 110.110(c) (7) of the Texas Administrative Code, the bid specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

"A. Definitions:

Certificate of coverage ("certificate") – An original certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers Compensation, or a coverage agreement (DWC-81, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.*
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.*
- D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*
- E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:*
 - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and*
 - (2) no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.*
- F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*
- G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*
- H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.*

- I. *The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:*
- (1) *provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;*
 - (2) *provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*
 - (3) *provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - (4) *obtain from each other person with whom it contracts, and provide to the Contractor:*
 - (a) *A certificate of coverage, prior to the other person beginning work on the project; and*
 - (b) *A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - (5) *retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
 - (6) *notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*
 - (7) *Contractually require each person with whom it contracts to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*
- J. *By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project; that the coverage will be based on proper reporting of classification codes and payroll amounts; and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.*
- K. *The Contractor's failure to comply with any of these provisions is a breach of contract by the*

Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity.”

- VIII. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain the following provisions and warranties:
- A. The company is licensed and admitted to do business in the State of Texas.
 - B. The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or ISO.
 - C. All endorsements and insurance coverages according to requirements and instructions contained herein.
 - D. The form of the notice of cancellation, termination, or change in coverage provisions to the City of Nacogdoches.
 - E. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

Exhibit C
PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

Project No. _____

THE STATE OF TEXAS

§
§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF NACOGDOCHES

§

THAT WE, _____, as Principal, hereinafter called "Contractor" and the other subscriber hereto _____, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of Nacogdoches, a municipal corporation, in the sum of **Two Million One Hundred Eighty Thousand Seven Hundred Eighty-Eight and 60/100 Dollars (\$ 2,180,788.60)** for the payment of which sum, well and truly to be made to the City of Nacogdoches and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of Nacogdoches for **Construction Services for 2025 Street Paving Project** all of such work to be done as set out in full in said Contract Documents therein referred to and adopted by the City Council, all of which are made a part of this instrument as fully and completely as if set out in full herein.

NOW THEREFORE, if the said Contractor shall faithfully and strictly perform Contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and in accordance with the Contract Documents referred to therein and shall comply strictly with each and every provision of the Contract, including all warranties and indemnities therein and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the City of Nacogdoches or its representatives from the exercise of any diligence whatever in securing compliance on the part of the Contractor with the terms of the Contract, including the making of payments thereunder and, having fully considered its Principal's competence to perform the Contract in the underwriting of this Performance Bond, the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his Contract and agrees that it, the Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the Contractor in all matters pertaining to the Contract. The Surety understands and agrees that the provision in the Contract that the City of Nacogdoches shall retain certain amounts due the Contractor until the expiration of thirty days from the acceptance of the Work is intended for the City's benefit, and the City of Nacogdoches shall have the right to pay or withhold such retained amounts or any other amount owing under the Contract without changing or affecting the liability of the Surety hereon in any degree.

It is further expressly agreed by Surety that the City of Nacogdoches or its representatives are at liberty at any time, without notice to the Surety, to make any change in the Contract Documents and in the Work to be done thereunder, as provided in the Contract, and in the terms and conditions thereof, or to make any change in, addition to, or deduction from the work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking or release the Surety therefrom.

It is further expressly agreed and understood that the Contractor and Surety will fully indemnify and hold harmless the City of Nacogdoches from any liability, loss, cost, expense, or damage arising out of or in connection with the work done by the Contractor under the Contract. In the event that the City of Nacogdoches shall bring any

suit or other proceeding at law on the Contract or this bond or both, the Contractor and Surety agree to pay to the City the actual amounts of attorneys' fees incurred by the city in connection with such suit.

This bond and all obligations created hereunder shall be performable in NACOGDOCHES County, Texas. This bond is given in compliance with the provisions of Chapter 2253 of the Texas Government Code, as amended, which is incorporated herein by this reference. However, all of the express provisions hereof shall be applicable whether or not within the scope of said statute.

Notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United State Postal Service post office or receptacle, with proper postage affixed (certified mail, return receipt requested), addressed to the respective other party at the address prescribed in the Contract Documents, or at such other address as the receiving party may hereafter prescribe by written notice to the sending party.

IN WITNESS THEREOF, the said Contractor and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

ATTEST and SEAL: (if a corporation) (SEAL)
WITNESS: (if not a corporation)

(Name of Contractor)

By: _____
Name:
Title:

By: _____
Name:
Title:
Date:

ATTEST/WITNESS (SEAL)

(Full Name of Surety)

By: _____
Name:
Title:
Date:

(Address of Surety for Notice)

By: _____
Name:
Title:
Date:

REVIEWED:

THE FOREGOING BOND IS ACCEPTED
ON BEHALF OF
THE CITY OF NACOGDOCHES, TEXAS:

City Attorney's Office

City Manager

NOTE: Date of bonds must be equal to or after the date of execution by City.

TEXAS STATUTORY PAYMENT BOND

Project No. _____

THE STATE OF TEXAS

§
§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF NACOGDOCHES

§

THAT WE, _____, as Principal, hereinafter called "Principal" and the other subscriber hereto _____, a corporation organized and existing under the laws of the State of _____, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of Nacogdoches, a municipal corporation, in the sum of **Two Million One Hundred Eighty Thousand Seven Hundred Eighty-Eight and 60/100 Dollars (\$ 2,180,788.60)** for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of Nacogdoches, dated the ____ day of _____, 20____, for **Construction Services for 2025 Street Paving Project** which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW THEREFORE, the condition of this obligation is such that if Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then, this obligation shall be null and void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of said Code to the same extent as if it were copied at length herein.

IN WITNESS THEREOF, the said Principal and Surety have signed and sealed this instrument on the respective dates written below their signatures.

ATTEST and SEAL: (if a corporation) (SEAL)
WITNESS: (if not a corporation)

(Name of Contractor)

By: _____
Name:
Title:

By: _____
Name:
Title:
Date:

ATTEST/WITNESS (SEAL)

(Full Name of Surety)

By: _____
Name:
Title:
Date:

(Address of Surety for Notice)

By: _____
Name:
Title:
Date:

REVIEWED:

THE FOREGOING BOND IS ACCEPTED
ON BEHALF OF
THE CITY OF NACOGDOCHES, TEXAS:

City Attorney's Office

City Manager

NOTE: Date of bonds must be equal to or after the date of execution by City.

Exhibit D
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

Exhibit E
FINAL AFFIDAVIT OF ALL BILLS PAID

FINAL BILLS PAID AFFIDAVIT
BY CONTRACTOR

BEFORE ME, the undersigned authority, personally appeared as _____,
(Name), known to me to be a credible person, and after
being by me duly sworn, upon oath stated and affirmed that: "My name is
_____ and I am the _____
(Name) (Title)
of _____", hereafter referred to in this affidavit as
(Firm)
"Contractor". Contractor's business address is _____,
(Address)
Texas, _____. The undersigned Contractor has personal knowledge of the facts
(Zip)
stated herein and has full authority to make the agreements in this affidavit on behalf of
Contractor.
Pursuant to and in accordance with a written contract between Contractor and
_____, collectively referred to as Owner, Contractor furnished
(Owner)
materials and labor for the construction, renovation, installation or repair of certain
improvements (the "Improvements"), being City of Nacogdoches contract for
_____.
(Project Name)

All work provided for under said written construction contract, together with all changes and supplements thereto, has been fully completed in accordance with the terms and provisions of said contract.

Contractor has paid each of its subcontractors, laborers, suppliers and materialmen in full for all labor and materials provided to Contractor for or in connection with the construction, renovation or repair of the Improvements.

Contractor is not aware of any unpaid bills, claims, demands or causes of action by any of its subcontractors, laborers, manufacturers, suppliers or materialmen for or in connection with the furnishing of labor materials, or both, for the construction, renovation or repair of the Improvements.

Contractor further understands that this Final Bills Paid Affidavit is being given pursuant to and in accordance with Section 53.085 of the Texas Property Code and that the

intentional, knowing or reckless making of a false or misleading statement in this Affidavit constitutes an offense under said Section and is a Class A misdemeanor.

Contractor hereby indemnifies and holds harmless the City of Nacogdoches from any and all claims, demands or causes of action, and any costs, expenses and attorney’s fees incurred in connection therewith, arising from or connected with, the statements and representations contained herein.

EXECUTED this ____ day of _____ , 20____.

CONTRACTOR:

By: _____

Name: _____

Title: _____

Notary’s Acknowledgement

Before me, the undersigned authority, on this day personally appeared _____
_____, who first being duly sworn by me to be the person whose name is
subscribed to the foregoing Final Bills Paid Affidavit, acknowledged that he/she has the authority
to make this Final Bills Paid Affidavit, and further acknowledged to me that he/she executed the
same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____
_____, 20____.

Exhibit F
PLANS, SPECIFICATIONS AND DRAWINGS

2025 Street Paving Project

Oakview Drive
North Street to 608 Oakview
Mill and Inlay

Concrete Swale
See Exhibit

Oakview Drive
608 Oakview to Meadowview Drive
Patch and Overlay

Concrete Intersection at Northway Drive
See Exhibit

Timberwood Drive
Patch & Overlay

Redwood Drive
Patch & Overlay

Chaparral Drive
Reconstruct w/Stabilization

Chimney Rock Intersection
Full Depth Patch

Glen Hollow Drive
Reconstruct w/Stabilization

W. Starr Avenue
North Street to Pearl Street
Mill and Inlay

West of Pearl Street
Patch & Overlay

Add. Alt. Bid 1
E. Oak Ln.
Reconstruct w/Stabilization

Rob Ln., Edgewood Ln.,
Rosewood Ln.
Patch & Overlay

Virginia - Reedy to 2006 Virginia
Patch and Overlay

Virginia - 2006 Virginia to Weaver
Mill and Inlay

W. Gaylon Brooks
Reconstruct w/Stabilization

Zula Street
Patch & Overlay

Arthur Weaver Street, Fox Street, Brown Street
Patch & Overlay

Colston Street
Reconstruct w/Stabilization

Shirley Street
Mill and Inlay

Patton Street, Leak Street
Mill and Inlay

Laurel Lane
Mill and Inlay

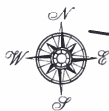
Sharon Street, Yolunda Street, Ila Street
Patch & Overlay

Legend

2025 Street Paving

City Limit

Streets



0 0.125 0.25 0.5 0.75
Miles

Refer to Street Summary Sheet
for Repair Schemes and Quantities
per street



5/23/25

City of Nacogdoches

2025 Street Paving Project

Street Summary List

Street	Width (ft)	Length (ft)	Area (SY)	Proposed Work
Arthur Weaver Street	23	1624	4150	Patch & Overlay
Brown Street	23	334	854	Patch & Overlay
Chaparral Drive	28	785	2443	Re-construct (Mix & Overlay) w/Stabilization
Chimney Rock Street			178	Full Depth Patch - Intersection w/E. Starr Avenue
Colston Street	23	331	846	Re-construct (Mix & Overlay) w/Stabilization
E. Oak Lane	23	2076	5306	Re-construct (Mix & Overlay) w/Stabilization
Edgewood Lane	23	820	2094	Patch & Overlay
Fox Street	23	313	801	Patch & Overlay
Glen Hollow Drive	28	1450	4511	Re-construct (Mix & Overlay) w/Stabilization
Ila Street	23	304	778	Patch & Overlay
Laurel Lane	23	1508	3853	Asphalt Mill & Inlay - Old Lufkin Road to Laurel Lane
Laurel Lane	23	900	2301	Asphalt Mill & Inlay - Greenwood Street to New Paving
Leak Street	23	574	1467	Asphalt Mill & Inlay
Meadowview Drive			141	Full Depth Patch - Intersection w/NE Stallings Drive
Oakview Drive	28	2446	7610	Asphalt Mill & Inlay - North Street to 608 Oakview; Concrete Swale
Oakview Drive	28	1304	4056	Patch & Overlay - 608 Oakview to Meadowview Drive; Concrete Intersection at Northway Drive
Patton Street	23	471	1205	Asphalt Mill & Inlay
Redwood Drive	28	1085	3376	Patch & Overlay
Rob Lane	23	269	688	Patch & Overlay
Rosewood Lane	23	170	435	Patch & Overlay
Sharon Drive	23	1126	2878	Patch & Overlay
Shirley Street	28	628	1952	Asphalt Mill & Inlay
Timberwood Drive	28	1278	3976	Patch & Overlay
Virginia Avenue	19	806	1701	Asphalt Mill & Inlay - Weaver Street to W. Craven Street
Virginia Avenue	23	4282	11887	Asphalt Mill & Inlay - W. Craven Street to 2006 Virginia
Virginia Avenue	18	1097	2195	Patch & Overlay - 2006 Virginia to Reedy Street
W. Gaylon Brooks Street	26	121	350	Re-construct (Mix & Overlay) w/Stabilization
W. Starr Avenue	20	419	931	Asphalt Mill & Inlay - North Street to 210 W. Starr; Level-Up Edge As Needed; Street Striping
W. Starr Avenue	23	269	686	Asphalt Mill & Inlay - 210 W. Starr to Pearl Street; Level-Up Edge As Needed; Street Striping
W. Starr Avenue	23	186	476	Patch & Overlay - West of Pearl Street
Yolunda Street	23	550	1404	Patch & Overlay
Zula Street	23	536	1370	Patch & Overlay

City of Nacogdoches

2025 Street Paving Project

Street Summary List

Stabilization Schedule				
Street	Stabilized Area (SY)	Option A		Option B
		Stabilization Type	Application Rate	Stabilization Type Application Rate
Chaparral Drive	2443	10% Fly Ash	52 lb/SY/6" depth	3% Cement 15.5 lb/SY/6" depth
Colston Street	846	10% Fly Ash	52 lb/SY/6" depth	3% Cement 15.5 lb/SY/6" depth
E. Oak Lane	5306	10% Fly Ash	52 lb/SY/6" depth	3% Cement 15.5 lb/SY/6" depth
Glen Hollow Drive	4511	10% Fly Ash	52 lb/SY/6" depth	3% Cement 15.5 lb/SY/6" depth
W. Gaylon Brooks	350	10% Fly Ash	52 lb/SY/6" depth	3% Cement 15.5 lb/SY/6" depth

Fly Ash stabilization to be placed in accordance with TxDOT Item 265.

Stop Bar Locations			
Street	Intersection	Street	Intersection
Arthur Weaver Street	Greer Street	Redwood Drive	Appleby Sand Road
Arthur Weaver Street	MLK, Jr. - Both Sides	Redwood Drive	Scenic Drive
Brown Street	Orton Street	Rob Lane	E. Oak Lane
Chimney Rock Street	E. Starr Avenue	Sharon Drive	SE Stallings Drive
Colston Street	MLK, Jr. Boulevard	Shirley Street	Greenwood Street
Colston Street	Cherry Street	Shirley Street	Meadowbrook Drive
E. Oak Lane	Center Highway	Timberwood Drive	Appleby Sand Road
E. Oak Lane	Edgewood Lane	Virginia Avenue	Weaver Street
Fox Street	Orton Street	Virginia Avenue	W. Gaylon Brooks - Both Sides
Fox Street	Arthur Weaver Street	Virginia Avenue	Reedy Street
Glen Hollow Drive	E. Starr Avenue	W. Gaylon Brooks Street	South Street
Glen Hollow Drive	Chaparral Drive	W. Gaylon Brooks Street	Virginia Avenue
Ila Street	Sharon Drive	W. Starr Avenue	North Street
Laurel Lane	Greenwood Street	W. Starr Avenue	Pearl Street - Both Sides
Laurel Lane	Laurel Lane	Yolunda Street	SE Stallings Drive
Laurel Lane	Old Lufkin Road	Yolunda Street	Sharon Drive
Leak Street	Old Lufkin Road	Zula Street	E. Main Street
Meadowview Drive	NE Stallings Drive	Zula Street	Timberlake Street - Both Sides
Oakview Drive	North Street	Zula Street	Greer Street
Patton Street	W. Lane Drive		

2025 Street Paving Project - Oakview Drive Concrete Intersection

819/821 Oakview

Install 8" Concrete Intersection at Location to be marked by City Approx. 71'L x 28'W Match Existing Edge of Concrete Valley Gutter

Return of Valley Gutter Elev. 100.00

Return of Valley Gutter Elev. 99.935

Maintain Consistent Grade from North to South, No Crown

Asphalt Tie-In (48" wide, 6" asphalt)

Oakview Drive

Asphalt Tie-In (48" wide, 6" asphalt)

Joint at Turnout Elev. 99.70

20" West of Joint at Turnout Elev. 99.67

Northway Drive

820/822 Oakview

Notes:

- Prepare subgrade as detailed in Concrete Pavement spec
- Steel Reinforcement: #4 bars @ 16" On-Center Each Way
- Concrete Tie-In to Existing Pavement per Detail
- Manhole and Valve Adjustments to be made by City prior to concrete pour; Contractor to notify City when forms are ready so adjustments can be made
- Asphalt Tie-In: 48" wide patch, 6" asphalt installed in 2" max. lifts; for final lift, lay as part of street 2" overlay



1 inch = 25 feet

2025 Street Paving Project - Oakview Drive Concrete Swale



1 inch = 25 feet

129 Oakview

Asphalt Tie-In (48" wide, 6" asphalt)

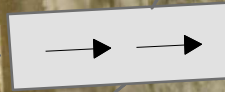
Install Concrete Swale at Low Spot
to be marked by City
Re: Concrete Swale Detail

126/128 Oakview

Replace existing curb, as necessary,
for flush tie-in with swale

Replace existing curb, as necessary,
for flush tie-in with swale

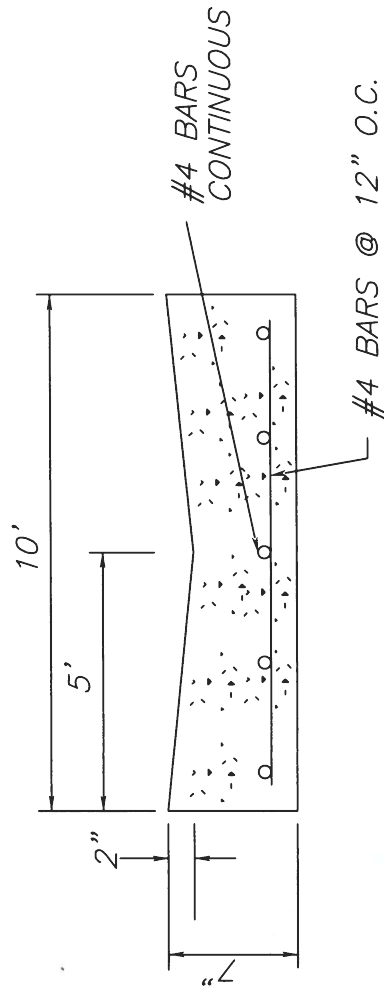
Asphalt Tie-In (48" wide, 6" asphalt)



Notes:

- Prepare subgrade as detailed in Concrete Pavement spec
- Concrete Tie-In to Existing Pavement per Detail
- Asphalt Tie-In (48" wide, 6" asphalt): After concrete installation, perform milling operation on street (2"); after milling, excavate remaining 4" depth, 48" wide; install asphalt patch in 2" max. lifts; for final lift, lay as part of street 2" inlay

NOTE:
TIE-IN CONCRETE TO EXISTING
PAVEMENT PER CONCRETE
TIE-IN DETAIL



SECTION

NOT TO SCALE



City of Nacogdoches
Engineering Department

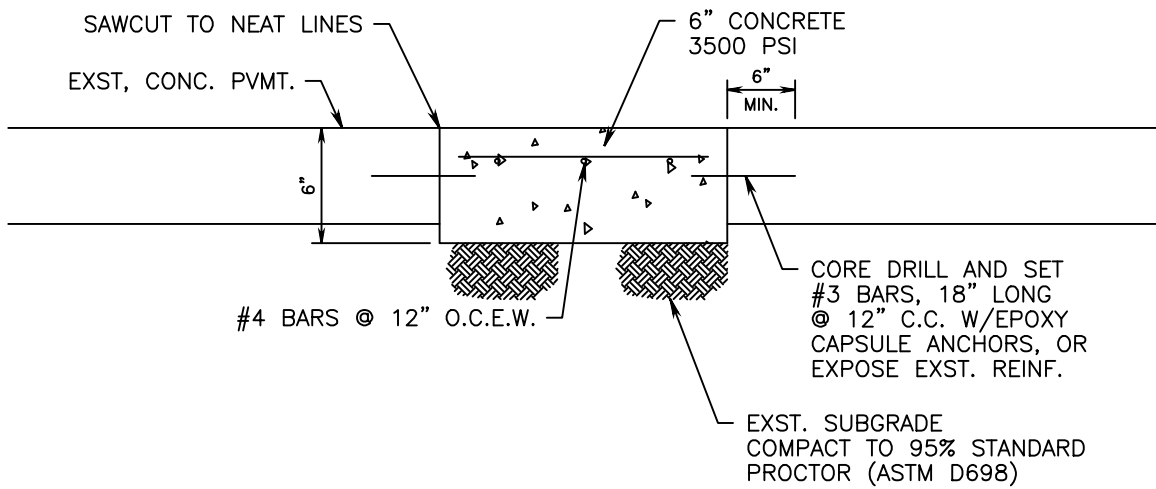
DATE	DESIGN	DRAWN	APPROVED	JOB	DATE

DRAWING NAME:

CONCRETE SWALE - 10'

SHEET NAME:

PROVIDE STEEL PLATES IN AREAS REQUIRING
IMMEDIATE TRAFFIC (3 DAYS MINIMUM)



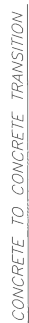
6" DEPTH CONCRETE PATCHING DETAIL

NOT TO
ANY SPECIFIC
SCALE



CONCRETE TIE-IN DETAIL

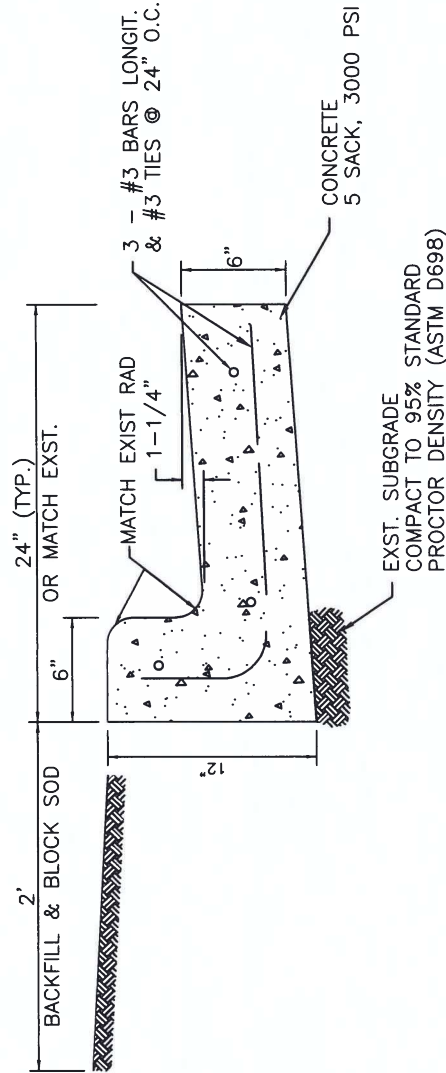
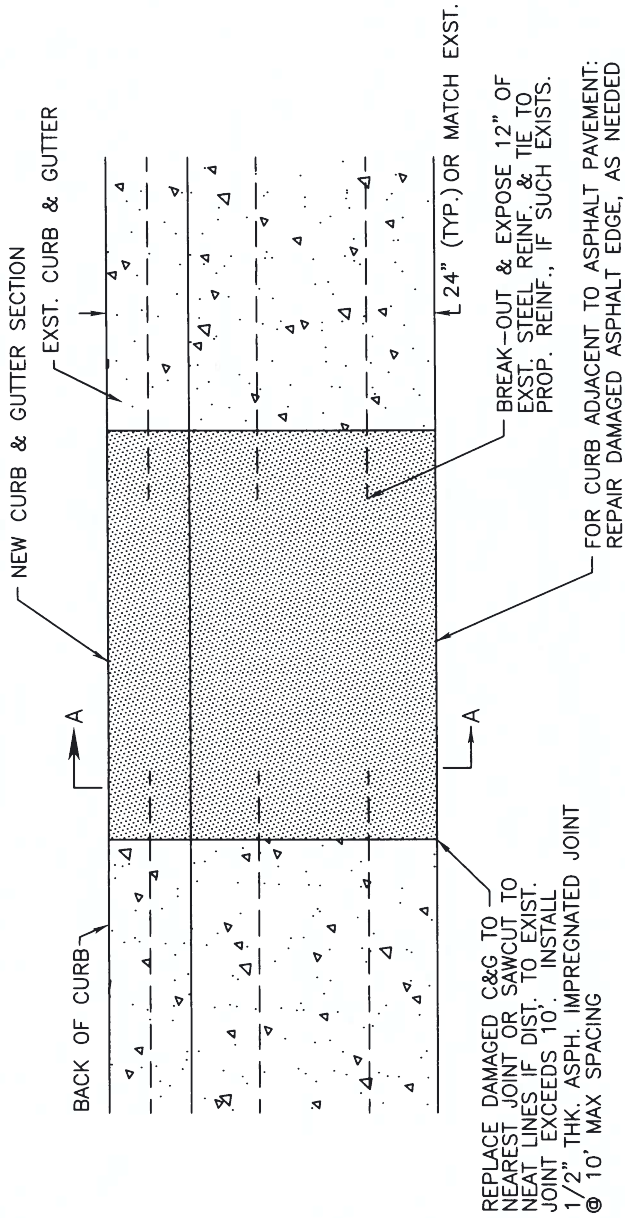
SHEET NAME:



City of Nacogdoches
Engineering Department

SURVEYED	DESIGN	DRAWN	APPROVED	JOB	DATE

DRAWING NAME:



SECTION A-A

CURB & GUTTER DETAIL

NOT TO SCALE



City of Nacogdoches
Engineering Department

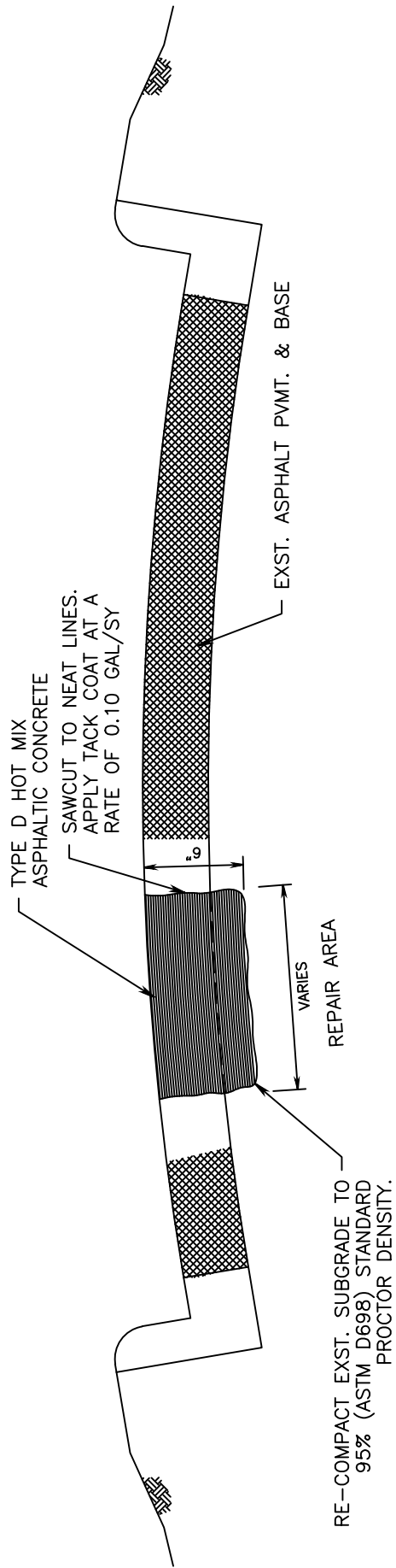
SURVEYED	DESIGN	DRAWN	APPROVED	JOB	DATE

CURB & GUTTER
REPLACEMENT DETAIL

DRAWING NAME

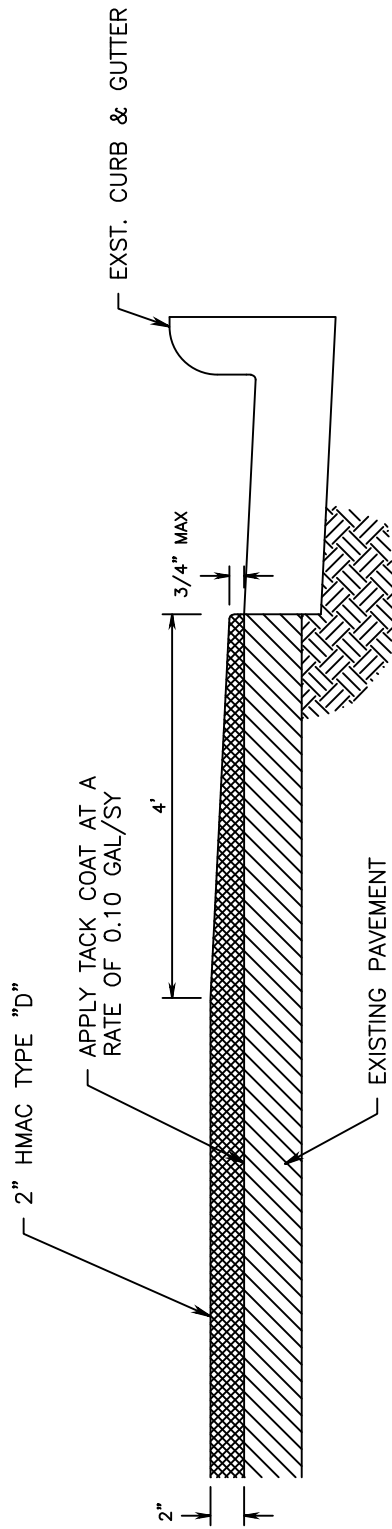
CURB & GUTTER DETAIL

SHEET NAME



ASPHALT PATCH TYPICAL PAVEMENT SECTION

NOT TO
ANY SPECIFIC
SCALE



HMAC OVERLAY DETAIL (STREETS 28' OR GREATER ASPHALT WIDTH)

NOT TO
ANY SPECIFIC
SCALE

CITY OF NACOGDOCHES
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TECHNICAL SPECIFICATIONS

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Pavement Patching and Repair

Reworking Base Material (Pulvermix In-Place)

Fly Ash Treated Subgrade

Portland Cement Treated Subgrade

Flexible Base - Crushed Limestone

Prime Coat

Hot Mix Asphaltic Concrete Pavement

PART ONE - GENERAL

- 1.1 The Contractor shall furnish all labor, equipment, materials and incidentals to restore any disturbed or damaged surfaces and/or items to a condition equal to or better than that which existed before work began. The Contractor shall leave the construction site clean.

PART TWO - PRODUCTS

- 2.1 The Contractor may use equipment and materials as necessary to properly complete the restoration and cleanup phase of the project.

PART THREE - EXECUTION

3.1 General

A. As soon as the pipe is laid and backfilled or structures built, clean the construction site and any adjoining areas used by the Contractor in construction and make any restorations necessary to leave the site in a condition equal to or better than prior to construction.

B. As a matter of record, the Contractor shall photograph improved or planted areas before and after working across them.

3.2 Restoration

A. The Contractor shall restore and/or replace any paving, curbing, sidewalks, culverts, gutters, shrubbery, plants, fences, sod or other disturbed surfaces or structures. The size, thickness, strength, texture or condition of restored items shall equal to that which existed before the work began.

B. All terraces, levees and water courses shall be restored to their former condition so that they shall function as originally intended.

C. Private roads used by the Contractor shall be restored to former condition.

3.3 Cleanup

A. The cleaning up shall be done by a special labor crew organized by the Contractor at the time he starts backfill operations and such work shall be diligently prosecuted until the entire construction site has been covered.

B. Any rock, including loose rock having a dimension three (3) inches or more, encountered by the grading, trenching or boring operations, not backfilled according to the specifications, shall be removed from the construction site and disposed of at locations and in a manner that is satisfactory to the Owner.

C. Unless directed otherwise by the Owner, all materials used for providing temporary roadways for construction equipment shall be removed and disposed of.

CITY OF NACOGDOCHES
RESTORATION AND CLEANUP

- D. All debris, pavement and excess earth from excavations shall be removed and disposed of by the Contractor.
- E. Seeding or sodding will be necessary in areas of excavation as required by the Owner. The seeding or sodding is to be performed according to specifications dealing with this work.
- F. To prevent erosion of soil disturbed by construction, the Contractor shall construct terraces or shall place over the construction site and trench backfill suitable control devices composed of sacks filled with earth or sand, silt fences, silt dams or hay bales.
- G. The Contractor should not attempt to perform cleanup operations during adverse weather or wet ground conditions.
- H. At no time during the progress of the work shall the completed cleanup operation be a greater distance behind the completed pipe trench than is deemed advisable by the Engineer.
- I. Before the final acceptance of the project, the entire project site shall be cleared of all surplus and waste materials from the work and otherwise restored as required above.

PART ONE - GENERAL

- 1.1 Description of Work - This item shall govern for curb and gutter, with or without reinforcing steel, composed of Portland Cement Concrete constructed on approved subgrade, foundation material or finished surface in accordance with approved lines and grades in conformance with details shown on the plans. Determination of lines and grades shall be the responsibility of the CONTRACTOR, subject to approval of the OWNER.

PART TWO - PRODUCTS

- 2.1 Concrete - Concrete used shall be Class "A" Concrete. Reinforcing steel, if required, shall conform to the requirements set forth on the plans. Expansion joint filler shall be premolded material meeting the requirements of Specification Item, CONCRETE PAVEMENT (CLASS "A" CONCRETE).
- 2.2 Curing and Admixtures - Membrane curing materials shall meet the requirements of TxDOT ITEM 526, MEMBRANE CURING, latest edition. Admixtures shall meet the requirements of TxDOT ITEM 437, CONCRETE ADMIXTURES, latest edition.

PART THREE - EXECUTION

- 3.1 Subgrade Preparation - The subgrade or foundation shall be shaped to line, grade and cross-section, and if considered necessary by the Engineer, hand tamped and sprinkled. If dry, the subgrade or foundation material shall be sprinkled lightly immediately before concrete is deposited thereon.
- 3.2 Forming - Outside forms shall be of wood or metal, of a section satisfactory to the Engineer, straight, free of warp and of a depth equal to the depth required. They shall be securely staked to line and grade and forms for curbs shall be of approved material, shall be of such design so as to provide the curb required, and shall be rigidly attached to outside forms.
- 3.3 Reinforcing - The reinforcing steel, if required, shall be placed in position as required by the plans. Care shall be exercised to keep all steel in its proper place.
- 3.4 Placement - For extruded concrete construction, the concrete shall be placed by an extrusion machine approved by the Engineer. When placement is directly on subgrade or foundation materials, the foundation shall be hand tamped and sprinkled if considered necessary by the Engineer.

The line shall be maintained from a guideline set by the Contractor from survey marks established by the Engineer. The outline shall strictly conform to the details shown on the plans. The forming tube of the extrusion machine shall be readily adjustable vertically during the forward motion of the machine to provide required variable heights necessary to conform to the established grade line. To provide a continual check on the grade, a pointer or gauge shall be attached to the machine in such a manner that a comparison can be made between the extruded work and the guideline. Other methods may be used if approved in writing by the Engineer.

CITY OF NACOGDOCHES

CURB AND GUTTER

The approved mix shall be fed into the machine in such a manner and at such consistency that the finished work will present a well compacted mass with a surface free from voids and honeycomb and true to established shape, line and grade.

Any additional surface finishing specified and/or required shall be performed immediately after extrusion. Joints shall be constructed at such locations as directed by the Engineer and to the details shown on the plans.

- 3.5 Finishing - After the concrete has been struck off and after it has become sufficiently set, the exposed surfaces shall be thoroughly worked with a wooden float. The exposed surfaces shall be rounded by the use of an edging tool to the radius indicated on plans. All exposed surfaces shall be brushed to a smooth and uniform surface.
- 3.6 Joints - Curb and gutters shall be placed in sections of 50 feet maximum length unless otherwise shown on the plans. Joints shall be constructed at such locations and of the type as directed and specified on the plans. Expansion joints shall be placed at all tie-ins to existing curb and gutters

PART FOUR - MEASUREMENT AND PAYMENT

- 4.1 Measurement - Accepted work and materials as prescribed by this item for concrete curb and gutter will be measured by the linear foot, complete in place.
- 4.2 Payment - The work performed and materials furnished as prescribed by this item shall be paid for at the unit price bid for "CONCRETE CURB AND GUTTER" of the type indicated on the plans. The price for each item shall be full compensation for removals, excavation, cleaning and compacting the base or subgrade, furnishing and applying of water, mortar, adhesives or other material, including reinforcing steel and dowel bars, if required, for furnishing, loading and unloading, storing, hauling and handling all ingredients, including all freight and royalty involved, for mixing, placing, finishing, cleaning and sealing joints and curing all concrete, for furnishing all materials for sealing joints and placing joints and joint filler material in proper position, and for all manipulations, labor, equipment, appliances, tools, traffic provisions and incidentals necessary to complete the work.

CITY OF NACOGDOCHES

CONCRETE PAVEMENT

PART ONE - GENERAL

- 1.1 General - This item shall consist of Portland Cement Concrete Pavement, with or without reinforcement, with or without monolithic curbs, constructed as herein specified and as shown on the plans on the prepared subgrade or other base course in conformity with the thickness and typical cross sections shown on the plans and to the lines and grades established by the Engineer.

PART TWO - PRODUCTS

- 2.1 Concrete - Concrete shall conform to the requirements for CLASS "A" CONCRETE as follows:

Min. Sacks Cement per Cubic Yard	Min. Comp. Strength 28 Day PSI	Max. Water Cement Ratio	Slump Range Inches	Coarse Aggregate Number	Fine Aggregate Number
5.0	3,000	7.0	1-3	1,2,3 or 4	1

The use of ready mixed concrete will be permitted for all concrete provided that the plant, truck mixers, agitators and mixing equipment conform to the requirements of the Texas Department of Transportation.

- 2.2 Joints - Boards for expansion joint filler and for contraction and longitudinal joints shall be of Redwood or Cypress timber. They shall be sound heartwood and shall be free from sapwood, knots, clustered birdseye, checks and splits. Boards that crack or shatter during installing and finishing operations will not be acceptable.

Asphalt impregnated joint board or preformed fiber material shall be of required size and uniform thickness. When used in transverse joints, it shall conform approximately to the shape of the finished pavement as shown on plans.

Ready mixed cold applied joint and crack sealer shall consist of a homogeneous blend of asphalt, rubber, inert filler and a suitable solvent or solvents. The material shall be a resilient, adhesive compound capable of effectively sealing properly cleaned joints in concrete pavement against the infiltration of moisture throughout repeated cycles of contraction and expansion and which will not be picked up by vehicle tires, particularly at summer temperatures. Joint sealants and fillers shall meet all requirements of TxDOT Standard Specification Item 433 "Joint Sealants and Fillers".

CITY OF NACOGDOCHES CONCRETE PAVEMENT

The Material when tested in accordance with Text Method Tex 525-C shall meet the following requirements:

Penetration:

At 77° F: (As received) 150 grams, 5 seconds, not less than 2.75 cm. (After evaporation of solvent) 200 grams, 60 seconds, not more than 2.20 cm.

At 32° F: (After evaporation of solvent) 200 grams, 60 seconds, not less than 2.20 cm.

Flow:

Not more than 0.5 cm.

Bond:

There shall be no cracking of the material or failure in bond between the material and the mortar test blocks during or at the end of five cycles.

- 2.3 Dowels - Approved load transmission devices for expansion and contraction joints shall consist of smooth, steel dowel bars of the size and type indicated on plans and shall be open hearth, basic oxygen or electric furnace steel conforming to the properties specified for grade 60 in ASTM Designation: A 615. The free end of dowel bars shall be smooth and free of shearing burrs.

When required by plans, one end of each dowel bar shall be encased in a approved cap having an inside diameter of 1/6 inch greater than the diameter of the dowel bar. The cap shall be of such strength, durability and design as to provide free movement of the dowel bar and shall be approved by the ENGINEER prior to use. One end of the cap shall be filled with a soft felt plug or shall be void in order to permit free movement of the dowel bar for a distance equivalent to 150 percent of the width of the joint used. The dowel caps and dowel bars shall be held securely in place by bar ties as shown on plans, or an approved equivalent thereof. Mechanical methods of implanting dowel bars in the plastic concrete may be used if approved by the ENGINEER.

Smooth dowel bars shall be coated with heavy grease on one end. Unless otherwise shown on the plans, steel reinforcing bars as required including the tie bars shall be open hearth, basic oxygen or electric furnace new billet steel of Grade 60 or Grade 40 for concrete reinforcement. Bars that require bending shall be Grade 40 conforming to requirements of ASTM Designation: A 615.

- 2.4 Curing - The membrane curing compound shall comply with the requirements of TxDOT Standard Specification Item 526 "Membrane Curing".

CITY OF NACOGDOCHES

CONCRETE PAVEMENT

2.5 Equipment

2.5.1 General - All equipment necessary for the construction of this item shall be on the project and shall be approved by the ENGINEER as to condition before the CONTRACTOR will be permitted to begin construction operations on which the equipment is to be used. When approved by the ENGINEER in writing, a commercial or independently operated batching plant for measuring materials outside the limits of the project may be used.

2.5.2 Mixer - The mixer furnished may be either a paving mixer (operated at the site of the construction or centrally located), a stationary mixer (central mixer) or paving mixer (truck mounted) that will produce adequately mixed concrete meeting the specified requirements.

The size of the paving mixer shall not be less than that of a 27-E paver, as established by the Mixer Manufacturer's Bureau of the Associated General Contractors. Each truck mounted paving mixer shall be approved by the ENGINEER prior to use on the project.

Each mixer shall be equipped with a water measuring device so constructed that it will measure the water within one (1) percent of the total amount required for each batch. Unless the water is to be weighed, the water measuring equipment shall include an auxiliary tank with a capacity greater than that of the measuring tank, and from which the measuring tank will be filled by gravity flow. The measuring tank shall be open to the atmosphere and shall be so placed and constructed that the water for a batch can be discharged into a calibrated tank or weighing device for checking the accuracy of water measurement without seriously delaying the paving operations. The CONTRACTOR shall have a calibrated tank or weighing device available at all times at a location satisfactory to the ENGINEER.

2.5.3 Hauling Equipment - Batch hauling equipment for the transportation of measured materials from the batching plant to the mixer shall be equipped with tight covers and shall be used when directed by the ENGINEER to prevent excessive evaporation of moisture or any loss of material.

If a central mixer is used, concrete may be transported to the point of delivery in truck agitators or non-agitating trucks. If, in the opinion of the ENGINEER, any appreciable segregation or accumulation of excess water and/or mortar occurs on the surface of the concrete, this may be cause for rejection and this method of transporting the concrete to the point of delivery shall be suspended as directed by the Engineer.

2.5.4 Subgrade or Subbase Planer and Templates - Unless a stabilized subbase is provided, an approved subbase planer shall be provided, mounted on visible rollers riding on the forms and having adjustable cutting blades which shall trim the subgrade to the exact section shown on the plans. The planer frame shall be

CITY OF NACOGDOCHES

CONCRETE PAVEMENT

heavy enough to remain on the forms at all times and shall be of such strength and rigidity that, under a test made by changing the support from the wheels to the center, it shall not develop a deflection of more than 1/8-inch. Tractive power equipment used to pull the planer shall not be such as to produce ruts or indentations in the subgrade.

When the slipform method of paving is to be used, the subgrade planer will be operated on a prepared track grade or controlled by an electronic sensor system operated from a "string line" that establishes the horizontal alignment and the elevation of the subbase.

A template for checking the contour of the subbase shall be provided and operated by the CONTRACTOR. The template shall rest upon the side forms and shall be of such strength and rigidity that, under a test made by changing the support to the center, it shall not show a deflection of more than 1/8-inch. It shall be provided with accurately adjustable rods projecting downward to the subgrade at one (1) foot intervals, and these rods shall be adjusted to the required cross section of the bottom of the slab when the template is resting upon the side forms. Where stabilized subbase is provided, use of a scratch template will be required.

- 2.5.5 Forms - Side forms shall be metal of approved cross-section. The preferred depth of the form shall be equal to the required edge thickness of the pavement. Forms with depth greater or less than the required edge thickness of the pavement will be permitted provided the difference between the form depth and the edge thickness is not greater than one (1) inch and further provided that forms of a depth less than the pavement edge are brought to the required edge thickness by securely attaching metal strips of approved section to the bottom of the form. Longitudinal hardwood strips not greater than one (1) inch in thickness may be used in lieu of metal strips.

The length of form sections shall not be less than ten (10) feet and each section shall provide for staking in position with not less than three pins. Flexible or curved forms of wood or metal of proper radius shall be used for curves of 200-foot radius or less. Forms shall be of ample strength and shall be provided with adequate devices for secure setting so that when in place they will withstand, without visible springing or settlement, the impact and vibrating of the spreading and finishing machinery. In no case shall the base be less than eight (8) inches or more in height. The forms shall be free from warps, bends, or kinks, and shall be sufficiently true to provide a reasonably straight edge on the concrete and the top of each form section, and when tested with a straight edge shall conform to the requirements specified for the surface of the completed pavement. Sufficient forms shall be provided for satisfactory prosecution of the work.

Outside curb forms shall be of wood or metal of section satisfactory to the ENGINEER, straight, free of warp, and shall be a depth at least equal to the depth of the curb. They shall be mounted on the paving forms and securely

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attached thereto and maintained in true position during the placing of the concrete.

- 2.5.6 Concrete Spreader - Use of a concrete spreader shall be required and it shall be a self-propelled machine having sufficient power and traction to spread and strike off concrete without slippage on the forms. It shall be equipped with a power driven device for spreading the concrete uniformly between the forms. The spreading device may be a reciprocating blade, a screw conveyor or a belt conveyor. The spreader shall be capable of striking off the surface of the concrete between the forms in the longitudinal direction of the slab at any required elevation.
- 2.5.7 Slipform Paver - This paver shall be equipped with a longitudinal transangular finishing adjustable to crown and grade. The float shall extend across the pavement practically to the side forms and/or edge of slab. A "String line" shall be used to provide grade control for the paver, unless otherwise shown on the plans.
- 2.5.8 Mechanical Vibratory Equipment - All concrete place for pavement shall be consolidated by approved mechanical vibrators operated ahead of the transverse finishing machine and designed to vibrate the concrete internally and/or from the surface. Vibratory members shall extend across the pavement, practically to, but shall not come in contact with, the side forms. Mechanically operated vibrators shall be mounted in such manner as to not interfere with the transverse or longitudinal joints.

The pavement vibrators shall not be used to level or spread the concrete but shall be used only for purposes of consolidation. The vibrators shall not be operated for more than fifteen (15) seconds while the machine upon which they are installed is standing still.

Approved hand manipulated mechanical vibrators shall be furnished in the number required for provision of proper consolidation of the concrete along forms, at joints and in areas not covered by mechanically controlled vibrators. These vibrators shall be sufficiently rigid to insure control of the operating position of the vibrating head.

- 2.5.9 Finishing Equipment - The transverse finishing machine shall be provided with two (2) screeds accurately adjusted to the crown of the pavement, shall be power driven and mounted in a substantial frame equipped to ride on the forms, and shall be so designed and operated as to strike off and consolidate the concrete.

Where hand finishing is permitted under this specification, the CONTRACTOR shall provide a strike template and tamping template both of four (4) by ten (10) inch lumber or equivalent metal section and at least two (2) feet longer than the width of the pavement. Both templates shall conform to the crown section of the pavement, and the tamp, if of wood, shall have a steel face not less than 3/8-inch

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in thickness. The CONTRACTOR shall also provide a longitudinal float of approved design and not less than fourteen (14) feet in length.

The CONTRACTOR shall furnish, operate and maintain at least two (2) standard ten (10) foot steel straightedges.

The CONTRACTOR shall furnish a sufficient number of bridges equipped to ride on the forms and span the pavement for finishing operations and for the installation and finishing of joints. All necessary finishing and edging tools shall be furnished as may be required to complete the pavement in accordance with the plans.

PART THREE - EXECUTION

- 3.1. Preparation of Subgrade - Where stabilized subbase is not provided the subgrade shall be excavated as required, all unstable or otherwise objectionable material removed, and all holes, ruts and depressions filled with approved material. Rolling and sprinkling shall be performed when and to the extent directed, and the road bed shall be completed to or above the plane of the typical sections shown on the plans and the lines and grades approved by the ENGINEER. Material excavated in the preparation of the subgrade shall be utilized in the construction of adjacent shoulders and slopes, and any additional material required for the completion of the sections shall be secured from sources indicated on the plans or designated by the ENGINEER. Drainage of the roadbed shall be maintained at all times.

The subgrade shall be maintained in a smooth, compacted condition in conformity with the required section and established grade until the pavement is placed and shall be kept thoroughly wetted down sufficiently in advance of placing any pavement to insure its being in a firm and moist condition for at least two (2) inches below the prepared surface. Sufficient subgrade shall always be prepared in advance to insure satisfactory prosecution of the work. No equipment or hauling shall be permitted on the prepared subgrade, except by special permission of the ENGINEER, which will be granted only in exceptional cases and only where suitable protection in the form of two (2) ply timber mats or other approved materials is provided.

- 3.2 Placing and Removing Forms - The subgrade under the forms shall be firm and cut true to grade so that each form section when placed with be firmly in contact for its whole length and base width, and exactly at the established grade. Any subgrade under the forms below established grade shall be corrected, using suitable material, placed, sprinkled and rolled as directed. Forms shall be staked with at least three (3) pins of each ten (10) foot section. A pin shall be placed at each side of every joint. Form sections shall be tightly joined and keyed to prevent relative displacement. Forms shall be cleaned and oiled each time they are used. Conformity of the grade and alignment of forms shall be checked immediately prior to placing concrete and all necessary corrections made by the

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CONTRACTOR. Where any form has been disturbed or any subgrade becomes unstable, the form shall be reset and rechecked. In exceptional cases, the ENGINEER may require suitable stakes driven to the grade of the bottom of the forms to afford additional support. Sufficient stability of forms to support the equipment operated thereon and to withstand its vibration without springing or settlement shall be required. If forms settle and/or deflect over 1/8 inch under finishing operations, paving operations shall be stopped and the forms shall be reset to line and grade.

Forms shall remain in place for not less than eight (8) hours after the concrete has been placed. They shall be carefully removed in such a manner that little or no damage will be done to the edge of the pavement. Any damage resulting from this operation shall be immediately repaired. After the forms have been removed, the ends of all joints shall be cleaned, and any honeycombed areas pointed up with approved mortar. Immediately after pointing is complete, the form trench, if used, shall be filled with earth from the shoulders in such a manner as to shed water from rainfall or curing away from the edge of the pavement. Upon completion of the required curing, the subgrade or shoulders adjacent to the pavement shall be placed in condition to maintain drainage.

3.3 Concrete Mixing and Placing

- 3.3.1 Mixing - The concrete shall be mixed in a mixer conforming to requirements. Ready Mix concrete may be used for mixing concrete for pavement. The aggregates, mineral filler if required, cement and water shall be measured separately, introduced into the mixer and mixed for a period of not less than fifty (50) seconds nor more than ninety (90) seconds, measured from the time the last aggregate enters the drum to the time discharge of the concrete begins. The required water shall be introduced into the mixing drum during the first fifteen (15) seconds of mixing. The entire contents of the drum shall be discharged before any materials of the succeeding batch are introduced.

If a central mixer is used, the concrete shall be discharged into the specified hauling equipment and delivered to the road site. If truck agitators are used, the concrete shall be continuously agitated at not less than one (1) nor more than six (6) rpm as directed by the ENGINEER.

- 3.3.2 Placing - Unless otherwise shown on the plans the concrete may be placed by using forms or by use of a slipform paver. Any concrete not placed as herein prescribed within thirty (30) minutes after mixing shall be rejected and disposed of as directed except as provided otherwise herein. Except by specific written authorization of the ENGINEER, concrete shall not be placed when the temperature is below 50°F and falling but may be placed when the temperature is above 45°F and rising, the temperature being taken in the shade and away from artificial heat.

Concrete shall be placed only on approved subgrade or subbase and unless otherwise indicated on the plans, the full width of the pavement shall be

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constructed monolithically. The concrete shall be deposited on subgrade or subbase in such manner as to require as little rehandling as possible. Where hand spreading is necessary, concrete shall be distributed to the required depth by use of shovels. The use of rakes will not be permitted. Workers will not be permitted to walk in the concrete with any earth or foreign material on their boots or shoes. The placing of concrete shall be rapid and continuous.

Concrete shall be distributed to such depth that, when consolidated and finished, the slab thickness required by the plans will be obtained at all points and the surface shall not, at any point, be below the established grade. Special care shall be exercised in placing and spreading concrete against forms and at all joints to prevent the forming of honeycombs and voids.

Concrete for the monolithic curbs shall be the same as for the pavement and, if carried back from the paving mixer, shall be placed within twenty (20) minutes after being mixed. It may be placed while the pavement concrete is still plastic. When sawed joints are used, curbs shall be doweled as shown on the plans and poured after sawing. Curbs doweled on and placed separately may be placed with an extrusion machine.

3.3.3 Reinforcing Steel and Joint Assemblies - All reinforcing steel, including steel wire fabric reinforcement, tie bars, dowel bars and load transmission devices used in accordance with plan provisions shall be accurately placed and secured in position in accordance with details shown on plans. Reinforcing bars shall be securely wired together at alternate intersections, following a pattern approved by the ENGINEER, and at all splices, and shall be securely wired to each dowel intersected. When wire fabric is used, it replaces only the longitudinal and transverse bars and shall be securely wired together at all splices and to each dowel intersected. The bars shall be installed in the required position by the method and device shown on plans or by approved method permitted. If this method of placement provides inadequate, the work shall be completed using conventional methods.

3.3.4 Construction Joints - Intentional stoppage of the placing of the concrete shall be at either an expansion joint or at a weakened plane joint, if load transmission devices are specified.

3.4 Joints

3.4.1 General - All transverse and longitudinal joints when required in the pavement shall be of the type or alternate type shown on the plans and shall be constructed at required location, on required alignment, in required relationship to tie bars and joint assemblies, and in accordance with details shown on the plans. Such stakes, braces, brackets or other devices shall be used as necessary to keep the entire joint assembly in true vertical and horizontal position.

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Careful workmanship shall be exercised in the construction of all joints to insure that the concrete sections are completely separated by an open joint or by the joint materials and to insure that the joints will be true to the outline indicated.

3.4.2 Expansion Joints - Transverse expansion joints shall be formed perpendicular to the centerline and surface of the pavement and shall be constructed in accordance with the sequence of operations shown on plans. After the transverse finishing machine and before the longitudinal finishing machine has passed over the joint, the CONTRACTOR shall test the joint filler for correctness of position and make any required adjustment in position of the filler and shall install the joint seal space form in accordance with the plans. After removal of the joint seal form as required by the plans, the joint seal space above the joint filler shall be thoroughly sandblasted or machine routed to remove all projecting concrete, laitance, dirt or foreign matter. The concrete faces of the joint seal space shall be left true to line and section throughout the entire length of the joint. The joint faces shall be clean and dry at the time joint sealing filler is placed. The pavement adjacent to the joint shall be left free of joint sealing material. The joint seal space shall be exactly above and not narrower than the joint filler with no concrete overhangings.

3.4.3 Weakened Plane Joints - Weakened plane joints shall consist of transverse contraction joints and longitudinal joints and shall be formed or sawed as specified on the plans. When the joints are sawed, the saw shall be power driven, shall be manufactured especially for the purpose of sawing concrete, and shall be capable of performing the work. Saw blades shall be designed to make a clean smooth cut having a width and depth of cut as detailed on the plans. Tracks adequately anchored, chalk, string line or other approved methods shall be used to provide true alignment condition and the CONTRACTOR shall keep a standby power saw on the project at all times when concrete operations are under way.

If membrane curing is used, the portion of the seal which has been disturbed by sawing operations shall be restored by the CONTRACTOR by spraying the areas with additional curing seal.

3.4.4 Contraction Joints - Transverse contraction joints shall be formed or sawed joints perpendicular to the centerline and surface of the pavement and shall be constructed by the method, and in the sequence of operations, as shown on the plans. Where sawed joints are used, contraction joints shall be sawed as soon as sawing can be accomplished without damage to the pavement and before forty-eight (48) hours after the concrete has been placed, the exact time to be approved by the ENGINEER. All joints shall be completed before placing concrete in succeeding lanes and before permitting traffic to use the pavement.

3.4.5 Longitudinal Joints - Longitudinal joints shall be of the type or alternate types shown on the plans and shall be constructed of specified materials in accordance with provision of the plans. Longitudinal joints shall be constructed accurately

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to required lines, shall be perpendicular to the pavement surface at the joint, and the pavement surface over and adjacent to the joint shall be finished as specified.

Longitudinal joints shall be sawed as soon as sawing can be accomplished without damage to the pavement. Sawing shall not cause damage to the pavement and the groove shall be cut with a minimum of spalling. No traffic (including construction traffic) shall be permitted on the pavement until the longitudinal joint is cut.

- 3.4.6 Joint Sealer Material - After the joints in the hardened concrete have been thoroughly cleaned to the satisfaction of the ENGINEER, the material shall be installed into each joint by means of a powered, concrete joint sealing machine capable of continuously feeding the compound under pressure into the joint in such a way as to fill it solidly. The extruding nozzle tip of the sealing machine shall be of such design as to fill the joint opening uniformly from the bottom to the top in a neat and workmanlike manner. The joints shall be completely filled.
- 3.4.7 Joint Filler Boards - Boards shall be anchored as indicated by the plans.
- 3.4.8 Curbs - The curb shall be constructed in lengths equal to the adjoining pavement slab lengths and expansion joints shall be provided in the curb opposite each transverse expansion joint in the pavement. Expansion joint material shall be of the same thickness, type and quality as specified for the pavement and shall be of the section as shown for the curb. All expansion joints shall be carried through the curb.

When sawed joints are provided for the pavement, the curb shall be sawed as all transverse joints are being sawed to provide bond for the curb, deformed dowel bars shall be placed as indicated on the plans while the pavement concrete is still plastic. The concrete for the monolithic curb shall be placed within forty-five (45) minutes after placement of the pavement slab.

Weakened Plane joints can be formed in monolithic curbs at a spacing to coincide with the joints in the concrete pavement. When the concrete is sufficiently set, the joint on the face of curb shall be grooved with an approved type of grooving tool.

A finish coat of mortar shall be applied on the exposed surfaces of the monolithic curbs. The mortar shall be composed on one (1) part of Portland cement and two (2) parts of fine aggregate. A mortar coat will not be required for extruded curbs.

The curb face, lower radius and tip of curb shall be plastered with sand cement mortar. The mortar shall be applied with a template or "mule" made to conform to the curb dimensions shown on the plans. All exposed surfaces of the curb shall be finished with a steel trowel and brushed to smooth and uniform surface.

3.5 Spreading and Finishing

- 3.5.1 Machine Finishing - All concrete pavement shall be finished mechanically with approved power-driven machines, except as herein provided. Hand finishing will be permitted on the transition from a crowned section to a superelevation section without crown on curves, and on straight line superelevation sections less than 300 feet in length. Hand finishing will also be permitted on that portion of a widened pavement outside the normal pavement width, on sections where the pavement width is not uniform, or required monolithic widths are greater than that of available finishing machines.

Machine finishing of pavement shall include the use of power driven spreaders, power driven vibrators, power driven transverse strike-off, and screed, or such alternate equipment as may be substituted and approved.

All concrete pavement shall be consolidated by a mechanical vibrator. As soon as the concrete has been spread between the forms, the approved mechanical vibrator shall be operated to consolidate the concrete and remove all voids. Hand manipulated vibrators shall be used for areas not covered by the mechanical vibratory unit.

The transverse finishing machine shall first be operated to compact and finish the pavement to the required section and grade, without surface voids. The machine shall be operated over each area as many times and at such intervals as directed. At least two (2) trips will be required and the last trip over a given area shall be a continuous run of not less than forty (40) feet. After completion of finishing with the transverse finishing machine a transverse drag float may be used.

The consistency of the concrete as placed should allow the completion of all finishing operations without the addition of water to the surface. When field conditions are such that additional moisture is needed for the final concrete surface finishing operation, the required water shall be applied to the surface by fog spray only and shall be held to a minimum.

After finishing is complete and the concrete still workable, the surface shall be tested for trueness with an approved ten (10) foot steel straightedge. The straightedge shall be operated from the side of the pavement, placed parallel to the pavement centerline and passed across the slab to reveal any high spots or depressions. The straightedge shall be advanced along the pavement in successive stages of not more than one-half its length. Practically perfect contact of the straightedge with the surface will be required, and the pavement shall be leveled to this condition, in order to insure conformity with the surface test required below, after the pavement has fully hardened. Any correction of the surface required shall be accomplished by adding concrete if required and by operating the longitudinal float over the area. The surface test with the straightedge shall then be repeated.

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For one-lane pavement and uniform widening, the equipment for machine finishing of concrete pavement shall be as directed by the ENGINEER but shall not exceed the requirements of these specifications.

After completion of the straightedge operation, as soon as construction operations permit, texture shall be applied with 1/8 inch wide metal tines with clear spacing between the tines being not less than 1/4 inch nor more than 1/2 inch. If approved by the ENGINEER, other equipment and methods may be used, provided that a surface texture meeting the specified requirements is obtained. The texture shall be applied transversely. It is the intent that the average texture depth resulting from the number of tests directed by the ENGINEER be not less than 0.060 inch with a minimum texture depth of 0.050 inch for any one (1) test when tested in accordance with Test Method Tex 436-A. Should the texture depth fall below that intended, the finishing procedures shall be revised to produce the desired texture.

- 3.5.2 Hand Finishing - Hand finishing shall be restricted to only those conditions provided for above and upon specific authorization by the ENGINEER. When hand finishing is permitted, the concrete shall be struck off with an approved strike-off screed to such elevation that when consolidated and finished the surface of the pavement shall conform to the required section and grade. The strike template shall be moved forward with a combined transverse and longitudinal motion in the direction the work is progressing, maintaining the template in contact with the forms, and maintaining a slight excess of material in front of the cutting edge. The concrete shall then be tamped with an approved tamping template to compact the concrete thoroughly and eliminate surface voids and the surface screeded to required section.

After completion of a strike-off, consolidation and transverse screeding, a hand operated longitudinal float shall be operated to test and level the surface to the required grade.

Workers shall operate the float from approved bridges riding on the forms and spanning the pavement. The longitudinal float shall be held in contact with the surface and parallel to the centerline and operated with short longitudinal strokes while being passed from one side of the pavement to the other. If contact with the pavement is not made at all points, additional concrete shall be placed, if required, and screeded, and the float shall be used to produce a satisfactory surface. Care shall be exercised to keep the ends of the float from digging into the surface of the pavement. After a section has been smoothed so that the float maintains contact with the surface at all points in being passed from one side to the other, the bridges may be moved forward half (1/2) the length of the float and the operations repeated. Other operations and surface tests shall be as required for machine finishing.

- 3.5.3 Surface Test - After the concrete has been placed twelve (12) hours or more, the ENGINEER will test the surface of the pavement with a ten (10) foot straightedge placed parallel to the centerline. Unless specified otherwise, the

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surface shall not vary from the straightedge by more than 1/16-inch per foot from the nearest point of contact, and in no case shall the maximum ordinate from a ten (10) foot straightedge to the pavement greater than 1/8 inch. Any high spots causing a departure from the straightedge in excess of that specified shall be ground down by the CONTRACTOR to meet the surface test requirements. Where the texture of the pavement is removed by extensive grinding, the texture shall be restored by grooving the concrete to meet the surface finishing specifications.

3.6 Curing

3.6.1 General - All concrete pavement shall be cured by protecting it against loss of moisture for a period of not less than seventy-two (72) hours from the beginning of curing operations. Immediately after finishing operations have been completed, the entire surface of the newly laid concrete shall be covered and cured in accordance with the requirements specified.

3.6.2 Membrane Curing - Immediately after the finishing of the pavement has been completed and after the free surface moisture has disappeared, the pavement shall be sprayed uniformly with a curing compound. Should the film of compound be damaged from any cause before the expiration of seventy-two (72) hours after original application, the damaged portions shall be repaired immediately with additional compound. Unless otherwise specified on the plans, membrane curing shall be used when the concrete (except that concrete to be used as a base) is placed with a slipform paver.

3.7 Protection of Pavement and Opening to Traffic.

3.7.1 Protection of Pavement - The CONTRACTOR shall erect and maintain the barricades required by plans and such other standard and approved devices as will exclude public traffic and traffic of his employees and agents from the newly placed pavement for the periods of time hereinafter prescribed. Portions of the roadway or crossings of the roadbed required to be maintained open for use by traffic shall not be obstructed by the above-required barricades. Crossings of the pavement required by the plans, or by construction sequence, during the time prior to opening to traffic as herein specified, shall be provided with an adequate and substantial bridge, approved by the ENGINEER.

3.7.2 Opening Pavement to Traffic - The pavement shall be closed to all traffic, including vehicles of the CONTRACTOR, until the concrete is at least seven (7) days old.

At the end of the seven (7) day period and as long thereafter as ordered by the ENGINEER, and is so desired by the CONTRACTOR, the pavement may be opened for use by vehicles of the CONTRACTOR provided the gross weight (vehicle plus load) of such vehicles does not exceed 14,000 pounds. Such opening, however, shall in no manner relieve the CONTRACTOR from his responsibility of his warranty of the work. On those sections of the pavement

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thus opened to traffic, all joints shall first be sealed, the pavement cleaned and earth placed against the pavement edges before permitting vehicles thereon.

After the concrete in any section of pavement is fourteen (14) days old, or as long thereafter as ordered by the ENGINEER, such section or pavement may be opened to all traffic as required by plans or when so directed by the ENGINEER. On those sections of the pavement thus opened to traffic, all joints shall first be sealed, the pavement cleaned, earth placed against the pavement edges and all other work performed as required for the safety of traffic.

3.8 Penalty for Deficient Pavement Thickness

- 3.8.1 The unit bid price will be reduced ten percent (10%) per each ¼-inch in thickness.

PART FOUR - MEASUREMENT AND PAYMENT

- 4.1. Measurement - Concrete pavement will be measured by the square yard of surface area of completed and accepted work. The surface area will be construed to also include that portion of the pavement slab extending beneath the curb.

When "monolithic curb" is required, its measurement will be by the linear foot complete in place.

- 4.2 Payment - The completed and accepted work performed and materials furnished, as prescribed by this item will be paid for at the unit price bid for "Concrete Pavement (Class "A" Concrete)" and for "Monolithic Curb" or the adjusted unit price for pavement of deficient thickness as provided under "Penalty for Deficient Thickness" which price shall be full compensation for sawcutting, jackhammering, removals, excavation, utilizing and/or disposing of all excavated materials, cleaning and compacting the base or subgrade, for shaping and fine grading, furnishing and applying of water, mortar, adhesives or other material, including reinforcing and dowel bars, if required, for furnishing, loading and unloading, storing, hauling and handling all ingredients and materials, including all freight and royalties involved, for mixing, placing, finishing, cleaning and sealing joints and curing all concrete, for furnishing all materials for sealing joints and placing joints and joint filler material in proper position, and for all manipulations, labor, equipment, appliances, tools and traffic provisions, and incidentals necessary to complete the work.

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PAVEMENT PATCHING AND REPAIR

PART ONE - GENERAL

- 1.1 Description Of Work - This item shall consist of the saw-cut and removal of designated pavement areas and the subsequent replacement of roadway materials with full depth patches. This item describes the materials and procedures for both concrete and asphalt/flex base repair systems.

Pavement patch repairs shall contain materials in conformity with the construction plans and with the Item for "Hot Mix Asphaltic Concrete Pavement" or the Item for "Concrete Pavement" as it applies.

PART TWO - PRODUCTS

- 2.1 Asphalt Pavements: Patch areas shall be full-depth repairs in areas designated in the construction plans and/or as identified on the ground by painted lines as instructed by the OWNER or ENGINEER. Asphalt street patches shall include a re-compacted sub-grade with a six (6) inch thick flexible base material (Type A, Grade 1) as described in the Item for "Flexible Base". The base course shall be placed and compacted to 95% Modified Proctor Density and then prepared for the surface course by the application of a prime coat, cut-back asphalt MC-30. Hot mix asphaltic pavement surfacing shall consist of Type D mix as described in the Item "Hot Mix Asphaltic Pavement".

Six (6) inch full depth Type D HMAC compacted in three (3) inch lifts may be used instead of the flexible base and surface course described above.

- 2.2 Concrete Pavements: Patch areas for concrete pavements shall be full depth repairs as designated in the construction plans and/or as identified on the ground by painted lines as instructed by the OWNER or ENGINEER. Concrete street patches shall consist of a re-compacted sub-grade with six (6) inches of Portland cement concrete as described in the Item "Concrete Pavement". Additional reinforcing steel and dowels shall be placed as designated in the construction plans and details.

PART THREE - EXECUTION

- 3.1 Asphalt Pavement Repairs: The existing asphalt pavement and base shall be saw-cut to neat lines as indicated in the construction plans and/or as painted in the field. Material shall then be excavated within the patch zone to a depth of eight (8) inches, regardless of the existing street pavement depth. The sub-grade soils shall then be compacted by mechanical means to achieve a density of 95% of the Standard Proctor Density. Care shall be given to avoid chipping the saw-cut edges or disturbing the surrounding pavement. Apply tack coat of emulsified asphalt SS-1 to all vertical faces before placing base material.

The patch area shall then be back-filled with a Type A, Grade 1 flexible base material, as shown on the plans and as described in the Item "Flexible Base", to a compacted depth of six (6) inches. Compaction shall be accomplished by mechanical means until a density not less than 95% of the Modified Proctor Density is achieved. The base material shall be treated with a cut-back asphalt prime coat (MC-30) at an application rate of 0.15 gallons per square yard, immediately prior to the placement of the surface course. Materials and placement of the prime coat and tack coat shall conform to the Item "Hot Mix Asphaltic Concrete Pavement".

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PAVEMENT PATCHING AND REPAIR

The final course in the asphalt roadway patch shall consist of a compacted two (2) inch lift of Type D asphaltic concrete, hot laid, conforming to the specifications outlined in the Item "Hot Mix Asphaltic Concrete Pavement". The edges shall be neat and tapered to meet existing pavement grades. Six (6) inch full depth Type D HMA compacted in three (3) inch lifts may be used instead of the flexible base and surface course described above.

- 3.2 Concrete Pavements: The existing concrete pavement shall be saw-cut to neat lines as indicated in the construction plans and/or as painted in the field. Material shall then be excavated within the patch zone to a depth of six (6) inches, or to the bottom of the existing concrete, whichever is greater. The sub-grade soils shall then be compacted by mechanical means to achieve a density of 95% of the Standard Proctor Density. Care shall be given to avoid chipping the saw-cut edges or disturbing the surrounding pavement.

The patch area shall then have steel reinforcing dowels, as indicated in the construction plans and details, placed in the adjoining edges of the existing pavement by core drilling and binding the dowels with epoxy capsule anchors. Steel reinforcing shall be placed in each patch greater than four (4) square feet in area, and tied to the sidewall dowels. The reinforcing steel mats shall be supported on steel or plastic chairs, at least three (3) inches in height, and secured to the sidewall dowels prior to placing concrete in the patch.

The concrete street patch shall be filled with a Class A Portland cement concrete mix in accordance with the specifications of the Item "Concrete Pavement" for a depth of not less than six (6) inches or to the top of the adjoining pavement, whichever is greater. Final finishes shall attempt to match existing street finishes and be performed in accordance with the referenced specification.

Traffic shall be diverted off the concrete patch for a period of not less than seven (7) days or until laboratory tests indicate that the compressive strength of the concrete has reached its 28 day design strength, whichever is longer.

- 3.3 All Pavements: Both asphalt and concrete patch repairs shall be performed in a manner acceptable to the ENGINEER and OWNER avoiding hazardous traffic situations and creating a minimum delay to adjoining property owners. All necessary traffic signs, barricades, steel cover plates and related traffic control measures shall be employed by the contractor, at his expense, to make the street trafficable and safe. In no case shall any patch excavation be left open overnight.

PART FOUR - MEASUREMENT AND PAYMENT

- 4.1 Both concrete and asphalt patches will be measured by calculating the internal area of a polygon figure as measured along the saw-cut edges at the surface. The measurement will be calculated to the nearest one tenth (1/10) of a square yard for each patch. Patches shall be designated by size as small patches, less than 22 square yards, or large patches, greater than 22 square yards.
- 4.2 The work performed and materials furnished as prescribed by this item will be paid for at the unit prices bid for small patches or large patches under either "Concrete Patching" or "Asphalt Patching", as is appropriate. Such prices shall be full compensation

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PAVEMENT PATCHING AND REPAIR

furnishing all materials, for the saw-cutting, excavation, material disposal, compaction, preparing, hauling and placing all materials, for all freight, manipulation, labor, tools, equipment, traffic control and incidentals necessary to complete the work.

CITY OF NACOGDOCHES
REWORKING BASE MATERIAL
(PULVERMIX IN-PLACE)

PART ONE - GENERAL

- 1.1 Description of Work - This item shall govern for reworking existing base, sub-base, and asphaltic concrete pavement materials in accordance with the requirements as herein specified and as shown on the plans. This item shall also govern for incorporation of new base material and/or stabilization of base material into existing mixed pavements, when shown on the plans.

PART TWO - PRODUCTS

- 2.1 Existing base, subbase, and asphaltic concrete pavement may vary in thickness and material type. The unit price bid for the re-work item shall include all thicknesses of pavement and base material. The total depth to be reworked shall be as shown on the plans and bid documents or as directed by the Engineer.
- 2.2 New additional base material, when required, shall be iron ore material with a minimum of 35% metals retained on the number 40 sieve. Other base materials may be approved by the Engineer.
- 2.3 Lime used for stabilization of the reworked base materials shall be Type C, grade DS, **“pebble” quicklime of a gradation suitable for either dry application or for use in Type B lime slurry**, meeting the requirements of Item 264 of the TxDOT Specifications, latest edition.
- 2.4 Cement used for stabilization of the reworked base materials shall be Portland cement Type I, IP, or II conforming to the requirements of Item 524 of the TxDOT Specifications, latest edition.

PART THREE - EXECUTION

- 3.1 General - The work shall be performed to the width and depth shown on the plans, typical sections and details, and as specified below. The Contractor shall use a self-propelled cutting and pulverizing machine of the type designed specifically for reclaiming existing pavement which is capable of processing in-place pavement and base material to a homogeneous mixture having a maximum particle size of two (2) inches. The machine shall be capable of producing such a mixture for the depths shown on the plans and details without removing and re-working separate lifts. The machine provided shall be required to insure that the material is cut uniformly to the proper depth and that the cutters will plane the secondary grade to a smooth surface over the entire width of the cut. The machine shall provide a visible indication of the depth of cut at all times.
- 3.2 Pulverization - The existing base and pavement materials shall be pulverized so that 100 percent will pass a two (2) inch sieve.

CITY OF NACOGDOCHES
REWORKING BASE MATERIAL
(PULVERMIX IN-PLACE)

- 3.3 Base Improvement - New base material, when shown on the plans or in the bid documents, shall be delivered, placed and spread in the required quantities. The material shall be blended into the in-situ pulverized material to provide a uniform base.

When stabilization is indicated on the plans or in the bid documents, cement or lime shall be added (as required in the plans) and uniformly mixed into the base materials. The application rate in pounds per square yard of the required stabilizing agent shall be as shown on the plans or in the bid documents or may be varied by the Engineer if conditions warrant. The methods of stabilization shall conform to the requirements of either Item 262 or Item 275 of the TxDOT Specifications, latest edition, depending on which type of stabilizing agent is required.

After thoroughly mixing any new base material and/or stabilization material with the reworked existing materials, the entire base shall then be re-shaped and compacted to conform to the typical sections as shown on the plans. If pebble lime is added as the stabilizing agent, a final mixing pass shall be made approximately two days after initial mixing of the lime to facilitate better mixing of the activated lime. Final grading shall proceed only after this final mixing pass.

- 3.4 Excess Materials - Excess materials that are removed to achieve the final grade are the property of the Contractor and disposal costs of this material are subsidiary to the unit price bid for the re-work item. If possible, the Owner may provide a designated **disposal site for excess material**. **Any materials deposited at the Owner's disposal site** become the property of the Owner.
- 3.5 Prime Coat - All compacted surfaces shall have an asphaltic prime coat (of a type and at a rate shown in the plans) applied immediately after achieving final compaction. Prime coat application is considered subsidiary to the re-working and placement of the pavement and aggregate mixture.
- 3.6 Work Operations - The Contractor shall have no more than 50% of the proposed streets re-mixed without final surfacing at any one time. Every effort shall be made to minimize the length of time that a re-worked pavement mixture is open to traffic and the environment.
- 3.7 Compaction Methods - Unless otherwise shown on the plans or directed by the Engineer, each course shall be sprinkled as required and compacted to the extent necessary to provide not less than 95 percent of the Modified Proctor Density (ASTM D-1557) or to the density shown on the plans with a moisture content within two percent of optimum.

When the material fails to meet the density requirements, or should the material lose the required stability, density, or finish before the next course is placed, or the project is accepted, it shall be **re-compacted and refinished at the Contractor's expense**. If the compacted material is exposed to standing water or rain, the Contractor shall verify that

CITY OF NACOGDOCHES
REWORKING BASE MATERIAL
(PULVERMIX IN-PLACE)

the moisture content is no more than six (6) percent above optimum prior to proceeding with paving operations.

3.8 Tolerances

3.8.1 Density Tolerances - The Engineer or Owner may accept the work providing that not more than one (1) out of the last five (5) density tests performed is below the specified density requirement and the failing test is not more than three (3.0) pounds per cubic foot below the specified density.

3.8.2 Grade Tolerances - In areas on which the pavement is to be placed, any deviation in excess of 1/4 inch in cross section or 1/4 inch in a length of 16 feet measured longitudinally, shall be corrected by loosening, adding or removing material, reshaping and then re-compacting the mixture by sprinkling with water and rolling to the required density.

CITY OF NACOGDOCHES
FLY ASH TREATED SUBGRADE

PART ONE - GENERAL

1.1 Description

- 1.1.1 This item shall govern for treating the existing subgrade by pulverizing, adding fly ash, mixing, shaping, compacting and finishing the material as specified in this item.

PART TWO - PRODUCTS

2.1 Materials

- 2.1.1 Fly Ash used for this contract shall be high calcium **Class C** meeting the requirements of ASTM C593. Material is to be stored in completely enclosed weather-proof containers until immediately before distribution on the road. If bags are used, store in weather-proof buildings and adequately protect against ground dampness.

If furnished in trucks, each truck shall have weight of fly ash verified on public scales conforming to requirements of TxDOT Item 420 "Weighing and Measuring Equipment". If furnished in bags, each bag must bear manufacturer's certified weight. If weight of bag varies more than 5% from certified weight, bag may be rejected. Average weight of bags in any shipment shall not be less than manufacturer's certified weight. This shall be shown by weighing 50 randomly selected bags in the shipment.

PART THREE - EXECUTION

3.1 Construction Methods

- 3.1.1 In areas where fly ash-treated subgrade is directed, the subgrade shall be scarified to the depth and width required for subgrade stabilization. The material shall be pulverized until substantially free of lumps over 1-inch diameter. Pulverizing machine to be of such design that a visible indication is given at all times that the machine is cutting to the specified depth.

All necessary precautions shall be taken to ensure that stabilization material is contained within the street area. Any material that gets outside of the street area, onto lawns, driveways, vehicles, etc. shall be immediately removed. No application of fly ash shall occur when wind conditions are such that blowing fly ash becomes objectionable to traffic or adjacent property owners. A motor grader shall not be used to spread fly ash.

Fly ash is only to be spread on the area on which the first mixing operation, compaction and finishing can be completed during daylight hours of the same working day. The design thickness shall be stabilized by the addition of fly ash

CITY OF NACOGDOCHES FLY ASH TREATED SUBGRADE

at the application rate shown on the plans or as directed by the ENGINEER. Raw material to be thoroughly mixed by approved road mixers or other approved equipment and the mixing continued until a homogeneous, friable mixture is obtained, free from all lumps or clods. 100% of material shall pass the 1- $\frac{3}{4}$ " sieve and a minimum 60% shall pass the No. 4 sieve when tested at the field moisture condition or dry. During interval of time between application and mixing, fly ash that has been exposed to the open air for a period of 6 hours or more or to excessive loss due to washing or blowing shall not be accepted for payment.

For slurry placement, fly ash is to be mixed with water in vehicles with approved distributors and applied as a thin water suspension or slurry. Distribution of fly ash to be attained by successive passes over a measured section of roadway until the proper moisture and fly ash content has been secured. The distributor vehicle shall be equipped with an agitator to keep fly ash and water in a uniform mixture.

For dry placement, the soil and fly ash should be thoroughly and uniformly mixed at the proper moisture content, adding water as necessary in a rapid and uniform application. Control moisture content to prevent formation of fly ash balls. The moisture content shall be adjusted to optimum or slightly above and the mixture shall be compacted to a minimum of ninety-five (95) percent of ASTM D 698 (standard proctor) density. Compaction shall occur with 1- $\frac{1}{2}$ hours of initial water application to prevent setting of the treated moisture in a non-compacted state. Aerate or sprinkle material as necessary to provide optimum moisture. Compaction shall be accomplished with sufficient blading to eliminate all irregularities and to the extent necessary to remain firm and stable under construction equipment.

Following compaction, the subgrade shall be trimmed and shaped to the required line and grade as indicated on plans or as directed by ENGINEER. Final rolling of the completed surface shall be accomplished with a pneumatic tire roller. If plus No. 4 aggregate is present in the mixture, one complete coverage of the section with the flat wheel roller to be made immediately after the trimming operation. Surface compaction and finishing to produce, in not more than 2 hours, a smooth, closely-knit surface free of cracks, ridges or loose material conforming to the crown, grade and line shown on the plans.

Once compaction and finishing of treated subgrade is complete, no vehicles or equipment other than sprinkling equipment shall be permitted upon the treated subgrade for a period of 24-hours. Heavy construction equipment shall not be allowed on the subgrade for 48-hours. Damage to treated subgrade from construction equipment during this period shall be repaired at the CONTRACTOR's expense. During curing period, treated subgrade shall be lightly sprinkled with water at frequent intervals to prevent drying. Care shall be taken after curing period to prevent damage to subgrade by excessive traffic or weight.

CITY OF NACOGDOCHES
FLY ASH TREATED SUBGRADE

Fly ash materials, mixing, processing, compacting, construction and curing of the fly ash-stabilized subgrade shall be performed in accordance with the provisions of TxDOT Specifications Item No. 265, latest edition.

3.2 Testing

- 3.2.1 The CONTRACTOR, at his expense, shall engage an independent testing laboratory to conduct in-place density tests. This item shall be considered subsidiary to the Fly Ash-Treated Subgrade. In-place density tests shall be conducted at a rate of one test for each 1,000 square yards of reworked area or a minimum of three (3) tests per street, whichever is greater. Thickness determination of reworked base material shall be made at random locations. All retests due to densities not meeting specification requirements will be the financial responsibility of the CONTRACTOR. Prior to testing for in-place density the entire treated area shall be proof rolled in accordance with TxDOT Item 216, latest edition, with the exception of measurement and payment. In-place density tests will be taken at locations as directed by the ENGINEER.

PART FOUR - MEASUREMENT AND PAYMENT

- 4.1 Measurement - Fly ash-treated subgrade will be measured by the square yard in place of the depth specified to the lines and grades shown on the plans. CONTRACTOR shall provide to ENGINEER a copy of all fly ash material delivery tickets.
- 4.2 Payment - The work performed and materials furnished in accordance with this item and measured as provided under MEASUREMENT will be paid for at the unit price bid for "fly ash-treated subgrade" of the depth specified. This price shall be full compensation for shaping existing material, loosening, mixing, pulverizing, spreading, drying, applying fly ash, water content for slurry (if applicable), compacting and curing, including curing materials, maintaining, processing, hauling, reworking if required, preparing secondary subgrade, and for all mixing water, tools, equipment, dams or berms, labor and incidentals necessary to complete the work.

Fly ash will not be paid for directly but will be considered subsidiary to the unit price bid for "fly ash-treated subgrade" of depth specified.

CITY OF NACOGDOCHES
PORTLAND CEMENT TREATED SUBGRADE

PART ONE - GENERAL

1.1 Description

- 1.1.1 This item shall govern for treating the existing subgrade by pulverizing, adding Portland cement, mixing, shaping and compacting the material as specified in this item.

PART TWO - PRODUCTS

2.1 Materials

- 2.1.1 Portland cement used for subgrade stabilization shall be Type I, IP or II (as shown on the plans) conforming to the requirements of Item 524 of the TxDOT Specifications, latest edition.
- 2.1.2 Water for use in cement stabilization shall be reasonably clean and free of oil, acid, alkali, organic matter or other deleterious substances. Water which is suitable for drinking or ordinary household use may be accepted for use without being tested. If water is of questionable quality, it shall be tested in accordance with the current standard Method of Test of Quality of Water to be used in concrete, AASHTO Designation T26.
- 2.1.3 The soil shall consist of approved soil, free from vegetation or other objectionable matter. It may be either the material encountered in the existing section, material imported from approved sources as designated by the owner, or a combination of existing and approved imported soils.

PART THREE - EXECUTION

3.1 Construction Methods

- 3.1.1 General. The primary requirement of this specification is to secure a complete course of treated material containing a uniform Portland cement mixture, free from loose or segregated areas, of uniform density and moisture content, well bound and compacted for its full depth with a smooth surface suitable for placing additional subbase, base or surface courses. It shall be the responsibility of the CONTRACTOR to regulate the sequence of his work to process a sufficient quantity of material so as to provide full depth as shown on plans, to use the proper amount of Portland cement, maintain the work and to rework the courses as necessary to meet the foregoing requirements. Cement materials, mixing, processing, compacting, construction and curing of the cement-stabilized subgrade shall be performed in accordance with the provisions of TxDOT Specifications Item No. 275, latest edition.

CITY OF NACOGDOCHES
PORTLAND CEMENT TREATED SUBGRADE

Cement stabilized base shall not be mixed or placed when the air temperature is below 40°F (5°C) and falling, but may be mixed or placed with the air temperature is above 35° F (2°C) and rising, the temperature being taken in the shade and away from artificial heat and with the further provisions that cement-stabilized base shall be mixed or placed only when weather conditions, in the opinion of the OWNER, are suitable. Before other construction operations are begun, the roadbed shall be graded and shaped as required to construct the Portland cement treatment for material in place in conformance with the lines, grades, thickness and typical cross sections shown on the plans. Unsuitable soil or material shall be removed and replaced with acceptable soil. The subgrade shall be firm and able to support, without displacement, the construction equipment and the compaction hereinafter specified. Soft or yielding subgrade shall be corrected and made stable before construction proceeds. The soil shall be so pulverized that at the completion of moist-mixing, 100 percent passes a 1 inch (25 mm) sieve and a minimum of 80 percent passes a No. 4 sieve, exclusive of gravel or stone retained on these sieves.

All necessary precautions shall be taken to ensure that stabilization material is contained within the street area. Any material that gets outside of the street area, onto lawns, driveways, vehicles, etc. shall be immediately removed.

- 3.1.2 Application of Cement. Portland cement shall be spread uniformly on the soil at the rate specified on the plans or as determined by preliminary laboratory tests. If a bulk cement spreader is used, it shall be positioned by string lines or other approved method during spreading to insure a uniform distribution of cement. Cement shall be applied only to such an area that all the operations can be continuous and completed in daylight within 6 hours of such application. The percentage of moisture in the soil at the time of cement application shall not exceed the quantity that shall permit uniform and intimate mixture of soil and cement during dry-mixing operation and it shall not exceed the specified optimum moisture content for the soil-cement mixture. No equipment, except that used in the spreading and mixing, shall be allowed to pass over the freshly spread cement until it is mixed with the soil.
- 3.1.3 Mixing and Processing. The following methods of mixing and processing may be used at the option of the CONTRACTOR.
- 3.1.3.1 Multiple Pass Traveling Mixer. After the cement has been applied, it shall be dry-mixed with the soil. Mixing shall continue until the cement has been sufficiently blended with the soil to prevent the formation of cement balls when water is applied. Any mixture of soil and cement that has not been compacted and finished shall not remain undisturbed for more that 30 minutes. Immediately after the dry-mixing of soil and cement is complete, water as necessary shall be uniformly applied and incorporated into the mixture. The pressurized equipment and the supply provided shall be adequate to insure continuous application of the required amount of water to sections being processed within 3 hours of the application of the cement. Care shall be exercised to insure proper moisture distribution at all times. After the last

CITY OF NACOGDOCHES
PORTLAND CEMENT TREATED SUBGRADE

increment of water has been added, mixing shall continue until a thorough and uniform mix has been obtained.

- 3.1.3.2 Single-Pass Traveling Mixing Plant. After the cement has been applied, it shall be sufficiently dry-mixed with the soil to prevent the formation of cement balls when water is applied. Unpulverized soil lumps in the soil cement mixture immediately behind the mixture that are dry shall not be allowed. Should this condition prevail, the CONTRACTOR shall "pre-wet" the raw soil as necessary to correct this condition. The mixer shall be provided with means for visibly and accurately gauging the water application. The water shall be applied uniformly through a pressure spray bar.

After cement is spread, mixing operations shall proceed as follows:

The mixer shall, in one continuous operation, mix the air-dry soil and cement full depth; add the required moisture uniformly; thoroughly moist-mix the soil, cement and water; spread the completed soil cement mixture evenly over the machine-processed width of the subgrade; and leave it in a loose condition ready for immediate compaction. The soil and cement mixture shall not remain undisturbed after mixing and before compacting for more than 30 minutes.

- 3.1.3.3 Central Mixing Plant. The soil, cement and water shall be dry-mixed in a pugmill either of the batch or continuous-flow type. The plant shall be equipped with feeding and metering devices which shall add the soil, cement and water into the mixer in the specified quantities. Soil and cement shall be mixed sufficiently to prevent cement balls from forming when water is added. Mixing shall continue until a uniform and intimate mixture of soil, cement and water is obtained. The mixture shall be hauled to the construction site in suitable vehicles equipped with protective covers. The mixture shall be placed on the moistened subgrade in a uniform layer by an approved spreader or spreaders. Not more than 30 minutes shall elapse between the placement of soil-cement in adjacent lanes at any location except at longitudinal construction joints. Not more than 30 minutes shall elapse between the start of spreading the soil and cement mixture and start of compaction. Not more than 60 minutes shall elapse between the start of moist-mixing and the start of compaction of the soil-cement. The layer of soil-cement shall be uniform in thickness and surface contour and in such quantity that the completed base or subgrade shall conform to the required grade and cross section. Dumping of the mixture in piles or windrows upon the subgrade shall not be permitted.

- 3.1.4 Compaction and Finishing. The material shall be compacted to at least 95 percent of the maximum density determined by ASTM D 698. Moisture content shall be within minus 2 to plus 4 optimum. At the start of compaction, the percentage of moisture in the mixture and in unpulverized soil lumps, based on oven-dry weights, shall not be below or more than 2 percentage points above the specified optimum moisture content and shall be less than the quantity which shall cause the soil-cement mixture to become unstable during compaction and finishing. When the uncompacted soil-cement mixture is wetted by rain so that the average moisture content exceeds the tolerance given at the time of final compaction, the entire section shall be reconstructed in accordance with these

CITY OF NACOGDOCHES
PORTLAND CEMENT TREATED SUBGRADE

specifications at the sole expense of the CONTRACTOR. The specified optimum moisture content and density shall be determined in the field on the representative samples of soil-cement mixture obtained from the area being processed.

Prior to the beginning of compaction, the mixture shall be in a loose condition for its full depth. The loose mixture shall then be uniformly compacted to the specified density within 2 hours. After the soil and cement mixture except the top mulch is compacted, water shall be uniformly applied as needed and thoroughly mixed in with a spike tooth harrow or equal. The surface shall then be reshaped to the required lines, grades and cross section and then lightly scarified to loosen any imprint left by the compacting or shaping equipment.

The resulting surface shall be thoroughly rolled with a pneumatic tire roller and "clipped", "skinned" and "tight-bladed" by a power grader to a depth of approximately 1/4 in. (6 mm) moving all loosened soil and cement from the section. The surface shall then be thoroughly compacted with the pneumatic roller adding small increments of moisture as needed during rolling. When directed by the OWNER, surface finishing methods may be varied from this procedure provided a dense, uniform surface, free of loose material, is maintained at its specified optimum during all finishing operations. Surface compaction and finishing shall proceed in such a manner as to produce, in not more than 2 hours, a smooth, closely knit surface free of cracks, ridges or loose material conforming to the drawn grade and line shown on the plans.

3.2 Testing

- 3.2.1 The CONTRACTOR, at his expense, shall engage an independent testing laboratory for initial cement treated subgrade density tests. This item shall be considered subsidiary to the Cement-Treated Subgrade. All retests due to densities not meeting specification requirements will be the financial responsibility of the CONTRACTOR. In-place density tests will be taken at locations as directed by the ENGINEER.

3.3 Protection and Cover

- 3.3.1 After the roadway has been finished as specified herein, it shall be immediately protected against rapid drying by applying 15/100 (0.15) gallons per square yard MC-30 cut-back asphalt. Immediately prior to application of MC-30, the section shall be wetted by the use of pressure water distributors so that all voids in the soil-cement surface are filled with water, but without free water standing on the surface. The MC-30 cure shall be applied while this moisture condition exists so that undue asphalt penetration of the soil-cement surface shall be prevented; and at the same time aided in complete coverage by the MC-30. Should it be necessary for construction equipment or other traffic vehicles to pass over the section before the MC-30 has dried sufficiently to prevent pickup, it shall be the responsibility of the CONTRACTOR to dust or sand the surface before such use. The CONTRACTOR shall also maintain this curing cover during the 7-day protection so that all of the soil-cement base course shall be covered effectively

CITY OF NACOGDOCHES
PORTLAND CEMENT TREATED SUBGRADE

with MC-30 during this period. The MC-30 curing coat shall remain in place for the additional asphalt-wearing surface.

3.4 Opening to Traffic

- 3.4.1 The CONTRACTOR shall not be permitted to drive heavy equipment over completed portions. Pneumatic-tired equipment required for hauling cement and water may be permitted to drive over after the surface has hardened sufficiently to prevent the equipment from marring the surface, provided that protection and cover are not impaired. The soil-cement course may be opened to local traffic as soon as the MC-30 has been applied and dusted or sanded as necessary to prevent it from being picked up by traffic. Completed portions may be opened to all traffic after 7 days.

3.5 Maintenance

- 3.5.1 The CONTRACTOR shall be required within the limits of this contract to maintain the soil-cement treatment in good condition from the time he first starts work until all work has been completed. Maintenance shall include immediate repairs of any defect that may occur after the cement is applied. Such maintenance work shall be done by the CONTRACTOR at his own expense and repeated as often as necessary to keep the area continuously intact. Repairs are to be made in such a manner as to insure restoration of a uniform surface for the full depth of treatment. Any low area shall be remedied by replacing the material for the full depth of treatment rather than adding a thin layer of stabilized material to the completed work.

PART FOUR - MEASUREMENT AND PAYMENT

- 4.1 Measurement - Portland cement treated subgrade will be measured by the square yard in place of the depth specified to the lines and grades shown on the plans. Cement will not be measured separately but shall be considered subsidiary to this item. CONTRACTOR shall provide to ENGINEER a copy of all cement material delivery tickets.
- 4.2 Payment - The work performed and materials furnished in accordance with this item and measured as provided under MEASUREMENT will be paid for at the unit price bid for "Cement-Treated Subgrade" of the depth specified. This price shall be full compensation for: shaping existing material, loosening, mixing, pulverizing, spreading, drying, applying cement, compaction, curing (including curing materials), shaping and maintaining, processing, hauling, reworking if required, preparing secondary subgrade, all mixing water, tools, equipment, dams or berms, labor and incidentals necessary to complete the work, in place.

Portland cement will not be paid for directly but will be considered subsidiary to the unit price bid for "Cement-Treated Subgrade" of depth specified.

CITY OF NACOGDOCHES
FLEXIBLE BASE – CRUSHED LIMESTONE

PART ONE - GENERAL

1.1 DESCRIPTION OF WORK

This item specifies the furnishing and installing of a compacted base course of crusher-run, broken aggregate. The base shall be constructed in conformity with typical sections and to lines, grades and thickness as shown on the plans.

PART TWO - PRODUCTS

2.1 The flexible base material shall meet all of the requirements of Item 247 Flexible Base of the Texas Department of Transportation Standard Specifications For Construction Of Highways, Streets and Bridges, latest edition, and shall be Type A, Grade 2.

2.2 The material shall only be from a source approved by the Owner.

PART THREE - EXECUTION

3.1 Subgrade: Shape subgrade to lines and grades shown on the plans. Subgrade shall be compacted to 95 percent Standard Proctor Density, ASTM D-698. Repair all soft areas before base material is placed on the subgrade.

3.2 Density: After being properly placed and shaped in accordance with the plans, flexible base shall be compacted to 95 percent Modified Proctor Density, ASTM D-1557. Maintain moisture content between optimum and 2 percent above optimum moisture.

3.3 Protection: The Contractor shall be responsible for the protection of the subgrade and flexible base during the construction.

3.4 Testing: The Contractor shall, at his expense, utilize the services of a certified geotechnical testing laboratory to provide test results from the material source to assure conformance with these specifications prior to delivery of the material to the construction site.

PART ONE - GENERAL

- 1.1 Description Of Work - This item shall govern for the furnishing of material and application of a prime coat on the completed and accepted base course.

PART TWO - PRODUCTS

- 2.1 Material to be used shall be PCE in accordance with the supplemental amendment to TxDOT Specification Item 300 of the TxDOT Standard Specification for Construction of Highways, Streets and Bridges, latest edition.

PART THREE - EXECUTION

- 3.1 Application and Construction - Shall be in accordance with TxDOT Specification Item 310 of the latest edition. The prime coat shall be applied at an application rate shown on the plans or as otherwise directed by Owner.

Proper precautions shall be utilized in order to prevent runoff into surrounding water ways.

CITY OF NACOGDOCHES
HOT MIX ASPHALTIC CONCRETE PAVEMENT

PART ONE - GENERAL

- 1.1 Description of Work - This item shall govern for the furnishing of materials, equipment, transporting and placement of Hot Mix Asphaltic Concrete (HMAC) Pavement in accordance with specifications contained herein.

PART TWO - PRODUCTS

- 2.1 Materials shall be Type D (unless shown otherwise in the plans) Hot Mix Asphaltic Concrete in accordance with *TxDOT Standard Specifications for Construction of Highways, Streets and Bridges*, Item 340, latest edition. A HMAC design shall be submitted to Owner for approval at least twenty-four (24) hours in advance of scheduled paving operations.

PART THREE - EXECUTION

- 3.1 Hot Mix Asphaltic Pavement - Shall be placed in accordance with TxDOT Specification Item 340, latest edition, and the following:
- a) The Contractor will be required to establish a rolling pattern that will achieve a minimum of 95% of the laboratory molded density for new paving and maximum in-place density for overlays. The Contractor shall be responsible for providing testing equipment that will verify compliance with density requirements. The Contractor shall be responsible for testing rolling pattern as outlined in TEX-207-F, Part IV to achieve maximum compaction. When changes in asphalt mixture or placement conditions occur, a new rolling pattern shall be established. At the Engineer's request, the Contractor shall provide a periodic verification that the rolling pattern is adequate to achieve the required density when varying site conditions are noted.
 - b) Thickness for compacted HMAC shall be as shown on plans.
 - c) The HMAC shall be placed and spread on the approved surface with a self-propelled spreading and finishing machine.
 - d) Contractor shall form crown in road surface to provide 2% side slope.
 - e) The final compacted thickness for the asphalt surface on existing pavement overlays is considered to be a nominal desired thickness. In no case shall any portion of the overlay be less than one (1) inch in thickness at specified edges or "humps" and thicknesses of one (1) inch over the nominal depth shall be avoided. All attempts shall be made to maintain the nominal thickness shown in the plans. The contractor shall use a ski or leveling arm on the spreading machine, when necessary, to assist in maintaining desired asphalt thicknesses.
- 3.2 The Owner will contract with an independent testing laboratory to perform the following tests:
- a) Hveem stability, laboratory molded density, asphalt cement content, and aggregate gradation from samples that will be taken randomly from haul trucks as HMAC is off-loaded to the lay down machine.

CITY OF NACOGDOCHES

HOT MIX ASPHALTIC CONCRETE PAVEMENT

- b) Core samples of completed surface to verify compliance with density and thickness requirements.
- c) Surface and ride quality shall meet TxDOT Specification Item 585, Surface Test Type A, latest edition.
- d) Haul trucks shall obtain a ticket at the HMAC plant clearly stating the "Type of Mix" and the "Total Weight" of the mix loaded on the truck. The tickets shall be given to the Owner's Representative before the HMAC is off-loaded to the lay down machine.

2025 Street Paving Project Bid Award Item 6C

Case Opperman, PE
Director of Public Works & City Engineer

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June 17, 2025

Bond-Funded Street Improvements

- \$10 million in City street improvements bond funding
- \$2.5 million in Tranche 1 – Approx. \$400,000 spent this spring for curb and gutter repair and valley gutter installations
- Base Bid and Alternate Bid 1 – reconstruction of five (5) streets, milling and asphalt inlay on eight (8) streets, patching and overlay of fifteen (15) streets
- Alternate Bids 2 and 4 – Fly-ash stabilization – preferable option
- Alternate Bids 3 and 5 – Cement stabilization

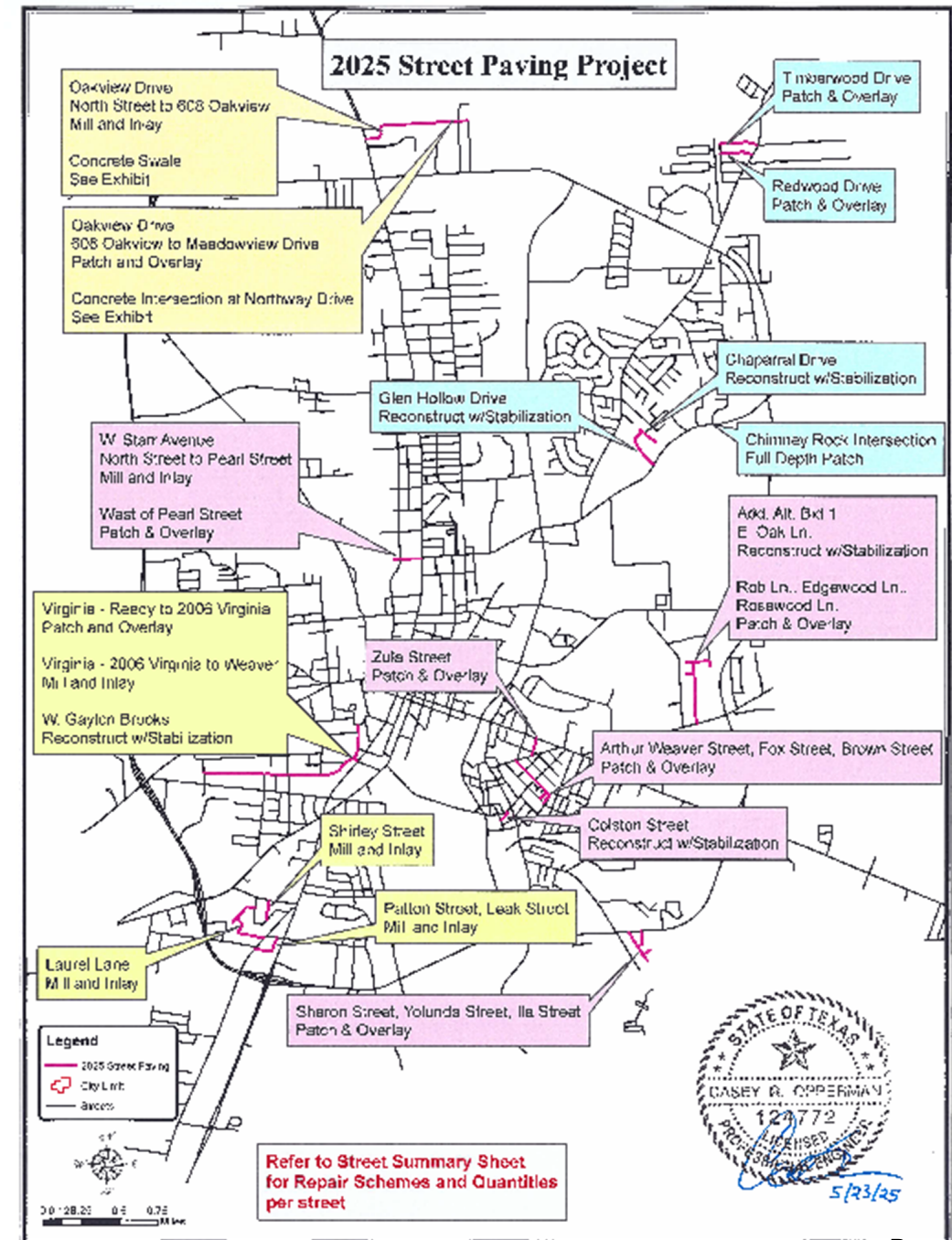
Bid Opening – June 10, 2025

Base Bid plus Alt. Bids 1, 2, and 4

Drewery Construction	\$ 2,180,788.60
L.S. Equipment	\$ 2,457,550.50
Texas Materials	\$ 3,329,733.59

Drewery Construction has completed numerous projects for the City

Budget is available for this contract from remaining Tranche 1 Bond Funds and Street Maintenance Fee funds



Questions?

PRESENTER: Jerry Baker, City Attorney

ITEM/SUBJECT: Consider approval of an ordinance of the City of Nacogdoches, Texas amending Chapter 86 – "Streets, Sidewalks and Other Public Places", Article II - "Public Places", of the Code of Ordinances of the City of Nacogdoches, Texas; Providing a Severability Clause; Providing a Continuation Clause; Providing a Repeal Clause; and Providing an Effective Date. (City Attorney)

SUMMARY/BACKGROUND: The City of Nacogdoches is authorized under Article II, §20 of its Charter to exercise the power to control, regulate, and remove all obstructions, encroachments, and encumbrances on any public street, right-of-way, avenue, or alley. Moreover, under Article II, §21 of its Charter, the City has exclusive control over all City parks and playgrounds, and to control, regulate, and remove all obstructions and prevent all encroachments thereupon. Based on such authority, the City Council of the City of Nacogdoches has adopted an ordinance addressing camping on city-owned property. Section 86-27 reads "No overnight camping is permitted on any city-owned property, unless permitted by the city manager (sp) or his/her designee."

The State of Texas has enacted a similar restriction under Texas Penal Code §48.05 which makes it an offense for a person to camp in a public place without proper consent. However, under this section of the Penal Code, camping is defined more broadly to prevent attempts at even temporary residency on public property. The downside of reliance on this statute for enforcement is how it addresses the preservation of personal property that might be left behind if someone is detained in violation of the statute. There is no apparent limitation to the time period the police department would have to maintain this property once it has been confiscated. However, Section 48.05 includes a subsection specifying that it does not preempt an ordinance or rule adopted by a municipality relating to camping in a public place if the ordinance or rule is compatible with and equal to or more stringent than the offense prescribed under the Penal Code.

The proposed amendment to Section 86-27 seeks to do just that by adopting a definition similar to that found in Texas Penal Code §48.05. Moreover, while the amended ordinance also allows for the confiscation of personal property for violations of the camping ban, it places time limitations on any requirement that the Nacogdoches Police Department retain confiscated property if it remains unclaimed by the owner, as well as grants the ability to immediately dispose of property if determined to be a "threat to the health, safety, or welfare of the public."

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: Jerry Baker, City Attorney
bakerj@nactx.us
(936) 559-2503

ATTACHMENTS: 1. Ordinance_86_27_Camping on Public Property

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, AMENDING CHAPTER 86 – “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”, ARTICLE II. – “PUBLIC PLACES”, OF THE CODE OF ORDINANCES OF THE CITY OF NACOGDOCHES, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CONTINUATION CLAUSE; PROVIDING A REPEAL CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, Texas Penal Code §48.05 makes it an offense for a person to camp in a public place without the proper consent, but provides further that it does not preempt an ordinance or rule adopted by a municipality relating to camping in a public place if the ordinance or rule is compatible with and equal to or more stringent than the offense prescribed under the Penal Code; and

WHEREAS, the City of Nacogdoches is authorized under Article II, §20 of its Charter to exercise the power to control, regulate and remove all obstructions, encroachments, and encumbrances on any public street, right-of-way, avenue, or alley; and

WHEREAS, the City of Nacogdoches is further authorized under Article II, §21 of its Charter to have exclusive control over all City parks and playgrounds, and to control, regulate and remove all obstructions and prevent all encroachments thereupon; and

WHEREAS, the City Council of the City of Nacogdoches has exercised such authority and adopted ordinances which govern camping on city-owned property; and

WHEREAS, the City Council has determined the need to amend certain portions of these ordinances as set forth herein;

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

SECTION I

All above premises are hereby found to be true and correct legislative and factual findings.

SECTION II

CHAPTER 86 – “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”, ARTICLE II. – “PUBLIC PLACES” of the Code of Ordinances of the City of Nacogdoches, Texas, is hereby amended, as set hereafter to include the following:

Sec. 86-27. Camping on city property.

(a) The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

“Camp” means occupying or residing in a location as a dwelling place for any length of time, including activities such as:

- (1) storing personal property;
- (2) making a camp fire;
- (3) using a vehicle, tent, improvised shelter, or other structure for living accommodations;
- (4) cooking;
- (5) sleeping; or
- (6) digging.

“City-owned property” means any property owned and controlled by the City of Nacogdoches, including any such building, parking lot, driveway, street, alley, sidewalk, park, playground, recreational facility, swimming pool, hiking/bike path, or right-of-way.

(b) ~~No overnight camping is permitted~~ It shall be unlawful for any person to camp on any city-owned property, unless specifically permitted by the city manager or his/her designee.

(c) When personal property is used or stored in violation of this section, a police officer or code enforcement officer shall give warning to the person who owns, uses, or possesses the property, if he or she can be identified, to remove it from city-owned property. If the personal property is not immediately removed, it shall be deemed abandoned and may be confiscated.

(d) The city makes no warranty or guarantee concerning the storage or maintenance of any confiscated property under this section. If the person who owns or claims to own the personal property fails to reclaim said property within thirty (30) days from the date of confiscation, the city may destroy said property. Alternatively, if any confiscated personal property is deemed a threat to the health, safety, or welfare of the public, such as fire hazards, explosive hazards, infectious or pathogenic hazards, or infestations of vermin, including rodents, lice, roaches, or fleas, the city may immediately destroy said property.

(e) The prohibitions set forth in section do not apply:

- (1) to city officials or employees acting in their official capacity;
- (2) to contractors of the city, when such activities are associated and performed in conjunction with the terms of a contract with the city; or

(3) to the organizers or participants of a special event permitted under a special event permit issued under chapter 74, article IV, of the Code of Ordinances, unless the permit specifically prohibits the activity in question.

(a)(f) Any person in violation of the provisions of this section shall, upon conviction, be fined in accordance with Section 1-14 of the Code of Ordinances.

(Code 1971, § 7-98; Ord. No. 1535-11-09, § 3, 11-17-2009; Ord. No. 1695-4-15, § 2, 4-21-2015)

SECTION III

Severability. If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be held to be invalid or unconstitutional, such holding shall in no way affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end provisions of this Ordinance are declared to be severable.

SECTION IV

Continuation. All provisions of Chapter 86 of the Code of Ordinances existing prior to the date of passage of this Ordinance remain in full force and effect.

SECTION V

Repeal. This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Nacogdoches, and this Ordinance shall not operate to repeal or affect any such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with provisions of this Ordinance, in which such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION VI

Effective Date. This Ordinance shall take effect ten (10) days from its passage and publication as may be required by governing law.

SECTION VII

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

SECTION VIII

Official Public Records. 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.

PASSED AND APPROVED this the ____ day of _____, 2025, by a vote of ____ (ayes) to ____ (nays) of the City Council of the City of Nacogdoches.

ATTEST:

CITY OF NACOGDOCHES

Rhonda Lewis, City Secretary

BY: _____
Randy Johnson, Mayor

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Jerry Baker, City Attorney

Scott Weems, Chief of Police

PRESENTER: Jessica Sowell, Community Services Director

ITEM/SUBJECT: Discuss and consider Field Lease Agreement by and between the City of Nacogdoches and Nacogdoches Sports and Entertainment, LLC. (Community Services Director)

SUMMARY/BACKGROUND: The Mid-America Baseball League consists of 6 teams with up to 40 players who are a mix of collegiate and noncollegiate amateur players. The teams are spread across the south-central region of the U.S., and each plays a 64-game schedule throughout the summer season. This summer league seeks to serve as a source of development for its players during the summer months, as well as add a fun and inviting summer entertainment opportunity to its host cities. After only one completed season, the Mid-America League has already seen plentiful growth of its events, as well as several of its players moving on to play for professional minor or major league teams.

The Mid-America League is seeking an agreement with the City of Nacogdoches and SFASU to use the existing facilities at the Nacogdoches Baseball Complex to be a home base for a new summer league team in Nacogdoches. The establishment of this team would utilize the existing SFA field during a time of the year that it is not heavily used. It would also add a summer sports entertainment option to Nacogdoches. An agreement with the City of Nacogdoches and SFASU would function as a sublease of the property with which SFA currently has an exclusive use agreement. The Mid-America League will need to work with the Nacogdoches Boys Youth Baseball Association to discuss the potential use of the concession stand as the Nacogdoches Boys Youth Baseball Association has an exclusive use agreement with the City of Nacogdoches for the concession stand. The Mid-America League recognizes the importance of community involvement, and they plan to seek community input in choosing a name that represents and honors Nacogdoches.

This lease agreement outlines the specifics of the use agreement, including investments into the complex, maintenance, janitorial, the responsibilities of each party and the effective dates. The City of Nacogdoches staff have reviewed this contact with Michael McBroom, Stephen F. Austin State University's Director of Athletics, who also approved of this agreement and its terms.

FINANCIAL:

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

CITY CONTACT: Jessica Sowell, Community Services Director
sowellj@nactx.us
936-559-2935

- ATTACHMENTS:**
1. Nacogdoches Jaycees Field Lease Agreement
 2. Baseball Lease Agreement - PPT

JAYCEES FIELD LEASE AGREEMENT

BY AND BETWEEN

CITY OF NACOGDOCHES, TEXAS

AND

NACOGDOCHES SPORTS AND ENTERTAINMENT, LLC

IN WITNESS WHEREOF, Mid America League Baseball, LLC (“TEAM”) a limited liability company organized and existing in good standing under the laws of the state of Delaware, which may assign this agreement to Nacogdoches Sports and Entertainment, LLC, herein referred to as (“NSE”) and the City of Nacogdoches (“CITY”), (collectively referred to herein as the “Parties” and each separately as a “Party”), have agreed to this Use and Management Agreement (“Agreement”) as of the day and year indicated below.

RECITALS

WHEREAS, the members of TEAM are securing a franchise (“Team”) in an NIL branded summer baseball league founded by Ventura Sports Group (“League”) to begin play in May of 2026;

WHEREAS, the TEAM and League desire that Team play at Jaycees Field (“Stadium”) located at 3715 Old Tyler Road Nacogdoches, TX75964 beginning with the 2026 League season;

WHEREAS, CITY desires to have the Team play at the Stadium for the 2026 season and beyond;

WHEREAS, TEAM and CITY are entering into this Agreement for the purpose of the Jaycees Field hosting the Team for the 2026 League season and beyond,

WHEREAS, Stephen F. Austin State University (“SFA”) has certain rights pursuant to a lease agreement between the CITY and SFA;

WHEREAS, the following terms are binding between the Parties.

NOW THEREFORE, in consideration of the Recitals, which are incorporated herein by reference, and the mutual covenants set forth herein, the undersigned Parties hereby agree to the following binding terms:

1. **Stadium Term.** TEAM shall have the right to use the Stadium, subject to SFA rights, including all areas within the area known as Jaycees Field more accurately identified on Exhibit A hereto attached and ancillary parking lots during the entirety of the period for (5) years from approximately May 20th of each year or the weekend of SFA’s conference tournament, whichever is later, through August 15th (referred to here in as “Season”) of each year during the Term (the “Initial Term”).

TEAM may extend this Agreement for up to an additional 5-year period for on similar terms and conditions.

2. **Stadium Management Agreement.** TEAM will manage the Premises for its events and games during the summer months (mid-May through mid-August) during the Term of this Agreement. This management agreement includes, but is not limited to, general maintenance of the Premises, scheduling of games and events, management of games and events, janitorial services and general oversight of the Stadium.
3. **Priority Scheduling Period.** SFA shall have priority (“SFA Priority Period”) over the use days during the time period between August 21st thru May 14h of each year of the Term and may extended in the event SFA’s post season is extended where the Stadium would be used for playoff games.

TEAM shall have scheduling priority for TEAM’S home games during the time period of May 15th – August 20th (“Team Priority Period”). The parties, including SFA, will communicate to avoid scheduling conflicts. Premises shall be defined on the attached Exhibit A and shall include, but is not limited to the playing field, seating bowl, picnic areas, batting cages, buildings and structures, restrooms, concessions, storage areas, press box, ticket booth and hospitality area. TEAM shall also be permitted to use adjacent parking areas at the site. Unless a separate agreement is reached between SFA and TEAM, Premises shall not include any facilities in which SFA has been granted exclusive rights under the terms of the Lease Agreement between SFA and the CITY, to include, the storage facility between Hoya Field and the Softball Field, SFA’s portable buildings, and its specialized facilities, as specified therein.

Moreover, the CITY has previously entered into a Facilities Utilization Agreement with Nacogdoches Youth Baseball Association. Nothing herein shall be construed to as superseding or interfering with Nacogdoches Youth Baseball Association’s use of any applicable facilities located at the Nacogdoches Baseball Complex during the term of Facilities Utilization Agreement, including the exclusive use of the concession stand, unless and until a separate agreement permitting such use is reached between TEAM and Nacogdoches Youth Baseball Association.

4. Stadium Renovations, Capital Contributions and Rent.

Stadium Upgrades

During the Term of the lease agreement, the TEAM shall make stadium upgrades to include, but is not limited to, an investment in the aggregate of \$25,000 to improve fan amenities and overall experience.

Rent

TEAM shall pay \$100.00 per game for exclusive use of the Stadium during the period between May 20th and August 15th for each year during the Term.

Additional Rent

TEAM shall pay the CITY \$0.50 cents per paid ticket of \$4.00 or more.

5. **Team.** The TEAM agrees to provide a Team in good standing as a member of the League during the Initial Term of this Agreement and any Additional Term.
6. **Field Equipment & Maintenance.** SFA shall be responsible for field maintenance throughout the year. The TEAM will compensate SFA for its field maintenance during the TEAM's season in an amount to be determined by TEAM and SFA.
7. **Stadium Cleaning.** For all of its events, TEAM shall provide cleaning and janitorial services for the Stadium, including the seating areas, concourse, rest rooms, clubhouses and parking lots. Cleaning shall include items such as garbage removal, sweeping of concourse and patron walkways and pressure washing as needed.
8. **Utilities.** The CITY shall be responsible for providing Stadium utilities (electricity, water, sewer, disposal service) and the cost thereof, except that TEAM shall be responsible for the cost of electricity during the Season which exceeds the average usage by the CITY for the five (5) years preceding the date of this Agreement.
9. **Ticketing.** TEAM will utilize the existing ticketing structure at the Stadium with which TEAM can sell tickets to Team events. Beyond ensuring there is necessary utility service in place for Team's ticketing needs, TEAM shall be responsible for all costs for any modifications. TEAM shall also be responsible for all costs for the Team's ticketing system including licensing fees, per ticket printing fees, sales taxes, payroll and payroll taxes for Team events.
10. **Concessions.** TEAM will have exclusive rights to food and beverage sales at the Stadium for its home games and events.

Pursuant to Section 18-27 of the Code of Ordinances for the City of Nacogdoches, Texas, the CITY authorizes the TEAM to procure a liquor license through the Texas Alcohol Beverage Commission ("TABC") for the sale of beer and wine at its home games and events, and hereby grants a special event permit to TEAM to allow for the consumption, possession, and/or sale of beer and wine at the Stadium at home games during the Term of this Agreement. This permit shall not extend beyond the boundaries of the Stadium as demonstrated on the attached Exhibit B.

TEAM will be responsible for all costs associated with providing food and beverage services for Team's games, including labor, storage, product cost, taxes, insurance and licenses.

11. **Sponsorship.** TEAM will have exclusive rights to all Stadium sponsorship and advertising ("Sponsorship Elements") at the Premises during its Season. This includes, but is not limited to, outfield wall signs, concourse and other stadium banners, ticket booths, stadium entrances,

parking areas, field level signs, dugout tops, interior dugout walls, fixed scoreboard panels, program stands, retail store, concourse wall signs and displays, table-tops, beer garden, picnic areas and group areas, as well as concession menu boards and concession stands if such use is granted in TEAM's agreement with Nacogdoches Youth Baseball Association.

All costs to produce, install and remove the Sponsorship Elements shall be the sole responsibility of TEAM.

TEAM agrees that the kind, type, size and location of all Sponsorship Elements shall be in keeping with the character of the Stadium. CITY shall have the authority to prohibit advertising which it deems offensive or inappropriate, which right will not be unreasonably implemented.

The TEAM agrees that it will replace and return any sponsor signage to its original position within ten (10) days after the conclusion of the TEAM's Season.

12. **Scoreboard.** After satisfactory training of TEAM personnel by CITY on the proper use of the Stadium scoreboard, such scoreboard may be used by TEAM during the Term for its events. TEAM shall be responsible for repairing any and all damage to the Stadium scoreboard which occurs during or as a result of TEAM's use thereof. Otherwise, maintenance of the Stadium scoreboard shall be the sole responsibility of CITY.
13. **Broadcasting.** TEAM shall retain all revenue or benefits from Team's broadcasting, cable casting, internet transmission or telecasting for any of Team's games played at the Stadium. Any production expenses associated with the broadcasting, cable casting, internet transmission or telecasting of Team's games shall be the sole responsibility of TEAM.
14. **Pouring Rights.** TEAM will procure pouring rights agreements for alcoholic and non-alcoholic beverages at the Stadium.
15. **Parking.** The CITY shall maintain the parking area ("Stadium Parking") adjacent to the Stadium including providing the appropriate number of designated handicap parking spaces to as to comply with applicable Federal, State and local codes. All costs associated with Stadium Parking for Team events including but not limited to payroll, payroll taxes, worker's compensation insurance and supplies are the responsibility of TEAM.
16. **Security.** TEAM shall be responsible for all safety and security for its events held at the Stadium, including, but not limited to providing at least one security police officer during Team's home games. Compensation for security personnel shall be the responsibility of TEAM.
17. **Stadium Operations.** For all Team games, TEAM shall be responsible for the scheduling and training of personnel ("Stadium Employees") necessary to effectively and safely operate the Stadium including but not limited to ticket sellers, ticket takers, ushers, concessions, merchandise, press box and on field personnel. All wages, payroll taxes and worker's

compensation insurance for Stadium Employees are the sole responsibility of TEAM, and TEAM shall indemnify and hold CITY harmless from any and all claims, losses, costs and liabilities, including without limitation attorney's fees, incurred by CITY relating to all such wages, payroll taxes and worker's compensation insurance for Stadium Employees.

18. **Capital Repairs, Maintenance & Replacement.** The CITY shall be responsible for maintenance or replacement of currently intact and usable permanent Stadium fixtures including but not limited to the scoreboard, plumbing, electrical, HVAC, painting, mechanical, Stadium lighting, audio system, buildings and structures, pedestrian traffic surfaces, seating, playing field, back stop netting and adjacent parking lot. TEAM shall be responsible for any maintenance, repairs or replacement caused by the willful misconduct or negligence of Team including but not limited to its players, employees, agents and invitees.
19. **Alterations and Improvements.** With prior, written approval of CITY, TEAM may make alterations, additions, and improvements to the Stadium. Any alterations and improvements provided by TEAM that do not become fixtures of the Stadium shall remain the property of TEAM. Alterations, additions and improvements by either Party becoming fixtures shall become property of the Stadium unless otherwise noted herein.
20. **Warranties of Possession.** CITY warrants and covenants that it has the full right to make and enter into this Agreement. TEAM warrants and covenants that it has the full right to make and enter into this Agreement.
21. **Insurance.** TEAM shall at its own expense maintain in effect during the term of this contract the following insurance with limits as shown or greater:

General Liability (including automobile) and Liquor Liability in minimum limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate, combined single limit of \$1,000,000 bodily injury and \$1,000,000 property damage and \$2,000,000 general aggregate. CITY shall be named as Additional Insureds and be given a 30-day notice of cancellations, non-renewal or significant change of coverage. TEAM's insurance shall be written on a "primary" basis and CITY's insurance program shall be in excess of all of TEAM's available coverage. A Certificate evidencing such coverage shall be furnished to CITY prior to the beginning of the Initial Term and thereafter shall be furnished prior to each renewal of such coverage but no less often than annually.
22. **Indemnification.** TEAM agrees that it will indemnify and hold harmless CITY, including individually and collectively, their officer's, agents and employees, including staff, from any loss, cost, damage, expense, attorney's fees, and liability by reason of bodily injury, property damage, or both of whatsoever nature or kind, arising out of or as a result of the negligent act or negligent failure to act by TEAM or any of its agents or employees.
23. **Default.** If either Party shall default in the performance of any obligations of said Party to be performed under this Agreement other than the payment of money and such a default shall

continue for a period of thirty (30) days after written notice of such default shall be given to the defaulting Party by the non-defaulting Party, the non-defaulting Party shall be entitled to terminate this Agreement and exercise all other remedies at equity and law. In any action brought to enforce any material term of this Agreement, the prevailing Party in such action shall be entitled to have all of its litigation costs, including without limitation its attorney's fees, paid by the non-prevailing Party.

In addition to the remedies set forth above, in the event of default by TEAM and after the expiration of any period to cure, in addition to any other remedies at equity and law that CITY may have, CITY shall have the immediate right of re-entry and removal of all persons and property from the Premises.

24. **Termination:** Either party may terminate this Lease in the event of a default. In such an event, the non-defaulting party shall provide thirty (30) days written notice to the defaulting party. The defaulting party shall have the thirty (30) day period to cure said default. In the event that the defaulting party fails to cure during the thirty (30) day period, the non-defaulting party may terminate this lease.
25. **Termination for Non-Funding.** In the event appropriate funding is not allocated for the City's fiscal year when sources of such funding have been terminated, suspended, or otherwise reduced as a result of actions taken by the State of Texas, the City may terminate this Agreement at the end of the TEAM's current season by giving written notice to TEAM.
26. **Force Majeure.** The Parties shall not be liable for failure of performance under this Use Agreement if occasioned by declared or undeclared war, flood, fire, embargo, governmental orders, regulations, governmental expropriation, interruptions of transportation facilities, labor strikes, public health emergency, terrorist event and disputes, or any other causes beyond the control of the Parties.
27. **Entire Agreement.** This Agreement supersedes all previous contracts or agreements between the Parties with respect to the same subject matter and does constitute the entire Agreement between the Parties hereto. The Parties shall neither be entitled to any benefits other than those herein specifically enumerated.
28. **Waiver of Breach.** The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as nor be construed to be, a waiver of any subsequent breach hereof.
29. **Governing Law.** This Agreement shall be construed and governed by the laws of the State of Texas. Nacogdoches County, Texas shall be the sole and exclusive venue for any litigation, special proceeding, or other proceeding between the parties that may be brought in connecting with or that arise out of this Agreement.

30. **Severability.** In the event that any provision hereof is found invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms.

31. **Interpretation.** The Parties hereto acknowledge and agree that (i) each Party has reviewed the terms and provision of the Agreement; (ii) the rule of construction to the effect that any ambiguities are resolved against the drafting Party shall not be employed in the interpretation of this Agreement; and (iii) the terms and provisions of this Agreement shall be construed fairly as to all Parties hereto and not in favor or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

32. **Amendments.** This Agreement may be amended only by an instrument in writing signed by the Parties hereto.

33. **Execution.** This Agreement and any amendments thereto shall be executed in duplicate copies on behalf of TEAM and CITY. Each duplicate copy shall be deemed an original, but both duplicate originals together constitute one and the same instrument.

34. **Notices.** Notices or communications herein required or permitted shall be provided to respective Parties by registered or certified mail (said notices being deemed given as of the date of mailing) or by hand delivery at the following addresses unless either Party shall otherwise designate its new address by written notice:

To TEAM:

Attn: Mr. Mark Schuster
1273 Pearwood Court
Mount Pleasant, SC 29466
mark@vsgsports.com

To CITY

Attn: Mr. Richard Beverlin, III, City Manager
City of Nacogdoches
202 E Pilar Street
Nacogdoches, TX 75961
beverlinr@nactx.us

Dated this ____ day of _____, 2023.

Mid America League Baseball, LLC ("TEAM")

Mark Schuster

By: _____

Its: Managing Member

CITY OF NACOGDOCHES ("CITY")

By: _____

Its: _____

Exhibit A

Premises



Nacogdoches Baseball Complex Alcohol Boundary

Nacogdoches, Texas

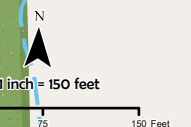
Exhibit B
Alcohol Sales Boundary

Legend

 Alcohol Boundary

Data Source: City of Nacogdoches Engineering Department, GIS Division • Projection: State Plane NAD 83 • Software: ArcGIS Pro 3.2.2 • Created: 05/16/2025

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.





FIELD LEASE AGREEMENT

City of Nacogdoches and Nacogdoches Sports



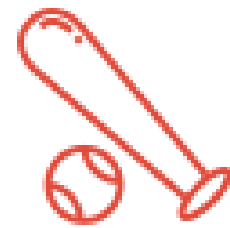
This agreement between the City of Nacogdoches and Nacogdoches Sports and Entertainment, LLC would allow for use of the Jaycee Field at the Nacogdoches Baseball Complex. by the Mid America League .



Does not effect the use of the Nacogdoches Baseball Complex by SFA Baseball or the Nacogdoches Youth Boys Baseball Association. Those agreements will stay in place.



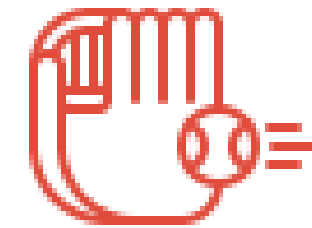
FIELD LEASE AGREEMENT



If approved a Mid America League will be established for the Summer 2026 season.



Mid America will be allowed to sell concessions and alcohol within their use boundaries.



Agreement outlines rules, responsibilities, time frames and investment into the complex by both parties.

City of Nacogdoches Baseball Complex



0 25 50 100 150 200 Feet

Hazel

Lions

Farm Field A

Farm Field B

Optimus

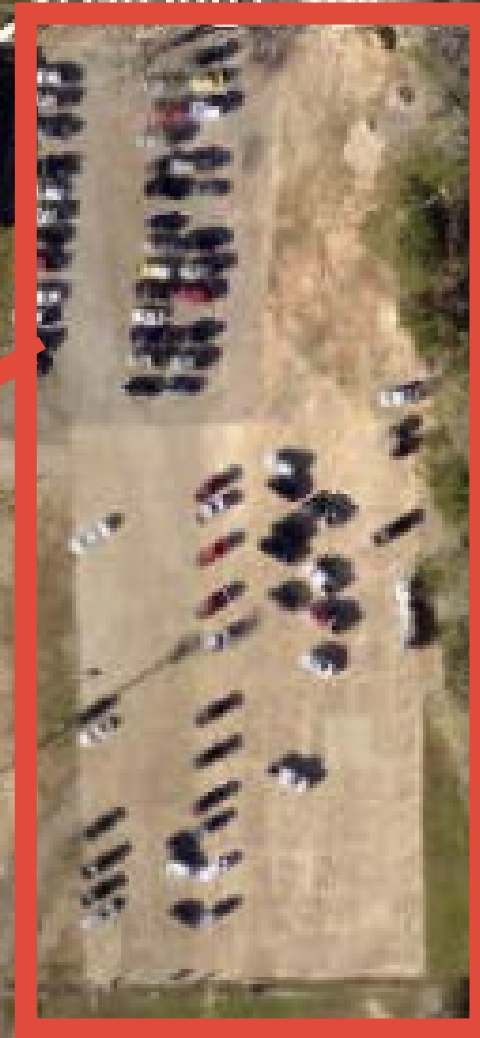
Fieldhouse

Batting Cage

T-Ball

Hoya

Jaycee Field





City Council Meeting

Date: June 17, 2025

Agenda Item: 7.G.

PRESENTER: Scott Weems, Police Chief

ITEM/SUBJECT: Consider approval of the purchase of an Interview Recording System and approval by and between Nacogdoches Police Department and Motorola Solutions. (Chief of Police)

SUMMARY/BACKGROUND: Consider approval of the purchase of an Interview Recording System that is outdated and no longer usable. This will include an extended warranty of 4 years and cloud -based video manager along with hardware, accessories and implementation. This purchase is not to exceed \$18,584.29 over a 5-year period.

Consider approval of a contract by and between the City of Nacogdoches Police Department and Motorola Solutions for an Interview Recording System not to exceed \$18,584.29.

FINANCIAL:

Item is budgeted:

Account No.: 01.15.610.35

Account Name: *Office Equipment*

Amount: \$18,584.29

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

Not Applicable

CITY CONTACT: Scott Weems, Chief of Police
weemss@nactx.us
(936) 559-2619

ATTACHMENTS: 1. Motorola Interview Recording System

**MOTOROLA SOLUTIONS***negotiated agreement*

QUOTE-3136269

Billing Address:

NACOGDOCHES POLICE DEPT,
CITY OF
312 W MAIN ST
NACOGDOCHES, TX 75963
US

Quote Date:05/20/2025

Expiration Date:06/27/2025

Quote Created By:

Blake Galloway
Regional Sales Manager
Blake.Galloway@
motorolasolutions.com
214-551-2709

End Customer:

NACOGDOCHES POLICE DEPT, CITY OF

Contract: 39000 - DIR-CPO-5433

AGREEMENT: WG AGREEMENT

Payment Terms:30 NET

Line #	Item Number	APC	Description	Qty	Term	Sale Price	Ext. Sale Price
	M500 Interview Recording System						
1	WGB-0735A	0851	M500 INTERVIEW SYSTEM, 1 DOME & 1 COVERT CAMERAS	2		\$4,979.20	\$9,958.40
2	WGW00502	0854	M500 EXTENDED WARRANTY	2	4 YEAR	Included	Included
	CommandCentral Interview Room						
3	ISV00S02379A	0331	DELIVERY SERVICES	1		\$0.00	\$0.00
4	SSV00S03616A	0612	SOFTWARE,COMMANDCENTR AL INTERVIEW ROOM SUBSCRIPTION*	1	5 YEAR	\$2,000.00	\$2,000.00
	VideoManager EL or EX: Video Evidence Management						
5	PSV00S03898A	0914	ON-SITE DEPLOYMENT, CONFIGURATION AND PROJECT MANAGEMENT	1		\$1,499.99	\$1,499.99
6	WGC02002	0696	VIDEOMANAGER EL CLOUD, ANNUAL UNLIMITED	2	5 YEAR	\$1,000.00	\$2,000.00



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.

Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 - #: 36-1115800

Line #	Item Number	APC	Description	Qty	Term	Sale Price	Ext. Sale Price
			STORAGE PER IN-CAR VIDEO SYSTEM WITH 2 CAMERAS*				
7	WGW00121	0840	IN-CAR SYSTEM INSTALLATION (PER UNIT CHARGE)	2		\$1,000.00	\$2,000.00
Subtotal							\$72,823.98
<u>Total Discount Amount</u>							\$54,239.69
Grand Total							\$18,584.29(USD)

Pricing Summary

	Sale Price
Upfront Costs for Hardware, Accessories and Implementation (if applicable)	\$14,539.87
Year 2 Subscription Fee	\$1,081.48
Year 3 Subscription Fee	\$1,081.48
Year 4 Subscription Fee	\$1,081.48
Year 5 Subscription Fee	\$800.00
Grand Total System Price (Inclusive of Upfront and Annual Costs)	\$18,584.29



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.

Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800

PRESENTER: Jessica Sowell, Community Services Director, Jerry Baker, City Attorney

ITEM/SUBJECT: Discuss, update and consider adoption of updated City of Nacogdoches Public Event Guidelines. (Community Services Director and City Attorney)

SUMMARY/BACKGROUND: The Nacogdoches City Council discussed Event Permit Guidelines and Fee Structures on February 12, 2025, as well as March 4, 2025. As a result, the Council formally adopted Event Permit Guidelines and fees. At those discussions, the City Council asked staff to bring back clarifications and updates as needed. At this time, the City Staff would like to discuss three clarifications to the Event Permit Guidelines.

Staff are proposing four clarifications to the existing guidelines based on feedback from City Council during the March 4th meeting and discussions among City staff. These clarifications are in the private event section, alcohol section and road closure section.

FINANCIAL:

No financial impact associated with this item

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

CITY CONTACT: Jessica Sowell, Community Services Director
sowellj@nactx.us
936-559-2935

Jerry Baker, City Attorney
baker@nactx.us
936-559-2503

ATTACHMENTS:

1. Public Event Guidelines and Permitting_rev
2. Event Guideline Update (1)



Public Event Guidelines and Permitting

The City of Nacogdoches recognizes that special events serve an important role in Nacogdoches, including creating a sense of community, fostering tourism and business development, and entertaining and educating its citizens. Each year the City of Nacogdoches commits many available resources through staff time, facilities, and equipment to provide support to these events. As the number and size of events grow, it is necessary to provide individuals and event organizers with a consistent process to better coordinate efforts related to event management and support.

The purpose of the Public Event Guidelines and Permitting process is to provide a resource to event organizers to streamline the approval process for special events held in the City of Nacogdoches. It also allows staff an opportunity to review events and be able to prepare effectively in advance. The checklist and the other required information are designed to help event organizers prepare more effectively and as a result, present a successful event to their intended audience.

All events requiring the use of city services or occurring on city property must apply for an event permit. (The only exception to this is renting a pavilion at a city park which requires no city services.) Submitting the initial application does not guarantee event approval. Event organizers will receive feedback from city staff within 14 days of receipt of application. This could be in the form of approval, denial, or request for information or modification. City staff may recommend the modification of some details of the event (such as location or city services needed). Events should not be promoted to the public until approval is received.

Designation of Event Categories

Because the needs of events vary greatly based on size, purpose, and function, the following categories have been designated by city event staff.

1. A **small event** refers to any event with less than 500 attendees. These events may or may not require the use of city services including road closures, alcohol permitting, security, garbage/dumpster removal, etc.
2. A **large event** refers to any event with over 500 attendees. These events will require the use of city services including road closures, alcohol permitting, security, garbage/dumpster removal, etc.
3. A **running event** refers to any walk, 5K, 10K, half marathon, or marathon. These events may have various numbers of participants, and they will require the use of some city services including road closures and security. Organizers may choose from a set number of routes designated by city event staff. Event organizers may request deviations from these routes, but approval is subject to review by the Nacogdoches Police Department, Public Works, and city event staff.



4. A **parade event** refers to a parade of floats, vehicles, and groups. These will require services including security, the temporary closure of streets, and garbage/dumpster removal. Organizers may choose from a set number of routes designated by city event staff. Event organizers may request deviations from these routes, but approval is subject to review by the Nacogdoches Police Department, Public Works, and city event staff.

Event Permit Process Private Events

~~An event permit must be obtained by the event organizer to host a public event in Nacogdoches which either a) requires the use of City services or b) takes place on City property. The requirements for these events vary slightly based on the event type and size. More than one application may need to be submitted if the event contains multiple of these categories (example: a run that ends with a festival in a park).~~

Private events which are not open to the community will not be allowed on city property. This includes private and/or ticketed events held by individuals or businesses seeking to limit access to all or parts of city streets, facilities, or properties. This exclusion does not apply to the short-term rental of specific facilities designated by the City and available for hosting private events in accordance with city policy. Such facilities include:

1. Park pavilions located at the city parks;
2. Liberty Hall;
3. Zion Hill Baptist Church; and
- 4.4. The CL Simon Recreation Center-Gymnastics Room.

Event Permit Process

An event permit must be obtained by the event organizer to host a public event in Nacogdoches which either a) requires the use of City services or b) takes place on City property. The requirements for these events vary slightly based on the event type and size. More than one application may need to be submitted if the event contains multiple of these categories (example: a run that ends with a festival in a park).

1. Small Events

- a. Small event (less than 500 expected attendees) applications must be completed and submitted at least 45 days prior to the event date.
- b. Applications must include maps, expected number of attendees, expected city services needed, proof of insurance, and other relevant event and organizer information.



- c. If alcohol is to be served, both the event permit application and the alcohol permit application must be completed and submitted 90 days prior to the event date.

2. Large Events

- a. Large event (over 500 expected attendees) applications must be completed and submitted at least 90 days prior to the event date.
- b. Applications must include maps, expected number of attendees, expected city services needed, proof of insurance, and other relevant event and organizer information.
- c. If alcohol is to be served, both the event permit application and the alcohol permit application must be completed and submitted 90 days prior to the event date.
- d. If the event requires the closure of Main Street for more than 4 hours, the event permit must be completed and submitted 90 days prior to the event date.

3. Running Events

- a. Running event applications must be completed and submitted at least 90 days prior to the event date.
- b. Running event organizers must choose their route and submit relevant event information such as expected participants, event time, police presence requested, and locations to be used for staging, setup, and awards.
- c. The provided routes in the event permit application are encouraged. Other routes may be used if provided and approved by event permitting staff. Event organizers must have permission from property owners to use their location as the start/stop point and/or awards location.

4. Parade Events

- a. Parade event applications must be completed and submitted at least 90 days prior to the event date.
- b. Parade event organizers must choose a provided/approved route and submit relevant event information such as expected floats, vehicles, and groups participating, event time, police presence requested, and locations to be used for staging, setup, announcers, etc.

Permit Review and Regulations

- Some large events (including large running events and parades) may require logistical planning with City of Nacogdoches staff. This could include plans for emergency protocol, security, etc. If a logistics planning meeting is needed for an event, City of Nacogdoches staff will reach out to the event organizers to schedule the meeting at least 30 days in advance of the event.
- Some large events may be required to designate a specific area for first aid and lost children to be designated on event maps.



- Event permit applications will be reviewed for safety concerns, as well as compliance with all event policies, City of Nacogdoches policies, local ordinances, state laws, and federal laws. Various departments including Facility Maintenance, Public Works, Police, Fire, Community Services, and Public Health will review the applications before approval or denial.
- The City of Nacogdoches reserves the right to stop an event at any time if it is deemed a public safety issue or if any of the event policies laid out in this document are violated.
- Failure to comply with any listed policies may result in refusal of future event permits to the organizers of the event.
- Organizers of large events (including some large running events and parades) may be required to hold event wrap-up meetings with City of Nacogdoches staff. Organizers will be contacted if this is necessary. Organizers may request a wrap-up meeting if they plan to host the event again and would like to discuss future event logistics with City staff.
- All event permit applications must identify an authorized representative as the primary contact that will make event-related decisions and communicate with City of Nacogdoches staff regarding the event. This person must be in attendance at the event or designate an on site representative for the day of the event.
- All events must follow all local, state, and federal laws and ordinances.
- Any wayfinding signage for events (including running events and parades) must be placed in City of Nacogdoches right-of-ways and removed promptly after the event.

Fees

- A base event permitting fee will be billed to all events. Depending on the size of event and city services required, additional fees for security, street closures, janitorial, and other city services may be required and will be due 14 days prior to the event. These fees will be based on the fee structure approved by the Nacogdoches City Council.
 - A list of current event fees can be found at the end of this document.
 - All event fees (excluding security) may be paid through the online event permit link after approval by event staff.
 - If an event is cancelled less than 14 days in advance for any reason other than inclement weather, no refund of event fees will be given. If the event is cancelled due to inclement weather, the event organizer will be refunded 100% or given the option to reschedule for a future date.

Additional Permits and Steps

- Additional permitting steps are required if:
 - the event includes the sale or consumption of alcoholic beverages
 - the event includes the use of sound equipment
 - the event requires the closure of Main Street for more than 4 hours
 - the event includes a fireworks display
- Any festival or event requiring the closure of Main Street (SH 21) for more than four hours must be reviewed and approved by the Nacogdoches City Council. This closure



request will be forwarded to the Texas Department of Transportation(TXDoT) for final approval. A permit must be submitted to the City event staff no later than 90 days before the event.

- Neither Main Street nor the roads surrounding Main Street will be closed for more than 48 consecutive hours.
 - A Main Street closure of more than 4 hours will not be permitted unless an event is categorized as a large event. This time frame must include all setup, cleanup, and event time.
 - To allow emergency vehicle access, event organizers must arrange emergency pick-up and drop-off locations (on the north side of the square for Downtown events).
- Any festival or event involving the use of sound equipment requires the application and issuance of a sound equipment permit.
- Any festival or event involving the sale, possession, and/or consumption of alcoholic beverages requires an alcoholic beverage permit and additional insurance.
 - Alcoholic beverage permit requirements include a map of the designated area for alcoholic beverage sale, possession, and/or consumption.
 - Alcoholic beverage permits will be reviewed and approved by City event staff, Parks Department, Fire Department, Police Department, Public Works Department, and the City Manager.
 - If alcohol is to be sold, \$1,000,000 liquor liability insurance is also required.
- Any event or festival that seeks to incorporate a firework display, or wishes to use any form of pyrotechnical device, must utilize a contractor properly licensed by the Texas State Fire Marshal. The contractor and the firework/pyrotechnical display must meet all other applicable State requirements, as well as the requirements of the City of Nacogdoches adopted Fire Code. The contractor shall submit a State Fire Marshal's Office Application for a Fireworks License or Permit form to the Nacogdoches Fire Marshals Office at least 45 days in advance of the event. Additionally, the contractor shall submit a site plan clearly indicating the exact location where the fireworks are to be used, debris fall out zones and distances, and proximity to structures.
 - Please note that the Nacogdoches Fire Marshal's Office or any officer of the Nacogdoches Fire Department may require the postponement or cancellation of any previously approved display, at any time, if adverse atmospheric or drought conditions exist, or for any other safety concern that may arise.

Alcohol Sale/Use at Events

Festivals and all-size events involving the sale, possession, and/or consumption of alcohol must be coordinated with the City event staff to ensure compliance with City of Nacogdoches ordinances and policies.

No permit shall be issued until satisfactory proof has been provided for liability insurance and compliance with the Texas Alcoholic Beverage Code, as amended, and rules issued by the



appropriate state agency. The City Manager maintains sole discretion to approve or deny an alcoholic beverage permit for the sale, possession, and/or consumption of alcohol in City-owned buildings, facilities, and parks in accordance with Section 18-27 of the Code of Ordinances. The City Manager is further authorized to implement such other appropriate safety and control regulations concerning location, hours of operations, security, and other appropriate conditions to protect the health, safety, and welfare of the general public and event attendees. (Section 18-27.)

- Alcohol is allowed only during a festival/event that is approved by the City Manager or designee.
- The applicant must submit a festival/event permit application at least 90 days before the proposed festival that includes the following documentation:
 - A graphic layout of the festival/event with a clearly defined designation area for alcoholic beverage sale, possession, and/or consumption area shown.
 - Proof of required licenses, permits, and paid fees mandated by state and local law for the sale of alcoholic beverages.
- The sale, possession, and/or consumption of alcoholic beverages shall be limited to the designated event area.
- If the designated area is in a walled tent (including a roof and four walls), then normal fire code provisions must be met.
- Security must be approved by the city and remain on-site for the duration of the festival/event.
- Alcoholic beverages may only be sold, possessed, or consumed following TABC regulations.
- No glass containers are allowed downtown or on city property.
- The applicant will be responsible for the proper disposal of all trash.

Additional Parade Guidelines

- Parade organizers must choose between the set routes provided by City event staff. Organizers may request deviations from these routes, but approval is subject to review by the Nacogdoches Police Department, Public Works, and city event staff.
- A parade entry/float list with signed applications should be submitted to City event staff no later than 14 days before the event.
- The parade application must be submitted with the event permit application. All parade applications should contain the following information which must be signed by all float/groups in the parade:
 - All parade participants who drive floats or motored vehicles must have a valid driver's license and vehicle liability insurance.
 - All floats must fit within the following dimensions:
 - Maximum Width: 10 feet
 - Maximum Length: 30 feet for motorhomes OR Truck with max 24-foot trailer



- Maximum Overall Height: 13 feet
- Floats larger than the dimensions specified above will be disqualified.
- No 18-Wheelers with trailers will be allowed. (Bobtail trucks without trailers may be allowed if they meet the height requirements.)
- No candy or other materials may be thrown or distributed along the parade route. The distribution of gifts, merchandise, literature, or other materials along the parade route is prohibited.
- Any parade entry using a generator must have a 5 lb ABC Extinguisher with a current State Fire Marshal inspection tag attached to the float.
- For the safety of participants and spectators, no unaltered male (stud) horses are allowed in parades.
- Livestock must be diapered, or parade organizers must provide immediate cleanup personnel before the next float/group.
- All vehicles driven in parades must be in good, working order. If a vehicle breaks down during a parade, it will be moved to the side and cannot continue in the parade.
- All parade participants riding or standing on floats or motorized vehicles must wear safety belts, have hand holds, or have back supports securing them in place while the float/vehicle is in motion.
- Squirt guns, silly string or other items potentially dangerous to spectators or participants are prohibited during the parade.
- All parts of the frame must be high enough to clear surfaces to and from the parade assembly area through the dispersal area. All parts of the full-decorated float must clear the ground by a minimum of 10 inches with the exception of fringe. Flooring must be strong enough for all riders.
- A turn radius of 45 degrees to the right and left is mandatory.
- No alcoholic beverages of any kinds will be allowed in or on the float or tow vehicle. The consumption of alcoholic beverages is strictly prohibited and violators will be prosecuted.
- Wire and lighting devices must have sufficient capability for the use intended for them on the float. Wiring should be properly secured to the float to avoid mechanical damage and injury to float riders and other participants.

Additional Festival/Vendor Guidelines

- Festival and event personnel are responsible for each vendor booth, including placement of the booth.
- "Vendor" means any person who sells or provides goods or services to the festival attendees onsite. Vendors will be counted as such by city personnel.
- A vendor list with signed applications should be submitted to City event staff no later than 14 days before the event.



- The festival or event personnel are responsible for providing the City event staff with detailed electrical and water needs for vendor booths 30 days before the event with changes only accepted until 14 days before the event.
- An event representative will be required to coordinate electrical and water requirements with the City of Nacogdoches Facility Maintenance representatives.
- Vendor booths and activities may not be placed in the middle of streets, as this may block primary emergency access routes. Vendor booths must be placed so that a clear and contiguous 20' wide path of travel exists through the entirety of the event. Rare, circumstantial exceptions to this standard may be granted, but only upon approval by both Nacogdoches Fire and Police.
- Vendor booths may not be placed on the sidewalks or block business entrances.
- Food booths:
 - A separate temporary food permit must be obtained from the Health Inspector by the vendor. This is only required if the vendor is not already permitted and inspected by the City of Nacogdoches.
 - A list of vendors selling food must be submitted to the Health Inspector no later than 14 days before the festival. This list shall include the name, phone number, and address of each vendor as well as the type of food the vendor will sell.
 - All food vendors must have one 5lb Dry Chemical Extinguisher with a current State Fire Marshal inspection tag attached.
 - Food trucks must have both a valid health inspection and a valid food truck permit issued by the City of Nacogdoches.
- Vendors may not use generators at festivals or events being held on the brick streets. Vendors in Festival Park may use generators.
 - Vendors with generators at Festival Park must have a 5lb ABC Fire Extinguisher with a current State Fire Marshal inspection tag attached.
- For-profit vendors must possess a sales tax permit.
- Festivals and events are expected to follow the feather sign permit guidelines outlined in Chapter 78 Article 1 of the City of Nacogdoches Code of Ordinances.

Road Closures

- Requests for road closures will only be considered for a city-partnered event.
City-partnered event means an event in which the City of Nacogdoches has approved the allocation of public funds or other resources, and may include events promoted by other organizations which further a charitable cause, economic or community growth, or serve a public interest.
- OR
- Requests for road closures will only be considered for a public event.
 - Public event means an event open to and may be attended by the general public, whether or not admission to some part of the event is by fee, ticket, or invitation.



- After roads have been officially closed (approximately 30 minutes before an event's start time), there will be no in and out traffic for any reason.
- No vehicles (including golf carts) are allowed in the event area after street closure unless approved by city event staff.
- Vendors cannot leave early unless approval has been granted from city event staff.
- Vehicles may reenter the event area after city event staff deem it safe following the conclusion of the event.
- Nacogdoches Police Department may utilize on duty officers to assist with temporary road crossings in conjunction with an event as a matter of public safety. If the road crossings are carried out over a prolonged period or require additional officers, the event organizer will be required to pay off duty officers.

Trash Pickup

- Festivals and event coordinators are responsible for trash and litter cleanup.
- Trash and litter must be monitored and cleaned during and after the festival.
- Each vendor is responsible for the disposal of all trash from the vendor booth and trash must be disposed of in the provided dumpster. If the festival or event coordinator needs the city to provide a dumpster, it is the responsibility of the coordinator to make this request on the permit application.
- All running events and parades must pick up trash along their entire route.

Insurance

- All events must provide proof of a liability insurance quote to the City of Nacogdoches Event staff 30 days before the festival with a secured policy within one week of the festival.
- The proof of insurance shall consist of a Certificate of Insurance showing the City of Nacogdoches as an additional insured in the amount of \$1,000,000 general liability insurance.
- If alcohol is to be sold, \$1,000,000 liquor liability insurance is also required.
- Include the following wording on all insurance policies:
 - The City of Nacogdoches, its elected and appointed officials, officers, employees, agents, and representatives are listed as additional insureds on a primary non-contributory basis.

Security

Law enforcement may deem security necessary at events. All police security must be obtained through the Nacogdoches Police Department at least 30 days prior to the event.

The number of officers needed will be determined by the size, nature, and scope of the event. This will be determined by the Nacogdoches Police Department and Event Staff.



Restrooms

- Event organizers are required to ensure adequate restrooms for their events. Events may utilize public restrooms; however, additional portable restroom rentals may be required. Event organizers will be held responsible for any damages to public restrooms' facilities during the period of the event.
- It is recommended that festivals and large events provide at least two public restrooms for every 100 anticipated attendees; three if alcohol is being served. This can include a combination of public restrooms at facilities and portable restrooms.
- It is recommended one wheelchair-accessible portable restroom be provided for every 10 regular portable restrooms required.
- Adequate handwashing stations will also be required.
- Proof of restroom rental purchase will be required 14 days prior to the event date.
- Any additional restroom supplies (ex. toilet paper, paper towels, etc.) must be provided by the event organizers. An initial supply will be provided in city-owned restrooms, but they will not be replenished during the event.
- City of Nacogdoches staff will clean all restrooms prior to events, but they will not clean during the event. It is the responsibility of the event organizer to clean up during their event.

Fire Regulations and Electrical Use

- All electrical systems must be in safe working condition.
- All electrical wires should be secured to prevent trips and falls.
- Specific electrical needs must be communicated by the event planner at the time of completing the permit. Please be aware of the choices and what they mean when filling out the form.
- All electrical needs (i.e. vendor electrical needs, electricity requirements for stage equipment, etc.) must be turned in to event staff by 14 days prior to the event.
- The City of Nacogdoches is not responsible for blown breakers caused by misuse or overloading of electrical equipment.
- Using an open flame device in the downtown area must be approved by the Fire Marshal before the event.
- Fire/Safety inspections will be performed on the day of the event, including but not limited to checking floats and vendor booths for fire extinguishers.
- Compressed gas cylinders (such as those containing helium) must be secured using a durable device such as a chain or webbed strap.
- Activities to be held in unoccupied structures must contract the Nacogdoches Fire Department at least 30 days before the festival or event to schedule a fire inspection. The unoccupied structure must pass the fire inspection before the activity takes place.

The City of Nacogdoches looks forward to assisting you with your event. If you have any questions about these policies and procedures, please contact:



Cecilia Sarmiento
Community Services Coordinator
Sarmientoc@nactx.us
936-559-2938

*These Public Event Guidelines and Permitting were approved by the Nacogdoches City Council
on _____ and can be found in the Nacogdoches Code of Ordinances Section _____.*

Public Event Permit Requirement Checklist

Event Type	Details	Permit Due Date	Items Needed
<i>Small Event</i> -See page 2	Less than 500 expected attendees	45 days before event (unless additional permit needed)	• Event Map and Timeline • Expected number of attendees • Insurance Policy • Security (if deemed necessary by NPD)
<i>Large Event</i> -See page 2	More than 500 expected attendees	90 days before event	• Event Map and Timeline • Expected number of attendees • Security (if deemed necessary by NPD) • Insurance Policy
<i>Running Event</i> -See page 3	Any size run/walk	90 days before event	• Event Map and Timeline • Expected number of attendees • Security (if deemed necessary by NPD) • Location of staging area, setup area, and awards area • Insurance Policy
<i>Parade Event</i> -See page 3	Any size parade	90 days before event	• Event Map and Timeline • Expected number of floats and groups • Security (if deemed necessary by NPD) • Location of staging area, setup area, and awards area
<i>Alcohol Permit</i> -See page 4	Any size event	90 days before event	• Event Map and Timeline • Expected number of attendees • Security (if deemed necessary by NPD) • Insurance Policy • Approval of City Departments and City Manager
<i>Main Street Closure</i> -See page 4	Any event needing Main Street closed over 4 hours	90 days before event	• Event Map and Timeline • Expected number of attendees • Security (if deemed necessary by NPD) • Insurance Policy • Approval of City Departments, City Council, and TXDoT
<i>Fireworks</i> -See page 4	Any size event	45 days before event	• State Fire Marshal's Office Application • Licensed Pyrotechnic Contractor • Detailed Site Plan
<i>Sound Equipment</i> - See page 4	Any size event	45 days before event	• Event Map and Timeline • Expected number of attendees • Sound equipment permit • Approval of City Departments and City Manager

Event Fee

All events will be required to pay a base permitting fee. Events are subject to additional fees for alcohol permits, street closures, security staff, and park pavilion rental as needed.



Base Permitting Fees:

- Small event - \$100
- Large event - \$250

Additional Fees:

- Alcohol Permit:
\$50 fee
- Street Closure:
All multi-street closure maps: \$100
Single street closure maps: \$50
Parade closure maps: \$100
- Security:
Some events may require additional security costs dependent upon the size and nature of the events. Nacogdoches Police Department will contact event organizers if required.
- Park Pavilion Rental:
If a park pavilion rental is needed, pavilion rental fees apply. A nonprofit organization may request a fee waiver form for the park pavilion rental.



EVENT GUIDELINE UPDATE

Community Services Department

Date: June 17, 2025

Presenter: Jessica Sowell





UPDATES TO GUIDELINES

***BASED ON COUNCIL FEEDBACK AND
QUESTIONS FROM STAFF***

- ▶ Updated wording clarifying what types of private rentals are allowed
- ▶ Updated alcohol permit wording indicating that the City Manager has sole discretion for approval or denial
- ▶ Updated road closure section clarifying what types of events could receive road closures
- ▶ Additional wording about temporary road crossings

UPDATED WORDING

The wording in **red**, if approved, will be added to the Event Guidelines

Event Permitting Process

This exclusion does not apply to the short- term rental of, park pavilions located at City parks, Liberty Hall, Zion Hill Baptist Church, and the C.L. Simon Recreation Center- Gymnastics Room which may be rented for exclusive private events per city policy.

Alcohol Sale/Use at Events

The City Manager maintains sole discretion to approve or deny an alcoholic beverage permit for the sale, possession, and/or consumption of alcohol in City-owned buildings, facilities, and parks in accordance with Section 18-27 of the Code of Ordinances.



UPDATED WORDING

The wording in **red**, if approved, will be added to the Event Guidelines

Road Closures

Requests for road closures will only be considered for City-sponsored events.

- City-sponsored events mean events in which the City has approved the allocation of public funds, and may include events promoted by other organizations which further a charitable cause, economic or community growth, or serve a public interest.

OR

Requests for road closures will only be considered for a public event.

- Public event means an event open to and may be attended by the general public, whether or not admission to some part of the event is by fee, ticket, or invitation.

Nacogdoches Police Department may utilize on duty officers to assist with temporary road crossings in conjunction with an event as a matter of public safety. If the road crossings are carried out over a prolonged period or require additional officers, the event organizer will be required to pay off duty officers.



CONCLUSION

Needs from Council

- Approval of guideline updates or clarifications
- Effective date
 - *Staff recommendation - events that have not yet received full approval and any applications received after June 17th*

Next Steps

- Revision (if needed)
- Review of proposed City partnered events (during budget workshops)



PRESENTER:

ITEM/SUBJECT: Consider appointing members to the Deep East Texas Council of Governments (DETCOG) Board of Directors. (Mayor)

SUMMARY/BACKGROUND: The Deep East Texas Council of Governments (DETCOG) begins a new board membership on July 1, 2025. DETCOG bylaws state that each member city with a population of 10,000 and up is eligible to select four (4) members to serve on the board, who shall be the Mayor or City Council Members. Current DETCOG Board Members are Brad Maule, Kathleen Belanger, Blane Williams, and Chad Huckaby. The designated members will serve a one-year term from July 1, 2025, through June 30, 2026.

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. City of Nacogdoches



DETCOG Board Member Designation Form (For Cities and Counties)

To the DETCOG Member Addressed:

It's time for your City Council or County Commissioners Court to designate the members who will serve on the DETCOG Board of Directors. The members you designate will serve a one-year term from July 1, 2025 through June 30, 2026. There is no limit on the number of terms a person may serve. The following guidelines are from the DETCOG Bylaws.

Cities: DETCOG Board members are selected by the City Council and must be Mayors or members of the City Council.

Counties: DETCOG Board members are selected by the County Commissioners Court. *Note to Counties: This does NOT include your County's Minority Representative.*

Entity: City of Nacogdoches

Number of Members: 4

Current Member(s):

1. Kathleen Belanger
2. Chad Huckaby
3. Brad Maule
4. Blane Williams

Designation of Members to serve effective July 1, 2025:

☐

If there are no changes for the 2025-2026 year, you may check this box and not list everyone's name again.

Member(s) for 2025-2026

Name:

Email Address:

Phone:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

CERTIFICATION: I certify that the information provided above accurately reflects the appointment(s) made by the governing body of _____.

Signature

Title

Date

PRESENTER: Jason Vickery, Assistant City Engineer

ITEM/SUBJECT: Consider approval of a contract by and between the City of Nacogdoches and ENVIROdredge for the 2025 WWTP Equalization Basin Sediment Removal Project utilizing TIPS Cooperative Purchasing Contract (ENVIROdredge 241001 JOC) in the amount of \$530,364.00. (Assistant Director of Public Works)

SUMMARY/BACKGROUND: The Wastewater Treatment Plant (WWTP) has an earthen equalization basin that provides storage for a portion of peak flow during wet-weather events. This equalization basin allows the collection system to be evacuated at a higher rate than the plant can process for a period of a day or two. Sediment builds up over time and needs to be removed to allow for continual use of the equalization basin. ENVIROdredge has provided the City with a quote for dredging out this sediment in the amount of \$530,364.00.

ENVIROdredge is located in New Summerfield, Texas and holds an Interlocal Purchasing System (TIPS) cooperative purchasing contract (ENVIROdredge 241001 JOC), which is exempt from the competitive bidding process under Texas Local Government Code Section 252.022(a)(12)(D). The dewatered sediment removed from WWTP equalization basin will be disposed of at the city landfill.

It is recommended that the contract for this project be awarded to ENVIROdredge in the amount of \$530,364.00. This Capital Improvement Program (CIP) project is budgeted in the Utility Fund for fiscal year 2025.

FINANCIAL:

Item is budgeted:

Account No.: 30.39 630.70

Account Name: Wastewater Treatment - Special Services

Amount: \$180,364.00

Account No.: 30.39 680.90

Account Name: Wastewater Treatment - Miscellaneous Capital

Amount: \$350,000.00

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

Infrastructure

CITY CONTACT: Jason Vickery, PE
Asst. Director of Public Works/Assistant City Engineer
vickeryj@nactx.us
(936) 559-2513

ATTACHMENTS: 1. WWTP Equalization Pond Sediment Removal Services Contract

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 ENVIROdredge (the “Contractor”), for the following work: 2025 WWTP Equalization Basin Sediment 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 Five Hundred Thirty Thousand Three Hundred Sixty-Four and Zero Dollars (\$530,364.00). 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 Time is of the Essence. The Contractor must complete all the services described in the Scope of Services by the following dates: **August 31, 2025.**

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
PO Box 635030
202 East Pilar Street
Nacogdoches, TX 75961

ENVIROdredge
Attn: Matt Bolton
PO Box 35
New Summerfield, TX 75780
matt@envirodredge.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

ENVIROdredge

CITY OF NACOGDOCHES

By: _____

By: _____

Printed Name: _____

City Manager

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.



ESTIMATE

ENVIRODREDGE

PO Box 35
New Summerfield, Texas 75780
United States

Mobile: 903-541-6766
www.envirodredge.com

BILL TO
CITY OF NACOGDOCHES
Ronnie Lyles

936-564-5046
lylesrw@nactx.us

Estimate Number: 3628 S Rayburn Dr
Customer Ref: TIPS CONTRACT:
Envirodredge 241001
JOC
Estimate Date: May 15, 2025
Valid Until: August 14, 2025
Grand Total (USD): \$404,364.00

Product/Service	Quantity	Price	Amount
Sediment Removal A portable sediment removal system will be used to pump silt and sediment materials through a temporary/portable pipeline into a sediment containment tube placed at a suitable onsite location. -Total Cubic Yards to be Removed: 10,648 in situ	10648	\$25.50	\$271,524.00
NOTES: - Based on data collected DredgeMap -Shrinkage/consolidation in geotextile bags does not equate to in situ volume -Specific water depth is not guaranteed -Areas of rock or impermeable surface may affect total volume removable with hydraulic suction			
Geo Textile Dewatering Geo Textile (Geo Tubes) will be used to dewater sediment.	10648	\$10.00	\$106,480.00
INCLUDES: -geotextile bags -polymer injection -return water management			
Site Prep Prepare Base for Dewatering Tube Construct Water Containment Area	1	\$7,500.00	\$7,500.00
Materials: Containment & Erosion	1	\$9,660.00	\$9,660.00



ESTIMATE

ENVIRODREDGE

PO Box 35
New Summerfield, Texas 75780
United States

Mobile: 903-541-6766
www.envirodredge.com

Product/Service	Quantity	Price	Amount
Dredge Launch / Removal Includes: -crane and any required matting for dredge launch/removal	1	\$1,500.00	\$1,500.00
Mobilization Mobilize equipment and crew	2	\$3,850.00	\$7,700.00
Grand Total (USD):			\$404,364.00

Notes / Terms

This estimate is for the work scope and materials as defined above. Any other site activity, additions or inclusions will be at an additional cost to the customer. Geotextile dewatering bag sites will be approved and leveled by the customer. Thank you. We appreciate your business.

SALES TAX NOT INCLUDED

EXCLUSIONS:

- * Imported fill material for leveling geotextile dewatering areas
- * Haul off/disposal of dewatered materials
- * Restoration of dewatering area
- * Restoration of stained concrete at bag site, if applicable
- * "Unknown" underwater structures
- * Permitting

Thank you for your business.



ESTIMATE

ENVIRODREDGE

PO Box 35
New Summerfield, Texas 75780
United States

Mobile: 903-541-6766
www.envirodredge.com

BILL TO
CITY OF NACOGDOCHES
Ronnie Lyles

936-564-5046
lylesrw@nactx.us

Estimate Number: 3628 S Rayburn Haul
Out

Customer Ref: TIPS CONTRACT:
Envirodredge 241001
JOC

Estimate Date: May 27, 2025

Valid Until: August 26, 2025

Grand Total (USD): \$126,000.00

Product/Service	Quantity	Price	Amount
Site Restoration INCLUDES: Rough grading tube lay down area and Grass seeding after removal of all materials	1	\$2,500.00	\$2,500.00
Haul Off / Disposal Includes: -loading -trucking -disposal of construction debris	1	\$123,500.00	\$123,500.00

Grand Total (USD): \$126,000.00

Notes / Terms

This estimate is for the work scope and materials as defined above. Any other site activity, additions or inclusions will be at an additional cost to the customer. Geotextile dewatering bag sites will be approved and leveled by the customer. Thank you. We appreciate your business.

SALES TAX NOT INCLUDED

EXCLUSIONS:

- * Permitting
- * Disposal fees (landfill provided free of charge by city)

Thank you for your business.

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

PRESENTER: Larissa Philpot-Brown, Economic Development Director

ITEM/SUBJECT: Consider approval of Resolution No. 1393-06-25 amending a Chapter 380 Economic Development Program agreement by and between the City of Nacogdoches and Cooper Power Systems, LLC (Eaton) to amend construction deadlines and set a limitation for valuation triggering allowance of property tax protest. (Executive Director of Economic Development)

SUMMARY/BACKGROUND:

In August 2023, the City of Nacogdoches entered into an economic development agreement with Cooper Power, LLC, doing business as Eaton. Under the agreement, the City granted a 15-year tax abatement in exchange for Eaton committing to an \$80 million capital investment and achieving employment targets totaling 585 jobs, with an associated gross annual payroll of \$37 million.

While construction of the project has progressed steadily, weather delays and supply chain disruptions have impacted the project timeline. Eaton is now nearing completion of its facility and is seeking an amendment to the original agreement to extend key deadlines.

Specifically, Eaton is requesting:

- An extension of the construction completion deadline to **June 30, 2025**
- An extension of the job creation deadline to **December 31, 2025**

In addition, Eaton has requested a revision to **Section 4(g)** of the agreement to allow the company to **protest the ad valorem valuation** of its property if the assessed value increases by more than 10% over the previous year, or by more than 50% in aggregate over a five-year period.

City staff has reviewed the proposed revision and finds it reasonable. The agreement already provides that **no property tax rebate will be issued until taxes have been paid**. Therefore, if Eaton protests its valuation and delays payment, the City's rebate obligation will be suspended until the dispute is resolved and taxes are paid. Staff believes this provision provides appropriate safeguards for the City while allowing Eaton to protect its interests.

FINANCIAL:

No financial impact.

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE

FOLLOWING CITY COUNCIL PRIORITIES

Economic Development

CITY CONTACT: Larissa Philpot-Brown, AICP
936-559-1255
lphilpot@nedco.org

ATTACHMENTS: 1. Resolution 1393-06-25 - Eaton Amending 380
2. Gateway 380 agreement amendments 6.13.25.Clean Copy

**CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. 1393-06-25**

A RESOLUTION CREATING A CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND APPROVING AND AUTHORIZING AGREEMENT BY AND BETWEEN THE CITY OF NACOGDOCHES AND EATON CORPORATION REGARDING EXPANSION OF THE STRUCTURE LOCATED AT 2315 SE STALLINGS DRIVE.

WHEREAS, the City of Nacogdoches, Texas, (the “City”), possesses the legal and statutory authority under Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code to make loans and grants of public funds for the purposes of promoting local economic development, helping eliminate unemployment and underemployment in the City, and stimulating and enhancing business and commercial activity within the City;

WHEREAS, the City finds that the expansion of the existing manufacturing facility at 2315 SE Stallings Drive assists in the development and diversification of the economy of the City by helping to eliminate underemployment or unemployment and by the expansion of commerce in the City, and,

WHEREAS, Eaton Corporation (the “Developer”) has agreed to renovate or cause to be renovated, the facilities (the “Improvements”) located at 2315 SE Stallings Drive; and

WHEREAS, the City found it appropriate to create an economic development program pursuant to Chapter 380 of the Texas Local Government Code to be called the Eaton Economic Development Program to provide, encourage and coordinate public and private investment in expanding 2315 SE Stallings Drive, the Improvements and any future associated development; and

WHEREAS, the City continues to find it appropriate to leverage the investment that the Developer is willing to provide to expand the building, hire more workers, and sell more goods via the attached Eaton Chapter 380 Economic Development Agreement (“Chapter 380 Agreement”), and

WHEREAS, the City entered into a Chapter 380 economic development agreement with the Developer on August 3, 2021, and construction of the facilities has commenced, more definitive designs have been completed and costs of the facilities to be constructed have been refined; and

WHEREAS, the City and Developer now desire to amend the Agreement to more accurately reflect the timing of the improvements and job creation and to allow a provision regarding a limitation on a protest of ad valorem tax appraisal, which will not change the intent of the Agreement and will aid in the orderly progress of the Project.

WHEREAS, the City has concluded and hereby finds that the Eaton Economic Development Program and this Eaton Chapter 380 Economic Development Agreement clearly promote economic development in the City, and, as such, meet the requirements under Chapter 380 of the Texas Local Government Code and Article III, Chapter 52-a of the Texas Constitution under which the City has the authority to use public funds for public purposes of promoting economic

development and stimulating business and commercial activity within the City, and further, is in the best interests of the City and Developer.

NOW, THEREFORE, be it resolved by the City Council of the City of Nacogdoches, Texas that:

1. The findings and recitations contained in the preamble of this Resolution are found and declared to be true and correct and are hereby adopted as part of this Resolution.
2. The City Council hereby approves and authorizes the Eaton Chapter 380 Amended Economic Development Agreement in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference.
3. The City Manager is authorized to execute such document and related documents on behalf of the City, and the City Secretary is authorized to attest to all such signatures and the City Attorney is authorized to take all action necessary to enforce all legal obligations as may arise hereunder.
4. This resolution is effective immediately upon its passage.

PASSED AND APPROVED, this the 17th day of June, 2025, 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

CITY OF NACOGDOCHES, TEXAS

AND

COOPER POWER SYSTEMS LLC

CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT

This **CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into by and between the **CITY OF NACOGDOCHES, TEXAS**, a Texas home-rule municipality (the "City"), and COOPER POWER SYSTEMS, LLC, a Delaware limited liability company, its successors and assigns (the "Developer") (with the City and the Developer each being a "Party" and together the "Parties"), and is made effective as of the date execution by each Party's authorized representative below (the "Effective Date").

RECITALS:

- A.** Developer has agreed to construct or cause to be constructed, improvements to include a 243,000 square foot addition to the building (the "Project") located at 2315 SE Stallings Drive in the City (the "Property"), for the purpose of expanding the existing manufacturing facility located at the Property.
- B.** The City possesses the legal and statutory authority under Chapter 380 of the Texas Local Government Code to make loans and grants of public funds for the purposes of promoting local economic development and stimulating and enhancing business and commercial activity within the City.
- C.** The City has established an economic development program which authorizes the City to make such economic development loans and grants.
- D.** The City has determined that a grant of funds to Developer will serve the public purposes of promoting local economic development, helping eliminate unemployment and underemployment in the City, and stimulating and enhancing business and commercial activity within the City.
- E.** The City has concluded and hereby finds that this Agreement clearly promotes economic development in the City, and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code, and further, is in the best interests of the Parties.
- F.** The City has concluded and hereby finds that this Agreement clearly promotes economic development in the City, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution, by assisting in the development and diversification of the economy of the State, by helping to eliminate unemployment or underemployment in the State, and by the development or expansion of commerce within the State.
- G.** The City desires and agrees to enter into this Agreement with Developer in order to implement the economic development program described herein and shall follow all applicable rules and procedures prescribed by the City's Charter and the laws of the State in providing Developer the economic development incentives described herein.
- H.** Developer desires and agrees to enter into this Agreement with City in order to construct and operate the Project described herein and to create well-paying jobs and shall follow the laws of the State.

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

AGREEMENT

SECTION 1. RECITALS INCORPORATED.

The foregoing Recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants and consideration that bind the Parties.

SECTION 2. TERM.

This Agreement shall be effective as of this the Effective Date, and shall continue until all obligations of the Parties are met unless terminated sooner under the provisions, hereof (the "Term").

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

- (a) **Certificate of Occupancy.** The words "Certificate of Occupancy" mean the certificate of occupancy issued by the City to the Developer at the Project, which certificate the City shall not unreasonably withhold, condition or delay.
- (b) **Full-Time Equivalent Employment Positions.** The words "Full-Time Equivalent Employment Position" or "Full-Time Employment Equivalent Positions" mean and include a job requiring a minimum of Two Thousand Eighty (2,080) hours of work averaged over a twelve (12) month period, with such hours to include any vacation, sick leave, personal days, and similar time off benefits. Full and part-time worker positions may be aggregated to form a Full-Time Equivalent Position.
- (c) **Personalty.** The word "Personalty" means the tangible personal property, including inventory and supplies, located on the Property other than tangible personal property that was located on the Property prior to the period covered by this Agreement, and which is otherwise subject to a tax abatement consistent with section 312.204(a) of the Texas Tax Code, as amended.
- (d) **Program Grant or Program Grant Payment.** The words "Program Grant" or "Program Grant Payment" mean the economic development grants provided by the City to Developer in accordance with this Agreement.
- (e) **Qualified Expenditures.** The words "Qualified Expenditures" mean those expenditures consisting of and contributing to the hard and soft costs associated with the development and construction of the improvements for the Project including furniture, fixtures, equipment, and public infrastructure.
- (f) **Related Documents.** The words "Related Documents" mean and include without limitation any and all promissory notes, loan agreements, grant agreements, performance agreements, tax abatement agreements, and other instruments and documents, whether now or hereafter existing, entered by and between the City and Developer in connection with this Agreement.

- (g) **Sales and Use Tax.** The words “Sales and Use Tax” or “Sales and Use Taxes” mean the City’s municipal sales and use tax, pursuant to Section 321.103(a) of the Texas Tax Code, as amended. The current Sales and Use Tax rate is one percent (1%).
- (h) **State.** The word “State” means the State of Texas.
- (i) **State Comptroller.** The words “State Comptroller” mean the Office of the Texas Comptroller of Public Accounts, or any successor agency.

SECTION 4. AFFIRMATIVE OBLIGATIONS OF DEVELOPER.

Developer covenants and agrees with the City that while this Agreement is in effect, Developer shall comply with the following terms and conditions:

(a) **Construction of the Project.**

- Developer shall construct or cause to be constructed the improvements as described on Table 1 below (the “Improvements”) and shall submit to the City invoices, receipts, or other similar documentation for the Qualified Expenditures in a form reasonably acceptable to the City by 5:00 pm, CST, ~~September 30, 2024~~August 29, 2025 or 90 days from the date the -construction is completed, whichever is later. The City reserves the right to audit the applicable records of the Developer regarding the Developer’s conformance with this subsection.

Table 1

Item	Approximate Qualified Expenditure
Approximate 243,000 square foot addition to 2315 SE Stallings Drive	\$37,000,000

- Developer represents that Developer has the present capacity to construct the Improvements. The Improvements shall be completed on or before June 30, 2025. Only those Improvements listed in Table 1 which are completed prior to June 30, 2025 will be considered by the City for reimbursement.
- All Improvements shall be built to the minimum requirements of the International Building Code, as amended, as adopted by the City from time to time and all applicable City Ordinances.
- During the term of this Agreement, Developer, at its own cost and expense, shall maintain in full force and effect the following insurance with sound and reputable insurers: (i) worker’s compensation insurance in accordance with the statutory requirements of the state where the Service is to be performed; (ii) automobile liability insurance on all motor vehicles licensed for highway use, both owned and non-owned; and (iii) commercial general liability insurance for bodily injury and property damage.

(b) **Initial Purchase of Furniture, Fixtures, and Equipment**

Developer shall obtain furniture, fixtures, and equipment necessary for the operation of the Project as described on Table 2 below and shall submit to the City invoices, receipts, or other similar documentation for the Qualified Expenditures in a form reasonable acceptable to the City by 5:00 pm CST on August 29, 2025 This section is not intended to exclude future equipment purchases made in furtherance of the Project in subsequent years during the term of this agreement from Program Grant Payment eligibility. City reserves the right to audit the applicable records of the Developer regarding the Developer’s conformance with this subsection.

Table 2

Item	Approximate Minimum Expenditure
Machinery, Furniture, Fixture, and Equipment	\$43,000,000

(c) **Certificate of Occupancy.**

Developer shall present a Certificate of Occupancy issued by the City, prior to requesting reimbursement for completed improvements. The necessary construction to obtain a Certificate of Occupancy shall be completed before June 30, 2025.

(d) **Job Creation and Retention.**

- i. On or before December 31, 2025, and during the Term of this Agreement, the Developer shall employ and maintain Full-time Equivalent Positions working at the Project and shall maintain a gross annual payroll as shown on Table 3 below. It is understood and agreed that Developer and/or his lessees, may satisfy the foregoing requirement by an aggregation of all hours worked at all employment positions at the Project, both full time and part time, over the subject twelve-month period. The Full-Time Equivalent Employment Provision shall be continuously maintained through the Term of this Agreement. The City reserves the right to audit the applicable records of the Developer regarding the Developer's conformance with this subsection.

Table 3

Year	Full-time Equivalent Positions	Gross Annual Payroll
2025 – Year 1	500	\$29,500,000
2026 – Year 2	585	\$37,000,000
2027 – Year 3	585	\$37,000,000
2028 – Year 4	585	\$37,000,000
2029 – Year 5	585	\$37,000,000
2030 – Year 6	585	\$37,000,000
2031 – Year 7	585	\$37,000,000
2032 – Year 8	585	\$37,000,000
2033 – Year 9	585	\$37,000,000
2034 – Year 10	585	\$37,000,000
2035 – Year 11	585	\$37,000,000
2036 – Year 12	585	\$37,000,000
2037 – Year 13	585	\$37,000,000
2038 – Year 14	585	\$37,000,000
2039 – Year 15	585	\$37,000,000

- (e) **City Sales Tax Matters.** As a portion of the consideration for this Agreement, and to the maximum extent permitted under applicable law, Developer covenants and agrees with City to structure all contracts to which Developer or related person or entity is a party relating to the construction of the improvements and facilities to be constructed on the Property pursuant to this Agreement that are not purchased for resale, in a manner that requires City sales and use taxes to be collected and remitted to the City with respect to the purchase of all materials and other taxable items for such improvements and facilities. Without limiting the generality of the immediately preceding sentence, Developer shall cause each contract with a contractor to:

- i. be structured as a "separated contract" as such term is defined in 34 Texas Administrative Code 3.291(a)(13) with the result that:
1. the agreed contract price under the contract is divided into (A) a separately stated agreed contract price for incorporated materials, and (B) a separately stated amount for all skill and labor that includes fabrication, installation, another other labor that is performed by the contractor; and
 2. the contractor is required under 34 Texas Administrative Code 3.291(a)(13) to collect City sales and use taxes on the charge to Developer for materials and other taxable items based on the location of the Improvements and facilities to be constructed in the City; and

- ii. contain provisions requiring such contractor to issue, and to cause each subcontractor and each sub-subcontractor to issue, properly completed Texas Sales and Use Tax Resale Certificates and/or other certifications or documentation, as appropriate, to all subcontractors and sub-subcontractors, and to take such other actions as are necessary or advisable, in order to claim, obtain and/or evidence that the materials and other taxable items for the improvements and facilities to be constructed on the Property.

Notwithstanding any other provision hereof, the sole remedy of the City with regard to any failure of the Developer to comply with this section shall be to require the Developer to pay to the City the sales and use tax revenue lost by the City as a result of the Developer's failure to comply with this Section. Developer shall not be liable for the failure of any contractor or subcontractor to remit the proper sales tax to the City paid to it by Developer or its affiliates under the above provisions, nor is Developer liable for the failure of any contractor or subcontractor to comply with the contractual provisions required in subsections (i) and (ii) above. Developer shall not be liable for sales and use tax revenue lost by any taxing authority other than the City for failure to comply with this section.

- (f) **Annual Compliance Verification.** Beginning on April 1, 2026 and each April 1st for the following fourteen (14) years for a total of fifteen (15) occurrences until January 1, 2040 Developer shall deliver to the City an Annual Compliance verification signed by a duly authorized representative of Developer that shall certify the following:

- (1) The taxable appraised value of the Property and Personalty located on the Property for the applicable prior tax year;
- (2) The ad valorem taxes paid to the City for the Property and Personalty located on the Property for the applicable prior tax year; and
- (3) The total gross payroll and number of employees of the Project

- (g) **Payment of Ad Valorem Taxes.**

Developer, at Developer's sole cost, covenants and agrees to pay by January 31st of each year all of the real and business personal ad valorem taxes due for the previous tax year on the Property. Developer shall not file any protest during the duration of this Agreement which causes or seeks to reduce the value of the real property, unless the assessed valuation of the applicable property has increased by more than 10% over the immediately preceding tax year or 50% in the aggregate over the immediately preceding five (5) tax years.

However, any such protests filed by the Developer shall not seek to reduce the values set forth in Table 1 and Table 2.

- (h) **Performance.** Developer agrees to perform and comply with all applicable terms, conditions, and provisions set forth in this Agreement, and in all other instruments and agreements by and between the Parties.

SECTION 5. AFFIRMATIVE OBLIGATIONS OF THE CITY.

City covenants and agrees that throughout the Term, the City shall comply with the following terms and conditions:

- (a) **Program Grant Payments.**

- (1) Ad Valorem Rebate

- a. The City shall rebate to Developer the ad valorem taxes paid by the Developer to the City for the increase in ad valorem property taxes due to the Developer's improvements to the Property and Personalty located on the Property for a fifteen (15) year period in the percentage amount shown in Table 4 below (the "Rebate"). For the purposes of calculating the Rebate, the ad valorem value of the Property and the Personalty located on the Property as of the Effective Date is (the "Base Value"). The Rebate will be applied to any amount of ad valorem taxes on the Property or Personalty located on the Property paid by the Developer to the City that is over and above the taxable ad valorem value of the Base Value. The first year of the Rebate pursuant to this section 5(a)(1) of this Agreement shall

be the first tax year that begins after the City issues a certificate of occupancy for the Project pursuant to Section 4(c) of this Agreement and the Project is fully assessed by the taxing authorities.

Table 4

Tax Year	Percentage of Ad Valorem Taxes Reimbursed
1	100%
2	100%
3	100%
4	100%
5	100%
6	100%
7	100%
8	75%
9	75%
10	75%
11	50%
12	50%
13	50%
14	50%
15	50%

- b. If the Developer fails to meet the job requirements of Section 4(d), the Rebate will be reduced by the percentages set out below in Table 5:

Table 5

Obligation	% of Target Per Table 3 Met	Reduction of Rebate
Employment	90%	10%
	80%	20%
	70%	30%
	60%	40%
	50%	50%
	40%	60%
	30%	70%
	20%	80%
	10%	90%

c. Timing of Payments

The City shall make Program Grant Payments as described in Section 5(a)(1) above within 30 days of an approved Annual Compliance Report and receipt of Project's ad valorem tax payment from the Nacogdoches County Central Appraisal District, whichever is later.

- (b) **Waiver of Building Permit and Plan Review Fees.** The City shall waive all building permit and plan review fees associated with the Project. This shall not apply to building permit and plan review fees for future construction on the Property not associated with the Project.
- (c) **Performance.** The City agrees to perform and comply with all applicable terms, conditions, and provisions set forth in this Agreement, and in all other instruments and agreements by and between the Parties.

SECTION 6. EVENTS OF DEFAULT.

- (a) Each of the following shall constitute an Event of Default under this Agreement by Developer:
- (1) **Construction of Qualified Expenditures.** Failure of Developer to provide copies of the invoices, receipts or other documentation to the City regarding said Qualified Expenditures made to the Property consistent

with Section 4(a) of this Agreement within thirty (30) days after written notice of the default from the City to the Developer.

- (2) **Initial Purchase of Furniture, Fixtures, and Equipment.** Failure of Developer to timely obtain furniture, fixtures, and equipment necessary for the operation of the Project consistent with Section 4(b) of this Agreement within thirty (30) days after written notice of the default from the City to Developer.
 - (3) **Certificate of Occupancy.** Failure of Developer to obtain or cause to be obtained a Certificate of Occupancy from the City for the Project consistent with Section 4(b) of this Agreement and such failure continues for thirty (30) days after the written notice of the default from the City to Developer (provided the failure to obtain the Certificate of Occupancy is not due to wrongful or negligent delay or other action or inaction by the City).
 - (4) **Payroll.** Failure of Developer to provide a gross payroll as identified in Table 3 in Section 4(c).
 - (5) **Insolvency.** Developer's insolvency, appointment of receiver for any part of the Property or Personalty, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer.
 - (6) **Other Defaults.** Failure of Developer to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or in any of the Related Documents, or failure of Developer to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between the City and Developer, and such failure is not cured within thirty (30) days after written notice of the default from the City to Developer.
- (b) Each of the following shall constitute an Event of Default under this Agreement by the City:
- (1) **Program Grant Payments.** Failure of the City to make the Program Grant Payments consistent with Section 5 of this Agreement within thirty (30) days after written notice of the default from Developer to the City.
 - (2) **Other Defaults.** Failure of the City to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents, or failure of the City to comply with or to perform any other term, obligation, covenant, or condition contained in any other agreement by and between the City and Developer, and such failure is not cured within thirty (30) days after written notice of the default from Developer to the City.

SECTION 7. EFFECT OF AN EVENT OF DEFAULT.

If an Event of Default occurs, the non-defaulting party shall give written notice to the other party of the specific Event of Default, and the defaulting party shall have thirty (30) days to cure said default (as to defaults reasonably curable within such period) or commences to cure alleged default within said thirty (30) days and diligently pursues the cure to its conclusion (as to defaults not reasonably curable within thirty (30) days). In the event Developer defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts of financial assistance provided by the City to Developer for the fiscal year in which the default occurs pursuant to Section 5(a)(1) of this Agreement shall become immediately due and payable by Developer to the City without legal process of any kind as shown above on Table 4. In such case, no other repayment of financial assistance is due from the Developer to the City. However, in the event that Developer defaults in two (2) consecutive tax years, the second default may be considered terminal by the City, in which case the City reserves the right to consider the entire agreement terminated.

In the event the City defaults and is unable or unwilling to cure said default within the prescribed time period, the Developer may terminate this agreement and any and all unpaid amounts for the fiscal year in which the default occurs pursuant to Section 5(a)(1) of this Agreement shall automatically become immediately due and payable without legal process of any kind. Defaults by City shall not waive, terminate, or offset repayment obligations of Developer under Section 4(f) or indemnities under Section 8.

SECTION 8. INDEMNIFICATION.

Developer shall indemnify, save, and hold harmless the City, its council members, officers, agents, and employees (collectively, the “indemnitees”) from and against” (i) any and all claims, demands, actions or causes of action that are asserted against any indemnitee if the claim, demand, action or cause of action is a result of or related to Developer’s performance under this agreement, Developer’s tortious interference with contract or business interference, or Developer’s wrongful or negligent use of the City’s financial assistance by Developer or its agents and employees; (ii) any claim, demand, action or cause of action which contests or challenges the legal authority of Developer to enter into this Agreement; and (iii) any and all liabilities, losses, costs, or expenses (including reasonable attorneys’ fees and disbursements) that any indemnitee suffers or incurs as a result of any of the foregoing; provided, however, that Developer shall have no obligation under this Section to the City with respect to any of the foregoing arising out of the gross negligence or willful misconduct of any indemnitee or the breach by the City of this Agreement. If any claim, demand, action or cause of action is asserted against any indemnitee, such indemnitee shall promptly notify Developer, and failure to so promptly notify Developer shall release Developer’s obligations under this Section if such failure prejudices Developer’s right to participate in the contest of such claim, demand, action or cause of action, as hereinafter provided. As so long as no Default or Event of Default shall have occurred and be continuing, if requested by Developer in writing, an indemnitee shall in good faith contest the validity, applicability and amount of such claim, demand, action or cause of action and shall permit Developer to participate in such contest. Any indemnitee that proposes to settle or compromise any claim, demand, action, cause of action or proceeding for which Developer may be liable for payment of indemnity hereunder shall give Developer written notice of the terms of such proposed settlement or compromise reasonably in advance of settling or compromising such claim or proceeding and shall obtain Developer’s concurrence thereto. If City fails to reasonably consent to a settlement which Developer is reasonably willing to accept, then Developer’s liability shall be limited to the amount for which the lawsuit could have been settled.

SECTION 9. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

(a) **Amendments.** This Agreement, together with the Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

(b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State, and all obligations of the parties created hereunder are performable in Nacogdoches County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Nacogdoches County, Texas.

(c) **Assignment.** This Agreement may not be assigned without the express written consent of the City, which consent will not be unreasonably withheld but which may be conditioned on adequate assurances that the assignee has the resources and expertise necessary to operate the Project for the remainder of the term and honoring the provisions of the Agreement. Assignment shall not release Developer from any obligation under this Agreement.

(d) **Binding Obligation.** This Agreement shall become a binding obligation on the Parties upon execution by all signatories hereto. The City warrants and represents as follows: that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same; and the Agreement is authorized by State law, including but not limited to, Chapter 380 of the Texas Local Government Code, is within the authority of the City, and constitutes a legal and binding obligation of the City. Developer warrants and represents that the individual executing this Agreement on Developer’s behalf has full authority to execute this Agreement and bind Developer to the same.

(e) **Caption Heading.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.

(f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

(g) **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, court injunction, flood, strike or other labor difficulty, act of any governmental authority or of the non-performing party, riot, embargo, fuel or energy shortage, car shortage, wrecks or delays in transportation, or any other cause outside the control of the party who is to perform, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended by a period of time reasonably necessary to overcome the effect of such delay.

(h) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered by hand or by express courier such as Federal Express, UPS, DHL, or Lone Star Overnight, or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

If to Developer: Eaton Corporation
c/o Michael Riscili – Director State and Local Tax Strategy
1000 Eaton Boulevard, Mail Stop 2n
Cleveland, OH 44122
440-523-4803

If to the City: City of Nacogdoches
Attn: City Manager
202 East Pillar Street
Nacogdoches, TX 75961
936-559-2501

With a copy to: City of Nacogdoches
City Attorney
202 East Pillar Street
Nacogdoches, TX 75961
936-559-2503

(i) **Revenue Sharing Agreement.** The City designated this Agreement as a revenue sharing agreement, thereby entitling the City to request Sales and Use Tax information from the State Comptroller, pursuant to Section 321.3022 of the Texas Tax Code, as amended.

(j) **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

(k) **Undocumented Workers.** Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of any public subsidy provided under this Agreement plus interest, at the rate of two and one-half percent (2.5%), not later than the 120th day after the date the City notifies Developer of the violation.

(l) **Mutual Assistance.** The Parties shall do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions, including,

but not limited to, executing and delivering any additional documents and agreements reasonably necessary to implement this Agreement.

(m) **Attorneys Fees.** In the event any legal proceeding is commenced to enforce or interpret provisions of this Agreement, the prevailing Party in any such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action.

[SIGNATURES AND EXHIBITS ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed.

CITY

CITY OF NACOGDOCHES, TEXAS

a Texas home-rule municipality

By: _____
Randy Johnson, Mayor

Date: _____

ATTEST:

Rhonda Lewis, City Secretary

APPROVED AS TO FORM:

Jerry Baker, City Attorney

DEVELOPER:

Cooper Power Systems LLC

By: _____

Date: _____

By: _____

Date: _____



City Council Meeting

Date: June 17, 2025

Agenda Item: 7.L.

PRESENTER: Todd Simoneaux, Interim Finance Director

ITEM/SUBJECT: Consider approval of an ordinance after any discussion of the Waterworks and Sewer System Revenue Bonds, Series 2025. (Interim Finance Director)

SUMMARY/BACKGROUND: Discussion and consideration of all matters incident and related to the issuance and sale of the “City of Nacogdoches, Texas, Waterworks and Sewer System Revenue Bonds, Series 2025”, including the adoption of an ordinance authorizing the issuance of such bonds.

FINANCIAL:

No financial impact associated with this item

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

CITY CONTACT: Todd Simoneaux, Interim Finance Director
simoneauxt@nactx.us
(936) 559-2526

ATTACHMENTS: