



City Council Meeting May 5, 2026

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. AWARDS AND RECOGNITIONS:
 - A. Presentation of a proclamation recognizing May as Motorcycle Safety Awareness Month. (Mayor)
 - B. The Texas Police Chiefs Association presentation of accreditation. (Chief Weems)
4. ELECTION:
 - A. Administer Statement of Oath of Office for Blane Williams-Southeast Ward and Chad Huckaby-Southwest Ward. (City Secretary)
 - B. Consider the appointment of Mayor Pro Tempore and Vice Mayor Pro Tempore. (Mayor)
5. 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.
6. ITEMS TO BE REMOVED FROM CONSENT AGENDA.
7. 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 minutes for the Regular Council meeting held on April 21, 2026. (City Secretary)
 - B. Consider approval of the purchase of a Front Load Garbage Truck from Bond Equipment Company, utilizing BuyBoard Cooperative Purchasing Contract 723-23, in the amount of \$476,539.00. (Public Works Operations Manager)
 - C. Consider approval of Resolution 1414-05-26 regarding the submission of a Texas Community Development Block Grant Program 2026 Project Application (CDV25-0373) by the City of Nacogdoches to the Texas Department of Agriculture for storm water management system improvements. (Director of Public Works/City Engineer)
 - D. Consider approval of an agreement by and between the City of Nacogdoches and Texas Department of Transportation for runway/taxiway pavement rehabilitation construction services (CIP Project AF-24-401) at A.L. Mangham Jr. Regional Airport; and authorize the City Manager to execute any and all necessary documents. (Airport Manager)
8. 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. Consider approval of a Resolution creating a Chapter 380 Economic Development Program and authorizing an agreement by and between the City of Nacogdoches and Icon Cinema Nacogdoches, LLC regarding the renovation and operation of a movie theater at 3801 North Street. (Interim Director of Business Development)
 - B. Consider approval of a contract by and between the City of Nacogdoches and B&B General Contractors for the 2026 Curb and Valley Gutter Project (CIP Project TR-24-201) in the amount of \$313,725.00. (Director of Public Works/City Engineer)
 - C. Consider selection of the submission by Tetra Tech in response to solicitation RFQ 26-10-112 for design of the Water and Wastewater System SCADA Replacements and Upgrades (CIP Projects WA-25-602 and WW-24-601). (Asst. Director of PW/Asst. City Engineer)

9. ADJOURN.



Karen Hadnot
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 April 29, 2026 by 5:30pm pursuant to Chapter 551 of the Texas Government Code.

Karen Hadnot, City Secretary



City Council Meeting

Date: May 5, 2026

Agenda Item: 4.A.

PRESENTER: City Secretary

ITEM/SUBJECT: Administer Statement of Oath of Office for Blane Williams-Southeast Ward and Chad Huckaby-Southwest Ward. (City Secretary)

SUMMARY/BACKGROUND: As stated in the Texas Constitution Article 16, Section 1, all elected and appointed officers must take an official oath of office before beginning their duties. This oath requires you to swear or affirm that you will faithfully execute the duties of the office and preserve, protect, and defend the Constitutions of the United States and Texas.

FINANCIAL:

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

CITY CONTACT:

ATTACHMENTS: 1. Oath of Office

Form 2204 - Oath of Office (General Information)

The attached form is designed to meet minimal constitutional filing requirements pursuant to the relevant provisions. *This form and the information provided are not substitutes for the advice and services of an attorney.*

Execution and Delivery Instructions

An Oath of Office that is required to be filed with the Office of the Secretary of State is considered filed once it has been received by this office. The Oath of Office may be administered to you by a person authorized under the provisions of Chapter 602 of the Texas Government Code. Authorized persons commonly used to administer oaths include notaries public and judges.

Mail: P.O. Box 12887, Austin, Texas 78711-2887.

Overnight mail or hand deliveries: James Earl Rudder Officer Building, 1019 Brazos, Austin, Texas 78701.

Fax: (512) 463-5569. If faxed, the original Oath should also be mailed to the appropriate address above.

Email: Scanned copies of the executed Oath may be sent to register@sos.texas.gov. If sent by email, the original Oath should also be mailed to the appropriate address above.

NOTE: *Do not have the Oath of Office administered to you before executing and filing the Statement of Officer (Form 2201 – commonly referred to as the “Anti-Bribery Statement”) with the Office of the Secretary of State.*

Commentary

Pursuant to art. XVI, Section 1 of the Texas Constitution, the Oath of Office *may not* be taken until a Statement of Officer (see Form 2201) has been subscribed to and, as required, filed with the Office of the Secretary of State. Additionally, gubernatorial appointees who are appointed during a legislative session *may not* execute their Oath until after confirmation by the Senate. Tex. Const. art. IV, Section 12.

Officers Required to File Oath of Office with the Secretary of State:

Gubernatorial appointees

District attorneys

Appellate and district court judges

Officers appointed by the supreme court, the court of criminal appeals, or the State Bar of Texas

Associate judges appointed under subchapter B or C, chapter 201 of the Texas Family Code

Directors of districts operating pursuant to chapter 36 or 49 of the Texas Water Code file a duplicate original of their Oath of Office within 10 days of its execution. Texas Water Code, Sections 36.055(d) and 49.055(d)

Officers Not Required to File Oath of Office with the Secretary of State:

Members of the Legislature elected to a *regular* term of office will have their Oath of Office administered in chambers on the opening day of the session and recorded in the appropriate Journal. Members elected to an *unexpired* term of office should file their Oath of Office with either the Chief Clerk of the House or the Secretary of the Senate, as appropriate.

All other persons should file their Oaths locally. Please check with the county clerk, city secretary or board/commission secretary for the proper filing location.

As a general rule, city and county officials do not file their oath of office with the Secretary of State—these officials file at the local level. The Legislature amended the Texas Constitution, Article 16, Section 1, in November 2001 to no longer require local level elected officials to file with our office.

The Office of the Secretary of State does NOT file Statements or Oaths from the following persons: Assistant District Attorneys; City Officials, including City Clerks, City Council Members, Municipal Judges, Justices of the Peace, and Police/Peace Officers; Zoning/Planning Commission Members; County Officials, including County Clerks, County Commissioners, County Judges (*except County Court of Law Judges who file with the Elections Division*), County Tax Assessors, and District Clerks; and Officials of Regional Entities, such as, Appraisal Review Districts, Emergency Service Districts, and School Districts (ISD's). Questions about whether a particular officer is a state-level officer may be resolved by consulting relevant statutes, constitutional provisions, judicial decisions, and attorney general opinions.

All state or county officers, other than the governor, lieutenant governor, and members of the legislature, who qualify for office, are commissioned by the governor. Tex. Gov't Code, Section 601.005. The Secretary of State performs ministerial duties to administer the commissions issued by the governor, including confirming that officers are qualified prior to being commissioned. Submission of this oath of office to the Office of the Secretary of State confirms an officer's qualification so that the commission may be issued.

Questions about this form should be directed to the Government Filings Section at (512) 463-6334 or register@sos.texas.gov.

Revised 9/2017

Submit to:
SECRETARY OF STATE
Government Filings Section
P O Box 12887
Austin, TX 78711-2887
512-463-6334
FAX 512-463-5569
Filing Fee: None



OATH OF OFFICE

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS,
I, _____, do solemnly swear (or affirm), that I will faithfully
execute the duties of the office of _____ of
the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws
of the United States and of this State, so help me God.

Signature of Officer

Certification of Person Authorized to Administer Oath

State of _____

County of _____

Sworn to and subscribed before me on this _____ day of _____, 20____.

(Affix Notary Seal,
only if oath
administered by a
notary.)

Signature of Notary Public or
Signature of Other Person Authorized to Administer An
Oath

Printed or Typed Name



City Council Meeting

Date: May 5, 2026

Agenda Item: 7.A.

PRESENTER: Karen Hadnot, City Secretary

ITEM/SUBJECT: Consider approval of minutes for the Regular Council meeting held on April 21, 2026. (City Secretary)

SUMMARY/BACKGROUND: This item includes draft minutes for the Regular Council meeting held on April 21, 2026.

FINANCIAL:

N/A

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

CITY CONTACT: Karen Hadnot
citysec@nactx.us
936.559.2506

ATTACHMENTS: 1. Draft Minutes 04.21.2026



Regular Session
Nacogdoches City Council
April 21, 2026 – 5:30 p.m.
Council Chambers
202 E. Pilar, Nacogdoches, TX

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

1. Called to order at 5:30 p.m.
2. Pledge of Allegiance.
3. Open Forum:

Mayor Johnson opened the floor for public comments. There being no public comments.

4. **ITEMS TO BE REMOVED FROM THE CONSENT AGENDA:**

5. **CONSENT AGENDA:**

Council Member Huckaby made a motion to approve Consent Agenda Items. Council Member Williams seconded the motion, which was unanimously approved.

6. **REGULAR AGENDA:**

Mayor Johnson called the next item on the Regular Agenda.

- 6A. **Public Hearing:** Discuss and consider action on Historic Overlay Case HO2025-02 regarding a Historic Overlay designation on one (1) parcel of land approximately 0.18 ± acres in size, more particularly described by Nacogdoches Central Appraisal District Parcel 23796; and located at 515 Bailey Avenue, Nacogdoches, Texas.

Jessica Sowell, the Director of Community, presented the staff report to the City Council. Mrs. Sowell reviewed a series of slides and explained that the applicant had selected criteria three and six. She highlighted the property's historical connection to the adjacent property, Dr. Taylor's medical office, and noted its use as lodging for physicians since around 1910.

Mrs. Sowell also mentioned that both the Historic Landmark Preservation Committee and the Planning and Zoning Committee had approved the request as outlined in the staff report.

Mayor Johnson then opened the floor for public comments. With no comments received, the floor was closed.

Council Member Belanger made a motion to approve agenda item 6A as written, and Council Member Maule seconded the motion. The motion was passed with a unanimous affirmative vote.

Mayor Johnson proceeded to the next item on the regular agenda.

- 6B. **Public Hearing:** Discuss and consider action on Specific Use Permit Case SUP2026-03 regarding a Specific Use Permit request for a Utility Facility (Major) in a R-2, Single Family district on one (1) parcel of land approximately 2.91 acres ± in size, more particularly described by Nacogdoches Central Appraisal District Parcel 25733; and generally located on the south side of SE Stallings Drive approximately 200 feet west of Lovaire Drive, Nacogdoches, Texas.

Juan Pollette, the City Planner, presented the staff report to the City Council. He stated that the request is to expand the existing Oncor substation on a 2.91-acre site along Southeast Stallings Drive. Mr. Pollette provided slides to illustrate his presentation and explanation.

Ashton Miller, the Oncor Project Manager, explained that the plan involves replacing two existing transformers from 1969 and adding two new ones to enhance reliability and reduce fire risks. The expansion will include an 8-foot masonry screening wall and will increase the distance between the equipment and adjacent residential property lines. Mr. Miller also presented slides during his review.

Mayor Johnson open the floor for comments.

Judy Montgomery expressed concerns about nighttime construction activities. Mr. Miller assured her that the construction crews will comply with city noise ordinances and will only perform night work in the event of an emergency power outage.

Mayor Johnson then closed the public hearing.

Council Member Maule made a motion to approve Specific Use Permit Case SUP2026-03, which pertains to the request for a Utility Facility (Major) in an R-2, Single Family district on a parcel of land approximately 2.91 acres in size. This parcel is specifically described by the Nacogdoches Central Appraisal District Parcel 25733 and is generally located on the south side of Southeast Stallings Drive, approximately 200 feet west of Lovaire Drive in Nacogdoches, Texas. Council Member Huckaby moved to amend the motion to include the conditions recommended by staff, which were presented to Planning and Zoning. Council Member Belanger seconded the amended motion, and a unanimous affirmative vote was recorded.

Mayor Johnson proceeded to call the next item on the regular agenda.

- 6C. **Public Hearing:** Discuss and consider action on Specific Use Permit Case SUP2026-04 regarding a Specific Use Permit request for a Radio, TV, Microwave, or Cellular Transmission Tower (Commercial), in a R-2, Single Family district on one (1) parcel of land approximately 15.97 acres ± in size, more particularly described by Nacogdoches Central Appraisal District Parcel 24944; and generally located on the south side of Douglass Road approximately one-quarter mile east of NW Stallings Drive, Nacogdoches, Texas.

Juan Pollette, the City Planner, presented the staff report to the Council. He displayed a slide and provided a thorough review of its contents. Mr. Pollette explained that the tower will be centrally located on the property, with a 260-foot setback from the property lines to ensure safety in the event of a structural failure.

He also mentioned that the Federal Aviation Administration has determined that the structure does not pose a hazard to air navigation and noted that no public opposition was received.

Mayor Johnson opened the floor for comments.

Michael Crane, a zoning consultant for Oncor, stated that the purpose of the tower is to enhance communication between smart meters and technicians, as well as to improve overall power grid management.

After the comments, Mayor Johnson closed the floor.

Council Member Huckaby then made a motion to approve the Specific Use Permit as outlined in Regular Agenda Item 6C. Mayor Johnson seconded the motion, which received a unanimous affirmative vote.

Mayor Johnson proceeded to call the next item on the regular agenda.

- 6D. **Public Hearing:** Consider approval of an Ordinance of the City of Nacogdoches, Texas, amending Chapter 118 "Zoning"; Article II "Administration", Division 2 "Planning and Zoning Commission", Section 118-66 "Organization", 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.

Michael Neu, the Executive Director of Development and Infrastructure, presented the staff report. He provided City Council with a recap of the previous meeting, which included the discussion of appointing alternates to the Planning and Zoning Commission.

The Council deliberated on amending the zoning ordinance to permit the appointment of alternate members to the Planning and Zoning Commission. This measure aims to prevent cancellations and delays in city business that can occur due to a lack of physical quorum. The alternate members would be appointed by the Council and seated in a specific order during absences, following Robert's Rules of Order. Mr. Neu noted that the Zoning Subcommittee reviewed these amendments on March 31, 2026, and agreed to forward them to the Planning and Zoning Commission, which approved the amendment on April 13, 2026.

Mayor Johnson then opened the floor for comments. As there were none, he closed the floor.

Council Member Belanger made a motion to approve the amendment outlined in regular agenda item 6D. Council Member Huckaby seconded the motion, which received a unanimous affirmative vote.

Mayor Johnson proceeded to call the next item on the regular agenda.

- 6E. Consider selection of the submission by Hydrex Environmental Consulting LLC in response to solicitation RFQ 26-10-118 for Environmental Services for Lanana and Banita Sewer Replacement Projects.

Case Opperman, the Director of Public Works and City Engineer, presented the staff report to the Council. He reviewed detailed slides regarding the project. Mr. Opperman noted that Hydrex services would include archaeological and cultural resource surveys, wetland studies, and endangered species clearance, which are all necessary for the design and construction phases. He stated that Hydrex was selected as the most qualified firm out of eight submissions based on independent staff scoring.

Council Member Maule made a motion to approve the selection of Hydrex Environmental Consulting LLC in response to solicitation RFQ 26-10-118 for Environmental Services related to the Lanana and Banita Sewer Replacement Projects. Council Member Belanger seconded the motion, and it passed with a unanimous affirmative vote.

Mayor Johnson proceeded to call the next item on the regular agenda.

- 6F. Hold a discussion regarding the FY 2026-27 budget, including the calendar establishing deadlines for meetings, workshops, and hearings to approve the upcoming budget; FY 2026-27 budget priorities; and assessment of FY 2025-26 budget.

Council Member Belanger opened a discussion on the budget process, highlighting the importance of early input from the Council before staff finalizes their recommendations.

City Manager Beverlin reviewed the draft budget calendar and provided an assessment of the current fund balances, noting that reserves in the General Fund are healthy. He mentioned that sales tax revenues are showing positive trends and that employee turnover rates have significantly decreased following recent salary adjustments. City Manager Beverlin presented slide presentation and reviewed the slides thoroughly.

The Council discussed the Police Department's step pay plan, with members advocating for additional refinements to ensure competitiveness with similar cities.

The City Manager cautioned about potential financial constraints by 2028 due to the compounding costs of capital improvement projects and ongoing salary obligations.

Mayor Johnson proceeded to call the next item on the regular agenda.

- 6G. Hold a discussion regarding legislative priorities for the upcoming 90th Legislative Session.

City Manager Richard Beverlin and the City Council engaged in extensive discussions about the upcoming legislative session, during which Mr. Beverlin delivered a slide presentation. He also expressed gratitude to Representative Schoffner and Senator Nichols for their assistance.

7. EXECUTIVE SESSION

The Mayor and Council adjourned into Executive Session at 7:17pm

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

No action taken.

9. **ADJOURNED:** 8:05p.m.

A full recording of the Regular City Council Meeting for April 21, 2026, may be viewed here: [Regular City Council Meeting – 20260421](#)

ATTEST:

Randy Johnson, Mayor
City Council
City of Nacogdoches

Karen Hadnot, City Secretary



PRESENTER: Cary Walker, Public Works Manager

ITEM/SUBJECT: Consider approval of the purchase of a Front Load Garbage Truck from Bond Equipment Company, utilizing BuyBoard Cooperative Purchasing Contract 723-23, in the amount of \$476,539.00. (Public Works Operations Manager)

SUMMARY/BACKGROUND: Staff procured a quote for the replacement of a front-load garbage truck from Bond Equipment Company, a Dallas-based company, in the amount of \$476,539.00. The vendor is under a BuyBoard cooperative purchasing contract (BuyBoard Contract 723-23), which is exempt from the competitive bidding process under Texas Local Government Code Section 252.022(a)(12)(D). This purchase item is budgeted as a Sanitation Fund vehicle capital expense (\$458,997.00) in FY 2026, and additional non-budgeted funds will come from Sanitation Fund reserves (\$17,542). Reserve fund amounts will also be included in a subsequent budget amendment by the Finance Department as City accounts are reconciled.

FINANCIAL:

Item is budgeted:

Account No.: 31.40 680.20

Account Name: *Sanitation Collection – Vehicle Capital Expense*

Amount: \$ 458,997.00

Item is not budgeted (*Budget Amendment required*)

Account No.: 31.40 680.20

Account Name: *Sanitation Collection – Vehicle Capital Expense*

Amount: \$ 17,542.00

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

Not Applicable

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

ATTACHMENTS: 1. Quote

TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE BUYBOARD

PRODUCT PURCHASING BASED ON CONTRACT

Customer		City of Nacogdoches		4/16/2026
Product Description	LH Drive	Battle Motors	LET2 6X4	Diesel
	Ship to	Heil		
A. Base Price in Bid/Proposal Number		723-23		<u>\$189,356.00</u>
B. Published Options *itemize each item below)				
Double Frame	1594	Disable radio in reverse	134	
X12 380R	15273	2 Way radio wring in dash	120	
Block Heater	384	Air horn	798	
Remote coolant recovery and fill	489	Heated Mirrors	116	
Exhaust Diffuser	292	Spot mirrors 2 per	163	
4500RDS-R	11060	Diff lock controls w buzzer	391	
HMX 460	3342	DCDL Tandem	1118	
D46-170	1350	Batt-Disconnect to switch	185	
80 Gallon fuel tank	291	Battery box 3 950 CCA	310	
Front bumper Front loader	906	LH Sentry seat	476	
Tow pins	143	Adjustable seat shock	168	
Rear tow loops	333	Heil AL	4041	
Black windshield guard	240	Heil FEL Body	225163	
Subtotal column 1	35697	Subtotal column 2	233183	
Published Options added to Base Price (Subtotal of Column 1 Column 2)				<u>\$268,880</u>
C. Subtotal of A+ B				<u>\$458,236</u>
D. Unpublished Options (Itemize each item below. Not to exceed + 25% of Unpublished)				
Front 315/80alum wheels	1123	Surcharge	975	
22K Front suspension	215	Payment after delivery	8000	
315/80 Rear Tires	7458	Ext transmission warranty	1825	
Heated DV2 valve	182	26-X12MLR discout	-8915	
Alum rear wheels	3795			
Front skid plate	240			
Total Column 1	13013	Total Column 2	1885	
Unpublished Options added to Base Price (subtotal of Column 1 + 2)				<u>14898</u>
E. Contract Price Adjustment (if any explain)				
F. Total of C +D + E(Not including Buyboard Fee)				<u>\$473,134</u>
G. Quantity Ordered (Units x F) 1 # of Units				<u>473,134</u>
H. Buyboard Fee		400		<u>400</u>
I. Non-Equipment Charges & Credits (ie Ext. Warranty, Trade In, Cost of Factory Trips etc.)				
			*Cummins Ext Warranty	<u>3005</u>
			*Truck Inspection	<u>0</u>
			Subtotal non equipment changes	<u>3005</u>
J. TOTAL PURCHASE PRICE INCLUDING (G +H +I)				<u>476,539</u>
Bond Equipment Company Inc.		Aubrie Basco		
2946 Irving Blvd		214-637-0760		
Dallas, TX 75247				

***Cummins Extended warranty per truck \$3005**
***Truck inspection per person \$2000**



PRESENTER:

ITEM/SUBJECT: Consider approval of Resolution 1414-05-26 regarding the submission of a Texas Community Development Block Grant Program 2026 Project Application (CDV25-0373) by the City of Nacogdoches to the Texas Department of Agriculture for storm water management system improvements. (Director of Public Works/City Engineer)

SUMMARY/BACKGROUND: *NOTE: This item is an updated version of City Council Resolution 1413-03-26, approved March 17, 2026. This resolution format is currently recommended by The Texas Department of Agriculture (TDA) for authorized signatories designated as part of Community Development Block Grant (TxCDBG) applications.*

TDA offers a rural economic development grant known as the TxCDBG Program for Rural Texas. The primary objective of this program is to develop viable communities by providing decent housing and suitable living environments, expanding economic opportunities principally for people in Census-designated Low and Moderate Income (LMI) areas. Most funds are used for public facilities including, but not limited to, water/wastewater infrastructure, street and drainage improvements and housing activities.

City Council Resolution 1376-11-24 previously authorized the submission of a [Community Development Fund](#) application (CDV25-0373) for this \$750,000.00 grant. While the City did not receive an award under Phase I of the program, the City has been invited to apply for additional funds remaining under Phase II. Proposed projects would include two (2) storm sewer improvement areas at Sweetgum/Stewart Streets and at Railroad Street, respectively. The prior resolution also committed the City to provide a local match of \$112,500.00 in conjunction with the \$750,000.00 grant, and this remains in effect if awarded. Since local funding is included as part of the 2023 General Obligation Bonds designated for storm improvements, additional grant funding would allow the City to meet additional drainage project needs.

This proposed resolution designates City signatories for contractual and financial grant documents related to the Phase II application. City staff recommends approval.

FINANCIAL:

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

CITY CONTACT:

ATTACHMENTS: 1. Resolution

RESOLUTION NO. 1414-05-26

A RESOLUTION OF THE CITY COUNCIL OF NACOGDOCHES, TEXAS, AUTHORIZING CITY REPRESENTATIVES IN MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; PROVIDING FOR FINDINGS OF FACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of Nacogdoches, Texas, desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, it is necessary and in the best interests of the City of Nacogdoches to participate in the Texas Community Development Block Grant Program; and

WHEREAS, the City Council of Nacogdoches, Texas, is committed to compliance with federal, state, and program rules, including the current TxCDBG Project Implementation Manual.

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

SECTION 1. Findings. The findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Authorized Signatories. The City Council directs and designates the following to act in all matters in connection with any grant application and the City's participation in the Texas Community Development Block Grant Program:

- The City Manager shall serve as the City's Chief Executive Officer and Authorized Representative to
 - execute a grant application and any subsequent contractual documents; and
 - certify environmental review documents between the Texas Department of Agriculture and the City; and
 - certify the Payment Request form and/or other forms required for requesting funds to reimburse project costs; and
 - be assigned the role of Authorized Official in the TDA-GO grant management system.
- In addition to the above designated official(s), should any grant be funded, the City Secretary, Executive Director of Development and Infrastructure, and Assistant Director of Finance are authorized to
 - certify the Payment Request form and/or other forms required for requesting funds to reimburse project costs; and
 - prepare and submit other financial documentation; and
 - be assigned the role of Project Director or Payment Processor in the TDA-GO grant management system.

SECTION 3. Effective Date. This Resolution shall be and become effective from and after its adoption in accordance with the provisions of the Charter of the City of Nacogdoches.

APPROVED AND ADOPTED at a regular meeting of the Nacogdoches City Council on this 5th day of May 2026.

CITY OF NACOGDOCHES

Randy Johnson, Mayor

ATTEST:

Karen Hadnot, City Secretary

APPROVED AS TO FORM:

Jerry Baker, City Attorney

PRESENTER: Colin Smith, Airport Manager

ITEM/SUBJECT: Consider approval of an agreement by and between the City of Nacogdoches and Texas Department of Transportation for runway/taxiway pavement rehabilitation construction services (CIP Project AF-24-401) at A.L. Mangham Jr. Regional Airport; and authorize the City Manager to execute any and all necessary documents. (Airport Manager)

SUMMARY/BACKGROUND: The proposed construction services agreement with the Texas Department of Transportation (TxDOT) will establish the City as a sponsor for federal grant funding to rehabilitate runway 18/36 and parallel and connector taxiways at A.L. Mangham Jr. Regional Airport. Through this agreement, the City is applying for federal financial assistance and desires TxDOT to act as the City's agent in related project matters (TxDOT Project No. 2611NACOG). On March 17, 2026, TxDOT [conditionally awarded](#) the bid for construction to Don Jackson Construction, Inc., and airport construction activities are scheduled to start on May 18, 2026.

- [Contract specifications](#)
- [Project plans](#)

A total of \$6,000,000 in project funding was authorized by the Texas Transportation Commission on Sept. 25, 2025, with up to 95 percent of allowable project costs (\$5.7 million) covered by federal funds, and up to 5 percent of allowable project costs (\$300,000) covered by local funds. The City's share of costs were budgeted in FY 2025 under CIP Project AF-24-401 utilizing voter-approved "Proposition A" General Obligation bond funds, and the City distributed \$300,000 to TxDOT for construction services in late Fall 2025. City Council also approved similar TxDOT agreements for project design services, as well as Airport Layout Plan planning services, on July 24, 2024.

FINANCIAL:

Item is budgeted:

Account No.: 40.680.37

Account Name: *Proposition A (Airport) Project Construction*

Amount: \$300,000

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

Infrastructure

CITY CONTACT: Colin Smith, Airport Manager
smithcm@nactx.us
(936) 559-9567

- ATTACHMENTS:**
1. Agreement
 2. TTC Minutes

TEXAS DEPARTMENT OF TRANSPORTATION
AIRPORT PROJECT PARTICIPATION AGREEMENT
(Federally Assisted Airport Development Grant)

TxDOT Project No.: 2611NACOG
Commission Approval: September 25, 2025
NPE Funds Applied:FY22-FY25
UEI: JK3KNJACE7L1
ALN: 20.116

Part I - Identification of the Project

TO: City of Nacogdoches, Texas

FROM: The State of Texas, acting through the Texas Department of Transportation

This Agreement is made and entered into by and between the Texas Department of Transportation for and on behalf of the State of Texas (the "State") and City of Nacogdoches, Texas (the "Sponsor").

The Sponsor desires to sponsor a project for the development of a public aviation facility, known or to be designated as the Airport under the Airport and Airway Improvement Act of 1982, as repealed and recodified in 49 U.S.C. § 47101 *et seq.*, ("Title 49 U.S.C."), and the State's rules, regulations, and procedures promulgated pursuant to Title 3 of the Texas Transportation Code.

The project is described as construction services to: rehabilitate Runway 18/36; parallel taxiway; and connector taxiway at A.L. Mangham, Jr. Regional Airport.

The Sponsor applies for federal financial assistance and desires the State to act as the Sponsor's agent in matters connected with the project described above, pursuant to Texas Transportation Code § 22.018 and as detailed below in Part IV.

The parties, by this Agreement, do fix their respective responsibilities, with reference to each other, with reference to the accomplishment of the project and with reference to the United States.

Pursuant to and for the purpose of carrying out the provisions of Title 49 U.S.C., and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in the Airport Project Participation Agreement and its acceptance of this Offer as provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the project and compliance with the assurances and conditions provided, **THE TEXAS DEPARTMENT OF TRANSPORTATION, FOR AND ON BEHALF OF THE UNITED STATES, FEDERAL AVIATION ADMINISTRATION ("FAA"), OFFERS AND AGREES** to pay, as the United States share of the allowable costs incurred in accomplishing the project, ninety-five per centum of all allowable project costs. This grant is made on and subject to the following terms and conditions:

Part II - Offer of Financial Assistance

1. The allowable costs of the project shall not include any costs determined by the State to be ineligible under Title 49 U.S.C., Title 3 of the Texas Transportation Code, or the Airport Zoning Act, Texas Local Government Code §§ 241.001 *et seq.*
2. It is estimated that construction project costs will be approximately \$5,028,390 (Amount A). It is further estimated that approximately \$5,028,390 (Amount B) of the project costs will be eligible for federal financial assistance, and that federal financial assistance will be for ninety-five percent (95%) of the eligible project costs. Final determination of federal eligibility of total project costs will be determined by the State in accordance with federal guidelines following completion of project.

If federal funds are unavailable, this Agreement shall automatically be voided and become of no force and effect, except that unexpended or unencumbered moneys actually deposited by the Sponsor and held with the State for project purposes shall be returned to the Sponsor.

3. The maximum obligation of the United States payable under this offer shall be \$4,776,970.50 (Amount C).

This grant should not be construed as block grant funds for the Sponsor, but as a grant for funding of the scope items as listed on page one of this agreement. The State will provide federal funding to complete the approved work items of this grant and will not amend the scope of work to include items outside of the current determined needs of this project. Scope of work may be amended if necessary to fulfill the unforeseen needs of this specific development project within the spirit of the approved scope, subject to the availability of state, federal, and/or local funds.

4. It is estimated that the Sponsor's share of the total project costs will be \$251,419.50 (Amount D). The Sponsor specifically agrees that, regardless of the estimated Amount D, it shall pay any project costs which exceed the sum of the federal share (Amount C). In the event the State determines that additional funding is required by the Sponsor at any time during the development of the Project, the State will notify the Sponsor in writing. The Sponsor will make payment to the State within thirty (30) days from receipt of the State's written notification.

It is further agreed that the Sponsor will reimburse the State for any payment or payments made by the State on behalf of the Sponsor which are more than the federal percentage of financial participation as stated in Paragraph II.2. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Sponsor, the State, or the Federal Government will be promptly paid by the owing party. The State shall refund to the Sponsor, at the financial closure of the project, any excess funds provided by the Sponsor. The State will not pay interest on any funds provided by the Sponsor.

5. If there is an overrun in the eligible project costs, the State may increase the grant to cover the amount of overrun not to exceed the statutory twenty-five (25%) percent limitation and will advise the Sponsor by amendment of the increase. Upon receipt of the amendment, the

maximum obligation of the United States is adjusted to the amount specified and the Sponsor will remit their share of the increased grant amount.

Participation in additional federally eligible costs may require approval by the Texas Transportation Commission. The State will not authorize expenditures more than the dollar amounts identified in this Agreement and any amendments without the consent of the Sponsor.

Payment of the United States share of the allowable project costs will be made in accordance with the provisions of such regulations and procedures as the State and the FAA shall prescribe. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.

6. Sponsor's share of project costs (Amount D/E) shall be paid initially in cash when requested by the State. The State will not execute project contracts until the required funding has been made available by the Sponsor in accordance with this Agreement. At project closeout, Sponsor will be reimbursed for any credited amounts that exceed Sponsor's share.
7. Sponsor, by executing this Agreement certifies, and upon request, shall furnish proof to the State that it has sufficient funds to meet its share of the costs. The Sponsor grants to the State and federal government the right, upon advance written request during reasonable and regular business hours, to audit any books and records of the Sponsor to verify said funds. In addition, the Sponsor shall disclose the source of all funds for the project and its ability to finance and operate the project.

Following the execution of this Agreement and upon written demand by the State, the Sponsor's financial obligation (Amount D/E) shall be due and payable to the State. State may request the Sponsor's financial obligation in partial payments. Should the Sponsor fail to pay the obligation, either in whole or in part, within 30 days of written demand, the State may exercise its rights under Paragraph V-7. Likewise, should the State be unwilling or unable to pay its obligation in a timely manner, the failure to pay shall be considered a breach and the Sponsor may exercise any rights and remedies it has at law or equity.

Expenditures for eligible project costs for the above project made by the State or the Sponsor prior to the award of a federal grant for the project, and prior to actual receipt of the authority to expend federal grant funds, shall be made from Sponsor funds.

8. The State shall make all reasonable attempts to acquire federal funding for the completion and construction of this project within two years of completion of design services. The Sponsor agrees to complete and construct this project within two years of completion of design services, subject to the availability of federal funds. If the sponsor does not move forward with design or construction, they shall reimburse the state 100% of all costs under contract and/or expended at the point of notification that the project will not be completed. The Sponsor also understand that if the FAA has provided Federal funding to complete the design for the project, and the Sponsor has not completed the design within four (4) years from the execution of this Grant Agreement, the State may suspend or terminate grants related to the design.

9. **Completing the Project without Delay and in Conformance with Requirements.** The State must assure, and must require the Sponsor to assure, that projects are carried out and completed without undue delays and in accordance with this Grant Agreement, 49 U.S.C. Chapters 471 and 475, the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the State agrees, and will require Sponsors agree, to report and request prior approval from the State or FAA for any disengagement from funding eligible expenses under the Grant and subgrants that exceed three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the stoppage. The State agrees, and will require Sponsors agree, to comply with the attached grant assurances, which are part of this Agreement. These assurances, conditions, and any addendums apply to subgrants issued under this Grant as provided for in paragraph 3(b).

10. **Improper Use of Federal Funds and Mandatory Disclosure.**

a. The State and Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term “Federal funds” means funds however used or dispersed by the State or Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The State must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The State and Sponsor, as applicable, must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The State and Sponsor, as applicable, must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the State and Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

b. The Sponsor, a recipient, and a subrecipient under this Federal grant must promptly comply with the mandatory disclosure requirements as established under 2 CFR § 200.113, including reporting requirements related to recipient integrity and performance in accordance with Appendix XII to 2 CFR Part 200.

11. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons that may arise from, or be incident to, compliance with this Grant Agreement or subgrants, including, but not limited to, any action taken by a State and Sponsor related to or arising from, directly or indirectly, this Grant Agreement.

12. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**

Requirement for System for Award Management (SAM): Unless the State or Sponsor is exempted from this requirement under 2 CFR § 25.110, the State and Sponsor must maintain the currency of its information in SAM until the State submits the final financial report required under this Grant or receives the final payment, whichever is later. This requires that the State review and update, and will require the Sponsor review and update, the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).

Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.

13. **Environmental Standards.** The State and Sponsor are required to comply with all applicable environmental standards, as further defined in the Grant Assurances, for all projects in this grant. If the State or Sponsor fails to comply with this requirement, the FAA or State, as applicable, may suspend, cancel, or terminate this Grant Agreement.
14. **Financial Reporting and Payment Requirements.** The State and Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
15. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the State and Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any project for which funds are provided under this Grant. The State and Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.
16. **Build America, Buy America.** The State and Sponsor, as applicable, must comply with the requirements under the Build America, Buy America Act (P.L. 117-58).

17. **Audits for Sponsors.**

PRIVATE SPONSORS. When the Period of Performance has ended, the Sponsor must provide a copy of an audit of this subaward prepared in accordance with Federal audit requirements to the State. A Sponsor expending less than \$1,000,000 in Federal awards and exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$1,000,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

18. **Suspension or Debarment.** The State must:

Immediately disclose to the FAA whenever the State:

- Learns a Sponsor has entered into a covered transaction with an ineligible entity; or
- Suspends or debars a contractor, person, or entity.

Include a provision in all subgrants that requires Sponsors entering into "covered transactions," as defined by 2 CFR § 180.200, to:

Verify the non-Federal entity is eligible to participate in this Federal program by:

Checking the System for Award Management (SAM.gov) exclusions to determine if the non-Federal entity is excluded or disqualified; or

Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or

Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.

Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g., subcontracts).

The State must also insert this clause on suspension or debarment in all subgrants, contracts, and subcontracts that result from this Grant.

19. **Ban on Texting While Driving.**

In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the State and Sponsors are encouraged to:

Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.

Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:

Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

The State must insert this clause on banning texting while driving in all subgrants, contracts, and subcontracts that result from this Grant.

20. **Trafficking in Persons.**

1. *Posting of contact information.*

a. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.

2. *Provisions applicable to a recipient that is a private entity.*

a. Under this Grant, the recipient, its employees, subrecipients under this Grant, and subrecipient's employees must not engage in:

Severe forms of trafficking in persons;

The procurement of a commercial sex act during the period of time that the grant or cooperative agreement is in effect;

The use of forced labor in the performance of this grant; or any subaward; or

Acts that directly support or advance trafficking in persons, including the following acts:

Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;
Failing to provide return transportation of pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:

1. Exempted from the requirement to provide or pay for such return transportation by the federal department or agency providing or entering into the grant; or
2. The employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or witness in a human trafficking enforcement action;

Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;

Charging recruited employees a placement or recruitment fee; or

Providing or arranging housing that fails to meet the host country's housing and safety standards.

- b. The FAA may unilaterally terminate this Grant or take any remedial actions authorized by 22 U.S.C. § 7104b(c), without penalty, if any private entity under this Grant:

Is determined to have violated a prohibition in paragraph (2)(a) of this Grant; or

Has an employee that is determined to have violated a prohibition in paragraph(2)(a) of this Grant through conduct that is either:

- a) Associated with the performance under this Grant; or
- b) Imputed to the recipient or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.

3. *Provisions applicable to a recipient other than a private entity.*

- a. The FAA may unilaterally terminate this award or take any remedial actions authorized by 22 U.S.C. § 7104b(c), without penalty, if subrecipient is a private entity under this Grant:

Is determined to have violated a prohibition in paragraph (2)(a) of this Grant; or

Has an employee that is determined to have violated a prohibition in paragraph (2)(a) of this Grant through conduct that is either:

- Associated with the performance under this Grant; or
- Imputed to the recipient or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.

4. *Provisions applicable to any recipient.*

- a. The recipient must inform the FAA and the DOT Inspector General immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (2)(a) of this Grant.
 - b. The FAA’s right to unilaterally terminate this Grant as described in paragraphs (2)(b) or (3)(a) of this Grant, implements the requirements of 22 U.S.C. chapter 78, and is in addition to all other remedies for noncompliance that are available to the FAA under this Grant.
 - c. The recipient must include the requirements of paragraph (2)(a) of this Grant award term in any subaward it makes to a private entity.
 - d. If applicable, the recipient must also comply with the compliance plan and certification requirements in 2 CFR 175.105(b).
5. *Definitions. For purposes of this Grant award, term:*
- a. “Employee” means either:
 - An individual employed by the recipient or a subrecipient who is engaged in the performance of the project or program under this Grant; or
 - Another person engaged in the performance of the project or program under this Grant and not compensated by the recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing requirements.
 - b. “Private Entity” means:
 - Any entity, including for-profit organizations, nonprofit organizations, institutions of higher education, and hospitals. The term does not include foreign public entities, Indian Tribes, local governments, or states as defined in 2 CFR 200.1.
 - The terms “severe forms of trafficking in persons,” “commercial sex act,” “sex trafficking,” “Abuse or threatened abuse of law or legal process,” “coercion,” “debt bondage,” and “involuntary servitude” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).
21. **Exhibit “A” Property Map.** The State and Sponsor will ensure that any airport receiving funding under this Block Grant has a current Exhibit “A” Property Map incorporated by reference or has submitted a current Exhibit “A” Property Map with their request for funding to the State.
22. **Employee Protection from Reprisal.** In accordance with 2 CFR § 200.217 and 41 U.S.C. § 4712, an employee of a grantee, subgrantee contractor, recipient or subrecipient must not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (a)(2) of 41 U.S.C. 4712 information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. The grantee, subgrantee, contractor, recipient, or subrecipient must inform their employees in writing of employee whistleblower rights and protections under 41 U.S.C. §

4712. See statutory requirements for whistleblower protections at 10 U.S.C. § 4701, 41 U.S.C. § 4712, 41 U.S.C. § 4304, and 10 U.S.C. § 4310.

23. **Prohibited Telecommunications and Video Surveillance Services and Equipment.** The State or Sponsor, as applicable, agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [P.L. 115-232 § 889(f)] and 2 CFR § 200.216.
24. **Critical Infrastructure Security and Resilience.** The State or Sponsor, as applicable, acknowledges that it has considered and addressed physical and cybersecurity and resilience in its project planning, design, and oversight, as determined by the DOT and the Department of Homeland Security (DHS). For airports that do not have specific DOT or DHS cybersecurity requirements, the FAA encourages the voluntary adoption of the cybersecurity requirements from the Transportation Security Administration and Federal Security Director identified for security risk Category X airports.
25. **Title VI of the Civil Rights Act.** As a condition of a grant award, the State and Sponsor shall demonstrate that it complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq) and implementing regulations (49 CFR part 21), the Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.), U.S. Department of Transportation and Federal Aviation Administration (FAA) Assurances, and other relevant civil rights statutes, regulations, or authorities, including any amendments or updates thereto. This may include, as applicable, providing a current Title VI Program Plan to the FAA for approval, in the format and according to the timeline required by the FAA, and other information about the communities that will be benefited and impacted by the project. A completed FAA Title VI Pre-Grant Award Checklist is required for every grant application, unless excused by the FAA. The State and Sponsor shall affirmatively ensure that when carrying out any project supported by this grant that it complies with all federal nondiscrimination and civil rights laws based on race, color, national origin, sex, creed, age, disability, genetic information, in consideration for federal financial assistance. The Department's and FAA's Office of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements. Failure to comply with civil rights requirements will be considered a violation of the agreement or contract and be subject to any enforcement action as authorized by law.
26. **FAA Reauthorization Act of 2024.** This grant agreement is subject to the terms and conditions contained herein including the terms known as the Grant Assurances as they were published in the Federal Register April 2025. On May 16, 2024, the FAA Reauthorization Act of 2024 made certain amendments to 49 U.S.C. chapter 471. The Reauthorization Act will require the FAA to make certain amendments to the assurances in order to best achieve consistency with the statute. Federal law requires that the FAA publish any amendments to the assurances in the Federal Register along with an opportunity to comment. In order not to delay the offer of this grant, the existing assurances are attached herein; however, the FAA shall interpret and apply these assurances consistent with the Reauthorization Act. To the extent there is a conflict between the assurances and Federal statutes, the statutes shall apply. The full text of the FAA

Reauthorization Act of 2024 is at <https://www.congress.gov/bill/118th-congress/house-bill/3935/text>.

27. **Applicable Federal Anti-Discrimination Laws.** Pursuant to Section (3)b)(iv), Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, [the sponsor:](#) Agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government’s payment decisions for purposes of section 3729(b)(4) of title 31, United States Code; and to certify that it does not operate any programs promoting diversity, equity, and inclusion (DEI) that violate any applicable Federal anti-discrimination laws.

28. **National Airspace System Requirements:**
 - a. The State and Sponsor shall cooperate with FAA activities installing, maintaining, replacing, improving, or operating equipment and facilities in or supporting the National Airspace System, including waiving permitting requirements and other restrictions affecting those activities to the maximum extent possible, and assisting the FAA in securing waivers of permitting or other restrictions from other authorities. The State and Sponsor shall not take actions that frustrate or prevent the FAA from installing, maintaining, replacing, improving, or operating equipment and facilities in or supporting the National Airspace System.

 - b. If FAA determines that the State and Sponsor has violated subsection (a), the FAA may impose a remedy, including:
 - (1) additional conditions on the award;
 - (2) consistent with 49 U.S.C. chapter 471, any remedy permitted under 2 C.F.R. 200.339 i. 200.340, including withholding of payments; disallowance of previously reimbursed costs, requiring refunds from the Recipient to the DOT; suspension or termination of the award; or suspension and debarment under 2 C.F.R. part 180; or
 - (3) any other remedy legally available.

 - c. In imposing a remedy under this condition, the FAA may elect to consider the interests of only the FAA.

 - d. The State and Sponsor acknowledges that amounts that the FAA requires the State or Sponsor to refund to the FAA due to a remedy under this condition constitute a debt to the Federal Government that the FAA may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–904).

29. **Signage Costs for Construction Projects.** The Sponsor agrees that it will require the prime contractor of a Federally- assisted airport improvement project to post signs consistent with a DOT/FAA-prescribed format, as may be requested by the DOT/FAA, and further agrees to remove any signs posted in response to requests received prior to February 1, 2025.

30. The period of performance shall commence on the date the State executes this agreement. The end date of the period of performance is four years from the date of execution of the State.

PART III - Sponsor Responsibilities

1. In accepting the Agreement, the Sponsor guarantees that:
 - a. it will comply with Attachment A, Certification of Airport Fund, attached and made a part of this Agreement; and
 - b. it will comply with Attachment E, Airport Assurances (4/2025) and Attachment F, Special Conditions, attached and made a part of this Agreement; and
 - c. it will comply with Attachment D, Certification and Disclosure Regarding Potential Conflicts of Interest, attached and made a part of this Agreement; and
 - d. it will, in the operation of the facility, comply with all applicable state and federal laws, rules, regulations, procedures, covenants and assurances required by the State of Texas or the FAA in connection with the federal grant; and
 - e. the Airport or navigational facility which is the subject of this Agreement shall be controlled for a period of at least 20 years, and improvements made or acquired under this project shall be operated, repaired, and maintained in a safe and serviceable manner for the useful life of said improvements, not to exceed 20 years; and
 - f. consistent with safety and security requirements, it shall make the airport or air navigational facility available to all types, kinds, and classes of aeronautical use without unjust discrimination between such types, kinds and classes and shall provide adequate public access during the term of this Agreement; and
 - g. it shall not grant or permit anyone to exercise an exclusive right for the conduct of aeronautical activity on or about an airport landing area. Aeronautical activities include, but are not limited to scheduled airline flights, charter flights, flight instruction, aircraft sales, rental and repair, sale of aviation petroleum products and aerial applications. The landing area consists of runways or landing strips, taxiways, parking aprons, roads, airport lighting and navigational aids; and
 - h. it shall not permit non-aeronautical use of airport facilities, without prior approval of the State/FAA, and must be identified on an approved Airport Layout Plan. This includes but is not limited to: the process of land disposal, any changes to the aeronautical or non-aeronautical land uses of the airport, land's deeded use from - aeronautical to nonaeronautical and/or nonaeronautical to aeronautical, requests of concurrent use of land, interim use of land, approval of a release from obligations from the FAA, any of which will require 18 months, or longer; and
 - i. through the fence access shall be reviewed and approved by the State; and
 - j. it will acquire all property interests identified as needed for the purposes of this project and comply with all applicable state and federal laws, rules, regulations, procedures, covenants and assurances required by the State of Texas or the FAA in

connection with the federal grant in the acquisition of such property interests; and that airport property identified within the scope of this project and Attorney's Certificate of Airport Property Interests shall be pledged to airport use and shall not be removed from such use without prior written approval of the State; and

- k. the Sponsor shall submit to the State annual statements of airport revenues and expenses as requested; and
- l. all fees collected for the use of an airport or navigational facility constructed with funds provided under the program shall be reasonable and nondiscriminatory. The proceeds of such fees shall be used solely for the development, operation, and maintenance of the Sponsor's system of airport(s) or navigational facility(ites).
- m. an Airport Fund shall be established by resolution, order, or ordinance in the treasury of the Sponsor, or evidence of the prior creation of an existing airport fund or a properly executed copy of the resolution, order, or ordinance creating such a fund shall be submitted to the State. Such fund may be an account within another fund but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole. All fees, charges, rents, and money from any source derived from airport operations must be deposited in said Airport Fund and shall not be diverted to the general revenue fund or any other revenue fund of the Sponsor. All expenditures from the Airport Fund shall be solely for airport or airport system purposes. Sponsor shall be ineligible for a subsequent grant or loan by the State unless, prior to such subsequent approval of a grant or loan, Sponsor has complied with the requirements of this subparagraph; and
- n. for federally funded projects any revenue from airport property mineral rights be identified as airport revenue; deposited to the airport fund and used for airport operations; and
- o. the Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.
- p. insofar as it is reasonable and within its power, Sponsor shall adopt and enforce zoning regulations to restrict the height of structures and use of land adjacent to or in the immediate vicinity of the airport to heights and activities compatible with normal airport operations as provided in Texas Local Government. Code §§ 241.001 *et seq.* Sponsor shall also acquire and retain aviation easements or other property interests in or rights to use of land or airspace unless Sponsor can show that acquisition and retention of such interests will be impractical or will result in undue hardship to Sponsor. Sponsor shall be ineligible for a subsequent grant or loan by the State unless Sponsor has, prior to such subsequent approval of a grant or loan, adopted and passed an airport hazard zoning ordinance or order approved by the State; and
- q. it will provide upon request of the State, the engineering or planning consultant, and the FAA copies of any maps, plans, or reports of the project site, applicable to or affecting the above project; and

- r. after reasonable notice, it will permit the State, the FAA, and any consultants and contractors associated with this project, access to the project site, and will obtain permission for the State, the FAA, and consultants and contractors associated with this project, to enter private property for purposes necessary to this project; and
 - s. all development of an airport constructed with program funds shall be consistent with the Airport Layout Plan approved by the State and maintained by the Sponsor. A reproducible copy of such plan, and all subsequent modifications, shall be filed with the State for approval; and
 - t. it shall take all steps, including litigation, if necessary, to recover funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal and State funds have been expended. For the purposes of this grant agreement, the term “funds” means funds, however used, or disbursed by the Sponsor or Agent that were originally paid pursuant to this or any other grant agreement. It shall obtain the approval of the State as to any determination of the amount of such funds. It shall return the recovered share, including funds recovered by settlement, order, or judgment, to the State. It shall furnish to the State, upon request, all documents and records pertaining to the determination of the amount of the funds or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such funds shall be approved in advance by the State.
2. The Sponsor certifies to the State that it will have acquired clear title in fee simple to all property upon which construction work is to be performed, or have acquired a leasehold on such property for a term of not less than 20 years, prior to the advertisement for bids for such construction or procurement of facilities that are part of the above project, and within the time frame of the project, a sufficient interest (easement or otherwise) in any other property which may be affected by the project.
 3. The Sponsor, to the extent of its legal authority to do so, shall save harmless the State, the State’s agents, employees or contractors from all claims and liability due to activities of the Sponsor, the Sponsor’s agents or employees performed under this agreement. The Sponsor, to the extent of its legal authority to do so, shall also save harmless the State, the State’s agents, employees or contractors from any and all expenses, including attorney fees which might be incurred by the State in litigation or otherwise resisting the claim or liabilities which might be imposed on the State as the result of such activities by the Sponsor, the Sponsor’s agents or employees.
 4. The Sponsor’s acceptance of this Offer and ratification and adoption of the Agreement incorporated shall be evidenced by execution of this instrument by the Sponsor, and the Agreement shall comprise a contract, constituting the obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the project and the operation and maintenance of the airport. Such Agreement shall become effective upon execution of this instrument and shall remain in full force and effect for a period of at least 20 years.
 5. The Sponsor and not the State shall, for all purposes, be the “Sponsor” of the project identified

above as defined in Title 49 U.S.C. Sponsor agrees to assume responsibility for operation of the facility in compliance with all applicable state and federal requirements including any statutes, rules, regulations, assurances, procedures, or any other directives before, during and after the completion of this project.

6. The Sponsor shall have on file with the State a current and approved Attorney's Certificate of Airport Property Interests and Exhibit A property map.
7. The Sponsor shall have on file with the State, Attachment B, Certification Regarding Drug-Free Workplace Requirements, attached and made part of this agreement.
8. Unless otherwise approved by the State, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant. The sponsor will include in every contract a provision implementing this special condition.
9. Except for instrument landing systems acquired with AIP funds and later donated to and accepted by the FAA, the Sponsor must provide for the continuous operation and maintenance of any navigational aid funded under the AIP during the useful life of the equipment unless the equipment is transferred by agreement to the FAA in accordance with 49 U.S.C. § 44502(e); The sponsor must check the facility, including instrument landing systems, prior to commissioning to ensure it meets the operational standards. The Sponsor must also remove, relocate, or lower each obstruction on the approach or provide for the adequate lighting or marking of the obstruction if any aeronautical study conducted under FAR Part 77 determines that to be acceptable; and mark and light the runway, as appropriate. The Federal Aviation Administration will not take over the ownership, operation, or maintenance of any sponsor-acquired equipment, except for instrument landing systems.
10. For a project to replace or reconstruct pavement at the airport, the Sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number 11. The sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. As a minimum, the program must conform to the provisions in Attachment C "Pavement Maintenance Management Program," attached and made part of this agreement.
11. the Sponsor agree that because State highway specifications will be used for airfield pavement construction instead of FAA standard specifications, it will not seek AIP grant funds or supplemental appropriation funds for the rehabilitation or reconstruction of airfield pavement included in this Grant Agreement for a period of 10 years after construction is completed unless the FAA determines that the rehabilitation or reconstruction is required for safety reasons, per 49 U.S.C § 47015(c) or 47114(d)(5).

Part IV- Nomination of the Agent

1. The Sponsor designates the State as the party to apply for, receive, and disburse all funds used, or to be used, in payment of the costs of the project, or in reimbursement to either of

the parties for costs incurred.

2. The State agrees to assume the responsibility to assure that all aspects of the grant are done in compliance with all applicable state and federal requirements including any statutes, rules, regulations, assurances, procedures, or any other directives, except as otherwise specifically provided.
3. As required by Texas Transportation Code 22.018, when acting as the agent for Sponsor, State shall advertise for, select, and make contracts with, consultants and contractors in accordance with the law governing the making of contracts by the State.
4. The State shall, for all purposes in connection with the project identified above, be the Agent of the Sponsor. The Sponsor grants the State a power of attorney to act as its agent for all such purposes, including, but not limited to:

Receiving and Disbursing Agent:

- a. apply for, accept, receive, and deposit with the State Treasury any and all project funds granted, allowed, and paid or made available by the State and/or the United States under Title 49 U.S.C. and congressional appropriation;
- b. receive, review, approve, and process Sponsor's reimbursement requests for approved project costs; and
- c. pay to the Sponsor, from granted funds, the portion of any approved reasonable and eligible project costs incurred by the Sponsor that are in excess of the Sponsor's share.
- d. receive, review, approve, and pay invoices and payment requests for services and materials supplied in accordance with State-executed contracts.

Contracting Agent:

- e. advertise for services required for the project, including, but not limited to, professional engineering and/or planning services, construction, construction management, and materials acquisition; receive, open, and review bids; select the consultant; provide notification of contract award for professional services; and negotiate professional services contract terms as necessary; and execute, on behalf of the Sponsor, contracts related to this project;
- f. participate in prebid and preconstruction conferences; and issue orders as it deems appropriate regarding construction progress, including but not limited to Notices to Proceed, Stop Work Orders, and Change Orders.
- g. administer Disadvantage Business Enterprises (DBE) and/or Historically Underutilized Business (HUB) Programs in accordance with federal and state regulations.

Contract Management Agent:

- h. exercise such supervision and direction of the project work as the State reasonably finds appropriate. Where there is an irreconcilable conflict or difference of opinion, judgment, order, or direction between the State and the Sponsor, any engineer,

contractor, or materialman, the State shall issue a written order, which shall prevail and be controlling.

- i. coordinate and review project plans, specifications, and construction; coordinate and conduct progress and final inspections.

Construction Phase:

- j. review, approve and maintain record drawings.

PART V - Recitals

1. The State and the Sponsor shall obtain an audit as required by federal or state regulations.
2. The Sponsor, and not the State, shall be the contractual party to all construction and professional service contracts entered into for the accomplishment of this project. The power of attorney, as granted by the Sponsor to the State in Part IV - Nomination of Agent, is a limited power to perform acts in connection with airport improvements as specified in or necessitated by this Agreement.
3. The Sponsor agrees to pursue and enforce contract items, which are required by federal and/or state regulations, laws, and orders to insure satisfactory performance of contract vendors. Such items include, but are not limited to, bid bonds, payment bonds, and performance bonds. Pursuit and enforcement of contract items may require litigation and other remedies of law.
4. The United States and the State of Texas shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incidental to, compliance with this grant agreement.
5. This Agreement is executed for the sole benefit of the contracting parties and is not intended or executed for the direct or incidental benefit of any third party. Furthermore, the State shall not be a party to any other contract or commitment, which the Sponsor may enter into or assume, or have entered into or have assumed, in regard to the above project.
6. If the Sponsor fails to comply with the conditions of the grant, the State may, by written notice to the Sponsor, suspend the grant in whole or in part. The notice of suspension shall contain the following:
 - a. The reasons for the suspension and the corrective action necessary to lift the suspension;
 - b. A date by which the corrective action must be taken;
 - c. Notification that consideration will be given to terminating the grant after the corrective action date.

In the case of suspension or termination, the Sponsor may request the State to reconsider the suspension or termination. Such request for reconsideration shall be made within 45 days after receipt of the notice of suspension or termination.

7. This Agreement is subject to the applicable provisions of Title 49 U.S.C., Title 3 of the Texas Transportation Code, and the Airport Zoning Act, Texas Local Government Code §§ 241.001 *et seq.* Failure to comply with the terms of this Agreement or with the rules and statutes shall be considered a breach of this contract and will allow the State to pursue the remedies for breach as stated below.
 - a. Of primary importance to the State is compliance with the terms and conditions of this Agreement. If, however, after all reasonable attempts to require compliance have failed, the State finds that Sponsor is unwilling and/or unable to comply with any of the terms and conditions of this Agreement, the State may pursue any of the following remedies: (1) require a refund of any money expended pursuant to the Agreement, (2) deny Sponsor's future requests for aid, (3) request the Attorney General to bring suit seeking reimbursement of any money expended on the project pursuant to the Agreement, provided however, these remedies shall not limit the State's authority to enforce its rules, regulations or orders as otherwise provided by law, (4) declare this Agreement null and void, or (5) any other remedy available at law or in equity.
 - b. Venue for resolution by a court of competent jurisdiction of any dispute arising under the terms of this Agreement, or for enforcement of any of the provisions of this Agreement, is specifically set by Agreement of the parties in Travis County, Texas.
8. The State reserves the right to amend or withdraw this Agreement at any time prior to acceptance by the Sponsor. The acceptance period cannot be greater than 30 days after issuance unless extended by the State, which extension shall not unreasonably be denied or delayed.
9. This Agreement constitutes the full and total understanding of the parties concerning their rights and responsibilities regarding this project and shall not be modified, amended, rescinded, or revoked unless such modification, amendment, rescission, or revocation is agreed to by both parties in writing and executed by both parties.
10. All commitments by the Sponsor and the State are subject to constitutional and statutory limitations and restrictions binding upon the Sponsor and the State (including §§ 5 and 7 of Article 11 of the Texas Constitution, if applicable) and to the availability of funds which lawfully may be applied.
11. The Sponsor's acceptance of this Agreement and ratification and adoption of the Airport Project Participation Agreement shall be evidenced by execution of this instrument by the Sponsor. This Offer and Acceptance shall comprise a Grant Agreement, as provided by the Title 49 U.S.C., constituting the contractual obligations and rights of the United States, the State of Texas, and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided.

12. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, 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 state auditor with access to any information the state auditor considers relevant to the investigation or audit.

13. Termination

This agreement may be terminated in the following manner:

- ◆ by mutual written agreement and consent of both parties.
- ◆ by either party upon the failure of the other party to fulfill the obligations set forth herein.
- ◆ by the State if it determines that the performance of the Project is not in the best interest of the State.

If the contract is terminated in accordance with the above provisions, the Sponsor will be responsible for the payment of Project costs incurred by the State on behalf of the Sponsor up to the time of termination. The Sponsor will remit the required funds to the State within sixty (60) days from receipt of the State's notification.

Part VI - Acceptance of the Sponsor

City of Nacogdoches, Texas, does ratify and adopt all statements, representations, warranties, covenants, and agreements constituting the described project and incorporated materials referred to in the Agreement, and does accept the Offer, and agrees to all the terms and conditions of the Agreement.

City of Nacogdoches, Texas
Sponsor

Sponsor Signature

Sponsor Title

Date

Execution by the State

Executed by and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs and grants heretofore approved and authorized by the Texas Transportation Commission.

**STATE OF TEXAS
TEXAS DEPARTMENT OF TRANSPORTATION**

(Signature)

Dan Harmon

(Typed Name)

Director, Aviation Division

(Title)

(Date)

ATTACHMENT A

CERTIFICATION OF AIRPORT FUND

The Sponsor does certify that an Airport Fund has been established for the Sponsor, and that all fees, charges, rents, and money from any source derived from airport operations will be deposited for the benefit of the Airport Fund and will not be diverted for other general revenue fund expenditures or any other special fund of the Sponsor and that all expenditures from the Fund will be solely for airport purposes. Such fund may be an account as part of another fund but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole.

City of Nacogdoches, Texas
(Sponsor)

By: _____

Title: _____

Date: _____

ATTACHMENT B

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

- A. The grantee certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about-
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notices shall include the identification number(s) of each affected grant;
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted-
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f),

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ____ if there are workplaces on file that are not identified here.

Signed: _____

Dated: _____

Title

ATTACHMENT C

PAVEMENT MAINTENANCE MANAGEMENT PROGRAM

The Sponsor agrees to implement an effective airport pavement maintenance management program as required by Airport Sponsor Grant Assurance 11, Pavement Preventive Management, which is codified at 49 U.S.C. § 47105(e). The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, rehabilitated, or repaired with Federal financial assistance at the airport. The Sponsor further agrees that the program will:

- a. Follow FAA Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements, establishing an effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;
- b. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;
- c. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:
 1. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:
 - i. Location of all runways, taxiways, and aprons;
 - ii. Dimensions;
 - iii. Type of pavement; and
 - iv. Year of construction or most recent major reconstruction, rehabilitation, or repair.
 2. Inspection Schedule.
 - i. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.
 - ii. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.

3. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:
 - i. Inspection date;
 - ii. Location;
 - iii. Distress types; and
 - iv. Maintenance scheduled or performed
4. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the State as may be required.

Attachment D

Certification and Disclosure Regarding Potential Conflicts of Interest Certification Form

A sponsor must disclose in writing any potential conflict of interest to the Texas Department of Transportation. No employee, officer or agent of the sponsor shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer, or agent,
2. Any member of his immediate family,
3. His or her partner, or
4. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The sponsor's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub agreements.

Sponsor may set minimum rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrant recipient's officers, employees, or agents, or by contractors or their agents.

The sponsor must maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts.

1. By checking "Yes," the sponsor certifies that it does not have any potential conflict of interest or Significant Financial Interests. By checking "No," the sponsor discloses that it does have a potential conflict of interest, which is further explained below.

Yes No

5. The sponsor maintains a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. By checking "No," the sponsor discloses that it does not have a written policy, which is further explained below.

Yes No

6. Explanation of items marked "no":

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have the explanation for any item marked "no" is correct and complete.

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Signature of Sponsor's Designated Official Representative: _____

Date: _____

ATTACHMENT E

ASSURANCES AIRPORT SPONSORS **4/2025**

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. Airport Development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.

The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25,30, 32, 33, 34, 37, and 40 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

The Sponsor will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Sponsor and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

FEDERAL LEGISLATION

- a. 49 U.S.C. subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.¹
- c. Federal Fair Labor Standards Act – 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, et seq.^{1, 2}
- f. National Historic Preservation Act of 1966 – Section 106 – 54 U.S.C. § 306108.¹
- g. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. § 312501, et seq.¹
- h. Native Americans Grave Repatriation Act – 25 U.S.C. § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.¹
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 – 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 – 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended – 42 U.S.C. § 4151, et seq.¹
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 – 42 U.S.C. § 8373.¹
- t. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701, et seq.¹
- u. Copeland Anti-kickback Act – 18 U.S.C. § 874.¹
- v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.¹

- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).
- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Infrastructure Investment and Jobs Act, P.L. 117-58, Title VIII.
- cc. Build America, Buy America Act, P.L. 117-58, Title IX.
- dd. Endangered Species Act – 16 U.S.C. 1531, et seq.
- ee. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681–1683 and 1685–1687.
- ff. Drug Abuse Office and Treatment Act of 1972, as amended – 21 U.S.C. 1101, et seq.
- gg. Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. § 4541, et seq.
- hh. Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. § 4541, et seq.
- ii. Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352.

EXECUTIVE ORDERS

- a. Executive Order 11990 – Protection of Wetlands
- b. Executive Order 11988 – Floodplain Management
- c. Executive Order 12372 – Intergovernmental Review of Federal Programs
- d. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction¹
- e. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- f. Executive Order 14149 – Restoring Freedom of Speech and Ending Federal Censorship
- g. Executive Order 14151 – Ending Radical and Wasteful Government DEI Programs and Preferencing
- h. Executive Order 14154 – Unleashing American Energy
- i. Executive Order 14168 – Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- j. Executive Order 14173 – Ending Illegal Discrimination and Restoring Merit-Based Opportunity

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension

(Nonprocurement).

- b. 2 CFR Part 200 and 1201 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{3, 4, 5}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.¹
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.¹
- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).¹
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).¹
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.^{1, 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).

- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

⁴ Cost principles established in 2 CFR Part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

⁵ Audit requirements established in 2 CFR Part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to 49 U.S.C. 47107(a)(16) and (x), it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for

residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. *Consistency with Local Plans.*

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. *Consideration of Local Interest.*

It has given fair consideration to the interest of communities in or near where the project may be located.

8. *Consultation with Users.*

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. *Public Hearings.*

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. *Metropolitan Planning Organization.*

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. *Pavement Preventive Maintenance-Management.*

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program, and it assures that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. *Terminal Development Prerequisites.*

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for

certification of such airport under 49 U.S.C. 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. 47112.

However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:

1. Operating the airport's aeronautical facilities whenever required;
 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not

conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
 2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or

transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. 47107.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. The airport owner or operator will maintain a current airport layout plan of the airport showing:
 1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.
- b. Subject to subsection 49 U.S.C. 47107(x), the Secretary will review and approve or disapprove the plan and any revision or modification of the plan before the plan, revision, or modification takes effect.
- c. The owner or operator will not make or allow any alteration in the airport or any of its facilities unless the alteration—
 1. is outside the scope of the Secretary's review and approval authority as set forth in subsection (x); or
 2. complies with the portions of the plan approved by the Secretary.
- d. When the airport owner or operator makes a change or alteration in the airport or the facilities which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
 1. eliminate such adverse effect in a manner approved by the Secretary; or
 2. bear all costs of relocating such property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made, except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4); creed and sex per 49 U.S.C. 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
- c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The (**[Selection Criteria: Sponsor Name]**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, all businesses will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of

race, color, national origin (including limited English proficiency), creed, sex , age, or disability in consideration for an award.”

- e. Required Contract Provisions.
 - 1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 - 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 - 3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 - 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex, age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
 - f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
 - g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
 - 1. Reinvestment in an approved noise compatibility project;
 - 2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. 47117(e);

3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. 47114, 47115, or 47117;
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
 1. Reinvestment in an approved noise compatibility project;
 2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. 47117(e);
 3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. 47114, 47115, or 47117;
 4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
 5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction

management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, [current FAA Advisory Circulars for AIP projects](#) as of [Selection Criteria: Project Application Date].

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for

enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:

1. Describes the requests;
2. Provides an explanation as to why the requests could not be accommodated; and
3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six-month period prior to the applicable due date.

40. Access to Leaded Aviation Gasoline

- a. If 100-octane low lead aviation gasoline (100LL) was made available at an airport, at any time during calendar year 2022, an airport owner or operator may not restrict or prohibit the sale of, or self-fueling with 100-octane low lead aviation gasoline.
- b. This requirement remains until the earlier of December 31, 2030, or the date on which the airport or any retail fuel seller at the airport makes available an unleaded aviation gasoline that has been authorized for use by the FAA as a replacement for 100-octane low lead aviation gasoline for use in nearly all piston-engine aircraft and engine models; and meets either an industry consensus standard or other standard that facilitates the safe use, production, and distribution of such unleaded aviation gasoline, as determined appropriate by the FAA.
- c. An airport owner or operator understands and agrees, that any violation of this grant assurance is subject to civil penalties as provided for in 49 U.S.C. § 46301(a)(8).

View the most current Series 150 Advisory Circulars (ACs) for Airport Projects:

http://www.faa.gov/airports/resources/advisory_circulars and

http://www.faa.gov/regulations_policies/advisory_circulars

I have read and agree to follow the attached FAA Grant Assurances.

City of Nacogdoches, Texas
(Sponsor)

By: _____

Title: _____

Date: _____

For more information, please consult the AIP handbook.

https://www.faa.gov/airports/aip/aip_handbook/

Table 2-5 Duration and Applicability of Grant Assurances (Airport Sponsors)

Assurances that...	Include (by assurance # if applicable)...
<p>d. Apply for the useful life of the project (not to exceed 20 years from the grant acceptance date) except in the case of a land acquisition grant, for which the useful life is indefinite and the assurance obligations do not expire.</p>	<p>#5 Preserving Rights and Powers #11 Pavement Preventive Maintenance (This applies to all of the airfield pavement on the airport, not just the specific pavement in the grant.) #19 Operations and Maintenance #20 Hazard Removal and Mitigation #21 Compatible Land Use #22 Economic Nondiscrimination #24 Fee and Rental Structure #27 Use by Government Aircraft #28 Land for Federal Facilities #29 Airport Layout Plan #36 Access by Intercity Buses #37 Disadvantaged Business Enterprises (See 49 CFR parts 23 and 26, since certain program requirements may extend the obligation beyond the 20 year period, while the DBE requirements for the project apply until the project is closed.) #38 Hangar Construction #39 Competitive Access</p>
<p>e. Last for as long as the airport is owned and operated as an airport</p>	<p>#23 Exclusive Rights #25 Airport Revenue #30 Civil Rights #31 Disposal of Land</p>

Table 3-7 Minimum Useful Life

Project Type	Useful Life
a. All construction projects (unless listed separately below)	20 years
b. All equipment and vehicles (unless listed separately below)	10 years
c. Pavement rehabilitation (not reconstruction, which is 20 years)	10 years
d. Asphalt seal coat, slurry seal, and joint sealing	3 years
e. Concrete joint replacement	7 years
f. Airfield lighting and signage	10 years
g. ARFF vehicles	15 years
h. ARFF structural gear (firefighting suits), which has less heat insulation than proximity gear (per the National Fire Protection Association 1971 Standard on Protective Ensembles for Structural Firefighting and Proximity Firefighting)	7 years
i. ARFF proximity gear (firefighting suits), which is also referred to as slicks, bunker, or turn out gear (per the National Fire Protection Association 1971 Standard on Protective Ensembles for Structural Firefighting and Proximity Firefighting)	5 years
j. NAVAIDs and Weather Reporting Equipment	15 years
k. Buildings	40 years
l. Land	Unlimited
m. Loading Bridges	20 years
n. Fencing	20 years

Attachment F

SPECIAL CONDITIONS

1. **Solid Waste Recycling Plan**. The State and Sponsor certify that it has a solid waste recycling plan as part of an existing Airport Master Plan, as described by 49 U.S.C. § 47106(a)(6).
2. **Airport Layout Plan (ALP)**. The State and Sponsor understand and agree to update the ALP to reflect the construction to standards satisfactory to the FAA and submit it in final form to the State or the FAA, as described by 49 § 47107(a)(16). It is further mutually agreed that the reasonable cost of developing said ALP is an allowable cost within the scope of a project funded under this Grant Agreement, if applicable. Airport Sponsors Grant Assurance 29 further addresses the Sponsor's statutory obligations to maintain an ALP in accordance with 49 U.S.C. § 47107(a)(16).
3. **Lighting**. The State and Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.
4. **Temporary Navigational Aids**. The State and Sponsor agree that [Enter Type of Equipment] equipment is being acquired for temporary use to minimize disruptions to the airport during construction. The State and Sponsor further agree that upon construction completion of this project or at the point when this equipment is no longer needed for its intended use (but no later than the construction completion of the project), that the Sponsor will house this equipment in an interior enclosure. The State and Sponsor agree to make this equipment available, without cost, to be transferred to another airport or as directed by the FAA or the State, as applicable.
5. **Disadvantaged Business Enterprise (DBE)/Airport Concessions Disadvantaged Business Enterprise (ACDBE) Program**. The State and Sponsor understand and agrees that they will not submit payment reimbursement requests until the Sponsor has received from the FAA Office of Civil Rights approval of their DBE Program (reflecting compliance with 49 CFR Part 26, including any amendments thereto), and, if applicable, its ACDBE program (reflecting compliance with 49 CFR Part 23, including any amendments thereto).
6. **Equipment Acquisition-if applicable**. The State and Sponsor understand and agree that any equipment acquired through this Grant is considered a *facility* as that term is used in the Grant Assurances. Further, the equipment must be only operated by the Sponsor. The Sponsor agrees that it will maintain the equipment and use it exclusively at the airport for airport purposes.
7. **Friction Measuring Devices- if applicable** . The State and Sponsor agree that it will properly calibrate, operate, and maintain the friction measuring equipment. The friction measuring equipment and tow vehicle (if applicable) must not be used for any other purpose other than for conducting friction measuring tests on airport pavement surfaces and directly related activities.
8. **Instrument Landing System and Associated Equipment in Project-if applicable**. The State and Sponsor agree that they will:
 - a. Prior to commissioning, assure the equipment meets the FAA's standards; and
 - b. Remove, relocate, lower, mark, or light each obstruction to obtain a clear approach as indicated in the 14 CFR Part 77 aeronautical survey.
9. **Wildlife Fence-if applicable**. The State and Sponsor understand that the fence is being installed to prevent wildlife from entering the airfield. The Sponsor agrees that it will maintain the integrity of the fence for its useful life, but no less than 20 years from the date this Grant was issued. The

Sponsor understands that maintenance of the fence includes repair of damage to the fence or gates due to any reason.

10. **Update Accepted Exhibit "A" Property Map for Land in Project.** The State and Sponsor understand and agree to update the Exhibit "A" Property Map to standards satisfactory to the FAA and submit it in final form to the FAA or State. It is further mutually agreed that the reasonable cost of developing said Exhibit "A" Property Map is an allowable cost within the scope of a project funded under this Grant Agreement.
11. **Airport - Owned Visual or Electronic Navigation Aids in Project.** The State and Sponsor agree that they will:
 - a. Provide for the continuous operation and maintenance of any navigational aid funded under this Grant Agreement during the useful life of the equipment unless the equipment is transferred by agreement to the FAA in accordance with 49 U.S.C. § 44502(e);
 - b. Prior to commissioning, assure the equipment meets the FAA's standards; and
 - c. Remove, relocate, lower, mark, or light each obstruction to obtain a clear approach as indicated in the 14 CFR Part 77 aeronautical survey.
12. **Utility Relocation in Project-if applicable.** The State and Sponsor understand and agree that:
 - a. The United States will not participate in the cost of any utility relocation unless and until the Sponsor has submitted evidence satisfactory to the FAA or State that the Sponsor is legally responsible for payment of such costs;
 - b. FAA participation is limited to those utilities located on-airport or off-airport only where the Sponsor has an easement for the utility, which easement is perpetual or valid for the term of the project, and which includes a right of access; and
 - c. The utilities exclusively serve the Airport that the Project supports.
13. **Obstruction Removal-if applicable .** The Sponsor agrees to clear Parcel(s) [Enter Parcel Numbers], as shown on Exhibit "A" Property Map, of the following obstructions: [Enter All Obstructions] prior to final payment under the project. The Sponsor also agrees that it will not erect, nor permit the erection of any permanent structures that results in an obstruction on the airport except those required for aids to air navigation or those which have been specifically approved by the FAA.
14. **Pavement Maintenance Management Program.** The State and Sponsor agree to implement an effective airport pavement maintenance management program as required by Airport Sponsors Grant Assurance 11, Pavement Preventive Maintenance-Management, which is codified at 49 U.S.C. § 47105(e). The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, rehabilitated, or repaired with Federal financial assistance at the airport. The State and Sponsor further agree that the program will:
 - a. Follow the current version of FAA Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements, establishing an effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;
 - b. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;

- c. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:
 - i. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:
 - 1. Location of all runways, taxiways, and aprons;
 - 2. Dimensions;
 - 3. Type of pavement; and
 - 4. Year of construction or most recent major reconstruction, rehabilitation, or repair.
 - ii. Inspection Schedule.
 - 1. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the current version of Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.
 - 2. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.
 - iii. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:
 - 1. Inspection date;
 - 2. Location;
 - 3. Distress types; and
 - 4. Maintenance scheduled or performed.
 - iv. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the FAA as may be required.

15. **Project Containing Paving Work in Excess of \$500,000.** The State and Sponsor agree to:

- a. Furnish a construction management program to the FAA or State prior to the start of construction which details the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program must include as a minimum:
 - i. The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract;
 - ii. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided;

- iii. Procedures for determining that the testing laboratories meet the requirements of the ASTM International standards on laboratory evaluation referenced in the contract specifications (i.e., ASTM D 3666, ASTM C 1077);
 - iv. Qualifications of engineering supervision and construction inspection personnel;
 - v. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test; and
 - vi. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.
- b. Submit at completion of the project, a final test and quality assurance report documenting the summary results of all tests performed; highlighting those tests that indicated failure or that did not meet the applicable test standard. The report must include the pay reductions applied and the reasons for accepting any out-of-tolerance material. Submit interim test and quality assurance reports when requested by the State or FAA.
 - c. Failure to provide a complete report as described above or failure to perform such tests, will, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction will be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the Grant Agreement.
 - d. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that Sponsor test results are inaccurate.
16. **State Highway Specifications.** The State and Sponsor agree that because State highway specifications will be used for airfield pavement construction instead of FAA standard specifications, it will not seek Airport Improvement Program (AIP), Airport Infrastructure Grant (AIG), or supplemental appropriation grant funds for the rehabilitation or reconstruction of airfield pavement included in this Grant Agreement for a period of 10 years after construction is completed unless the FAA determines that the rehabilitation or reconstruction is required for safety reasons, per 49 U.S.C §§ 47105(c) or 47114(d)(4).
17. **Maintenance Project Life.** The State and Sponsor agree that pavement maintenance is limited to those aircraft pavements that are in sufficiently sound condition that they do not warrant more extensive work, such as reconstruction or overlays in the immediate or near future. The State and Sponsor further agree that Airport Improvement Program (AIP), Airport Infrastructure Grant (AIG), or supplemental appropriation funding for the pavements maintained under this project will not be requested for more substantial type rehabilitation (more substantial than periodic maintenance) for a 5-year period following the completion of this project unless the FAA determines that the rehabilitation or reconstruction is required for safety reasons.
18. **Protection of Runway Protection Zone - Airport Property.** The State and Sponsor agree to prevent the erection or creation of any structure, place of public assembly, or other use in the Runway Protection Zone, as depicted on the Exhibit "A": Property Map, except for Navigational Aids (NAVAIDS) that are fixed by their functional purposes or any other structure permitted by the FAA.

The State and Sponsor further agrees that any existing structures or uses within the Runway Protection Zone will be cleared or discontinued by the Sponsor unless approved by the FAA.

19. **Plans and Specifications Approval Based Upon Certification.** The FAA, the State, and the Sponsor agree that the FAA's approval of the Sponsor's Plans and Specification is based primarily upon the State's and Sponsor's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The State and Sponsor understand that:
 - a. The State's and Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to published FAA airport development grant standards or to notify the FAA of any limitations to competition within the project;
 - b. The FAA's acceptance of a State's and Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements; and
 - c. If the FAA determines that the Sponsor has not complied with its certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under this Grant and associated grants.
20. **Force Account.** The State and Sponsor agree that proposals to accomplish construction or engineering with the Sponsor's own personnel must receive approval from the FAA or State prior to Sponsor incurring costs and that no reimbursement payments will be made on that portion of this grant until the Sponsor has received FAA or State approval for the force account information.
21. **Fueling System - Use and Operation Requirements-if applicable.** A project funded under this Grant Agreement includes the installation of a new aviation fueling system. All revenue generated by this fueling system must be used for the operation and maintenance of the Airport at which the system is installed in accordance with the Grant Assurances, specifically Airport Sponsors Grant Assurances 24 and 25, codified at 49 U.S.C. § 47107(a)(13) and §§ 47107(b) and 47133, respectively. The fueling system established under this Grant Agreement, will be operated solely by the Sponsor and/or the Sponsor's employees, will not be included in any third-party exclusive use lease, and will not be used in any way that would result in the granting of an exclusive right. The State will require that the Sponsor is further obligated to operate and maintain the fueling system for the 20-year grant expected useful life, including meeting all local, state, and Federal regulations related to the fueling system.
22. **Revenue Producing Project-if applicable.** The State and Sponsor agree and understand that the State or Sponsor has certified to the FAA that it has made adequate provisions for financing its airside needs. Further, the State and Sponsor agree not to seek AIP discretionary grant funds for the airside needs of the Airport for the two fiscal years following the fiscal year in which this Grant is issued. All revenue generated by a project funded under this Grant Agreement must be used for the operation and maintenance of the Airport in accordance with the Airport Sponsors Grant Assurances, 49 U.S.C. § 47133, and FAA's Policy and Procedures Concerning the Use of Airport Revenue (64 FR 7696, as amended).
23. **Buy American Executive Orders.** The State and Sponsor agree to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.

24. **Usable Unit of Development.** The FAA and the Sponsor agree this Grant only funds a portion of the overall project. The FAA makes no commitment of funding beyond what is provided herein. In accepting this award, the airport Sponsor understands and agrees that the work described in this Grant Agreement must be incorporated into a safe, useful, and usable unit of development completed within a reasonable timeframe [49 USC § 47106(a)(4)]. This safe, useful, usable unit of development must be completed regardless of whether the Sponsor receives any additional federal funding.

TEXAS TRANSPORTATION COMMISSION

Various Counties

MINUTE ORDER

Page 1 of 1

Various Districts

The Texas Department of Transportation (department) is authorized under Title 49, United States Code, Chapter 471; Division J, Title VIII of the federal Infrastructure and Investment Job Act (IIJA); and Texas Transportation Code, Chapter 21, to award federal and state funding for capital improvement projects and to assist in the development and establishment of airports in the state of Texas.

Further, Texas Constitution Article 3, §49-k(c) authorizes money in the Texas Mobility Fund (TMF) to be used to provide participation by the state in the payment of a portion of the costs of constructing and providing public transportation projects in accordance with the procedures, standards, and limitations established by law. Texas Transportation Code §201.943 provides that money in the TMF may be used in the payment of a portion of the costs for providing public transportation projects that are determined by the Texas Transportation Commission (commission) to be in the best interests of the state in its major goal of improving the mobility of the residents of the state.

The airports listed in exhibit A are currently in need of improvements to preserve the airports or to meet standards. The department recommends the award of federal non-primary entitlement grant funds, federal apportionment grant funds, federal IIJA grant funds, and state grant funds for the improvements.


On August 29, 2025, a public hearing was held. No comments were received.


Pursuant to Transportation Code §§201.943 and 201.946, the commission finds that the public transportation projects in exhibit A to be in the best interests of the state in its major goal of improving the mobility of the residents of the state and are eligible for TMF funds.

IT IS THEREFORE ORDERED by the commission that the executive director, or the director’s designee, subject to applicable federal and state requirements, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in exhibit A.

Submitted and reviewed by:

Recommended by:

DocuSigned by:

EA0A4EF01FA5423...
Director, Aviation Division

DocuSigned by:

0E1B35AE191749E...
Executive Director

117034 September 25, 2025

Texas Department of Transportation Aviation Division
Exhibit A - September 25, 2025

Airport	Name of Sponsor and Associated City	Project Description	Federal Funding	State Funding	Local Share	Total for Airport
Fort Worth Spinks	Fort Worth	Taxiway Improvements	\$ 3,418,100	\$ -	\$ 179,900	\$ 3,598,000
Hereford Municipal	Hereford	Prepare an Airport Layout Plan	\$ 380,000	\$ -	\$ 20,000	\$ 400,000
Reese Airpark	Lubbock	Reimbursement for Airport Improvements	\$ -	\$ 40,000,000	\$ 4,444,444	\$ 44,444,444
AL Mangham Jr. Regional	Nacogdoches	Pavement Improvements	\$ 5,700,000	\$ -	\$ 300,000	\$ 6,000,000
Kelly Field	San Antonio	Reimbursement for Taxiway Improvements	\$ 6,765,000	\$ -	\$ 356,053	\$ 7,121,053
Victoria Regional	Victoria	Reimbursement for Engineering/Design	\$ -	\$ 2,500,000	\$ 277,777	\$ 2,777,777
			\$ 16,263,100	\$ 42,500,000	\$ 5,578,174	\$ 64,341,274

Note: All figures are estimates and subject to meeting all federal and state statutory and regulatory requirements.



PRESENTER: Mary Bradford, Interim President and CEO/Director of Business Development

ITEM/SUBJECT: Consider approval of a Resolution creating a Chapter 380 Economic Development Program and authorizing an agreement by and between the City of Nacogdoches and Icon Cinema Nacogdoches, LLC regarding the renovation and operation of a movie theater at 3801 North Street. (Interim Director of Business Development)

SUMMARY/BACKGROUND: Developer, Icon Cinema Nacogdoches, LLC, ("Icon") is seeking to renovate, or cause to be renovated, the former movie theater located at 3801 North Street, Suite 7, Nacogdoches, Texas for the purpose of operating a newly renovated movie theater that location. Icon has indicated that the renovations will total approximately \$800,000, in addition to approximately \$800,000 in new furniture, fixtures, and equipment for the operation of the theater.

Icon has requested a ten-year sales tax rebate, which is set forth in the proposed 380 Economic Development Agreement. This agreement contains the same standard terms and conditions as other 380 agreements in recent years. The sales tax abatement schedule found in the Agreement is set forth below:

Tax Year	Percentage of Sales and Use Tax Reimbursed
1	100%
2	100%
3	100%
4	75%
5	75%
6	50%
7	50%
8	50%
9	50%
10	50%

FINANCIAL:

Over the ten-year agreement period, the City could receive an estimated \$234,381 in gross sales tax revenue. Per the proposed abatement schedule, the Developer could receive an estimated \$155,006 in tax rebates, with the City retaining an estimated \$79,375 net revenue. The City would also reimburse Developer up to \$50,000 for ADA compliance updates and fire alarm panel installation. In addition, the City could receive an estimated \$83,352 in ad valorem tax revenue. These are estimates only.

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

Economic Development

CITY CONTACT: Mary Frances Bradford, Director of Business Development
936.559.1255
bradfordm@nactx.us

ATTACHMENTS: 1. Resolution_380 Agreement_Icon
2. 380 Agreement_Icon Cinema

**CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. _____**

A RESOLUTION CREATING A CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND APPROVING AND AUTHORIZING A CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF NACOGDOCHES AND ICON CINEMA NACOGDOCHES, LLC REGARDING THE RENOVATION AND OPERATION OF A MOVIE THEATER AT 3801 NORTH STREET

WHEREAS, 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;

WHEREAS, Developer, Icon Cinema Nacogdoches, LLC, is seeking to renovate, or cause to be renovated, certain property located at 3801 North Street, Suite 7, Nacogdoches, Texas, to include a renovation of the approximate 24,000 square foot space for the purpose of operating a newly renovated movie theater at the Property;

WHEREAS, the City has established an economic development program which authorizes the City to make such economic development loans and grants;

WHEREAS, the City has determined that the renovation of the former movie theater space will serve the public purposes of promoting local economic development, helping eliminate unemployment and underemployment in the City, stimulating and enhancing business and commercial activity within the City, and increasing the tax base by promoting the renovation and operation of a newly renovated movie theater located within the city limits;

WHEREAS, 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 City and Icon Cinema Nacogdoches, LLC; and

WHEREAS, the City has concluded and hereby finds that the Chapter 380 Economic Development Agreement between the City of Nacogdoches and Icon Cinema Nacogdoches, LLC clearly promotes economic development in the City, and, as such, meets 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, that the execution of same 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. There is hereby established an Economic Development Program with respect to Icon Cinema Nacogdoches, LLC pursuant to Chapter 380 of the Texas Local Government Code.
3. In furtherance of said Economic Development Program, the City Council hereby approves and authorizes the execution of a Chapter 380 Economic Development Agreement between the City of Nacogdoches and Icon Cinema Nacogdoches, LLC in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference.
4. The City Manager is authorized to execute the Chapter 380 Economic Development Agreement and any related documents on behalf of the City, 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.
5. This resolution is effective immediately upon its passage.

PASSED AND APPROVED, this the 21st day of April, 2026, 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:

Karen Hadnot, City Secretary

Jerry Baker, City Attorney

CITY OF NACOGDOCHES, TEXAS
AND
ICON CINEMA NACOGDOCHES, LLC
CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT

This **CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT** (the "Agreement") is made and entered into by and between the **CITY OF NACOGDOCHES, TEXAS**, a Texas home-rule municipality (the "City"), and **ICON CINEMA NACOGDOCHES, LLC**, a Texas 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:

WHEREAS, Developer has agreed to renovate, or cause to be renovated, certain property located at 3801 North Street, Suite 7, Nacogdoches, Texas (the "Property"), to include a renovation of the approximate 24,000 square foot space for the purpose of operating a newly renovated movie theater at the Property (the "Project");

WHEREAS, 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;

WHEREAS, the City has established an economic development program which authorizes the City to make such economic development loans and grants;

WHEREAS, 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.

WHEREAS, 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;

WHEREAS, 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;

WHEREAS, 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; and

WHEREAS, Developer desires and agrees to enter into this Agreement with City in order to construct and operate the Project as described herein 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:

AGREEMENTS

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 for Developer at the Project, which certificate the City shall not unreasonably withhold, condition or delay.
- (b) **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.
- (c) **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.

- (d) **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%).
- (e) **State.** The word “State” means the State of Texas.
- (f) **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.**

1. 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 verifying the Qualified Expenditures in a form reasonably acceptable to the City on or before April 30, 2027 or 90 days from the date the Certificate of Occupancy, 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 Expenditures
Renovation of 3801 North Street, Suite 7	\$800,000

2. Developer represents that it has the present capacity to construct the Improvements or have the Improvements constructed. The Improvements shall be completed on or before April 30, 2027. Only those Improvements listed in Table 1 will be considered by the City for the reimbursement provided herein.
 3. 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.
 4. To the extent possible, Developer and/or its contractors shall purchase construction material for the Improvements from vendors located within the City of Nacogdoches.
 5. During the term of this Agreement, Developer and/or Developer’s contractors shall maintain in full force and effect the following insurance with sound and reputable insurers: (i) worker’s compensation insurance; (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) **Purchase of Furniture, Fixtures, and Equipment.** Developer shall obtain furniture, fixtures, and equipment necessary for the Project, as described on Table 2 below, and shall submit to the City invoices, receipts, or other similar documentation supporting the Qualified Expenditures in a form reasonable acceptable to the City on or before April 30, 2027 or 90 days from the date the Certificate of Occupancy, whichever is later. To the extent possible, Developer shall purchase the furniture, fixtures, and equipment from vendors located within the City of Nacogdoches. City reserves the right to audit the applicable records of the Developer regarding the Developer’s conformance with this subsection.

Table 2

Item	Approximate Qualified Expenditures
Furniture, Fixtures, and Equipment	\$800,000

- (c) **Operation of Business.** On or after May 31, 2027, Developer shall initiate operations of a movie theater on the Property and will continue such operations throughout the Term of this Agreement (the "Business"). For purposes of this Agreement, the term "movie theater" shall mean a fully staffed and operational movie theater that is substantially similar to the standard of quality of those being operated by Developer and/or its affiliates at other Icon Cinema locations as of the date of this Agreement, and which is open to the public at least twelve (12) hours per day, seven (7) days per week (except on holidays), subject only to (i) events of Force Majeure, (ii) periods of closing for repair or restoration following casualty and condemnation, and (iii) temporary closings (not to exceed 270 days, and not more frequently than once each three (3) years) for repair, renovations, and/or alterations of the Property.
- (d) **Sales and Use Tax.** Developer agrees to timely pay any and all Sales and Use Tax generated by or on behalf of the Business, and which shall be collected by or for the City and remitted to the State Comptroller pursuant to Chapter 321 of the Texas Tax Code.
- (e) **Annual Compliance Report.** Beginning on January 31, 2028, and throughout the Term of this Agreement, Developer shall deliver to City an Annual Compliance Report within thirty (30) days after the close of each calendar year which shall be signed by a duly authorized representative of Developer that certifies its compliance with the terms of this Agreement. Developer shall include along with the Annual Compliance Report copies of Texas sales and use tax reports filed by Developer for the compliance period, or shall provide to the City authorization reasonably acceptable to the City that enables the City to obtain copies of such reports.
- (f) **Ad Valorem Taxes.** Nothing herein shall limit or exempt the Developer’s payment of ad valorem taxes, and Developer, at Developer’s sole cost, hereby 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.
- (g) **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. **Sales and Use Tax Rebate.** The City shall rebate the Sales and Use Tax paid by the Developer in association with Developer’s operation of the Business for a ten (10) year period in the percentage amount shown in Table 3 below (the “Rebate”). 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 Developer initiates operations of the Business pursuant to Section 4(c) of this Agreement.

Table 3

Tax Year	Percentage of Sales and Use Tax Reimbursed
1	100%
2	100%
3	100%
4	75%
5	75%
6	50%
7	50%
8	50%
9	50%
10	50%

2. **Cash Incentive.** The City shall reimburse the Developer in an amount not to exceed \$50,000 for costs incurred by Developer for the installation of a fire alarm panel and for bringing the Property into compliance with the Americans with Disabilities Act of 1990, as amended (the "ADA").
- (b) **Timing of Payments.** The City shall make Program Grant Payments as described above within thirty (30) days of receipt of an approved Annual Compliance Report from the Developer.
- (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. **Purchase of Furniture, Fixtures, and Equipment.** Failure of Developer to timely obtain furniture, fixtures, and equipment necessary for the Project and/or operation of the Business, consistent with Section 4(b) of this Agreement, within thirty (30) days after written notice of the default from the City to Developer.
 3. **Insolvency.** Developer's insolvency, appointment of receiver for any part of the Property or Business, 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.
 4. **Other Defaults.** Failure of Developer to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, 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, 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 Program Grant Payments made by the City for the fiscal year in which the default occurs shall become immediately due and payable by Developer without legal process of any kind. 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 Program Grant Payments for the fiscal year in which the default occurs shall automatically become immediately due and payable without legal process of any kind. Defaults by City shall not waive, terminate, or offset any repayment obligations of the Developer.

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 the 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. In the event of termination of the agreement, the Developer shall indemnify City for any and all claims listed above that are alleged to have occurred any time prior to termination.

SECTION 9. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

(a) **Amendments.** This Agreement 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

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) **Attorney's 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:

Karen Hadnot, City Secretary

APPROVED AS TO FORM:

Jerry Baker, City Attorney

DEVELOPER:
Icon Cinema Nacogdoches, LLC

By: _____

Date: _____



PRESENTER: Case Opperman, Director of Public Works

ITEM/SUBJECT: Consider approval of a contract by and between the City of Nacogdoches and B&B General Contractors for the 2026 Curb and Valley Gutter Project (CIP Project TR-24-201) in the amount of \$313,725.00. (Director of Public Works/City Engineer)

SUMMARY/BACKGROUND:

Staff is currently in the design phase for the next iteration of street improvement capital projects utilizing General Obligation bond funds approved by voters in 2023. In advance of these improvements, staff has released a project for curb and gutter replacements and valley gutter installations on these streets. On April 21, the City received bids for the 2026 Curb and Valley Gutter Project. Four (4) contractors submitted bids as follows:

<i>B&B General Contractors</i>	<i>\$ 313,725.00</i>
CoxJones	\$ 317,543.75
DSP Development, LLC	\$ 376,156.39
S-Co, Inc.	\$ 495,827.00

B&B General Contractors was found to be the lowest bidder. The firm is a Lufkin-based contractor who has not previously worked for the City of Nacogdoches. Staff has spoken with contacts of prior B&B-completed projects who have confirmed the contractor's ability to perform required concrete work successfully. It is recommended that the contract for this project be awarded to B&B General Contractors in the amount of \$313,725.00. The contract amount is budgeted in FY 2026 under "Proposition F" of the Bond Fund (CIP Project TR-24-201).

FINANCIAL:

Item is budgeted:

Account No.: 45 680.37
Account Name: *Proposition F (Streets) – Project Construction*
Amount: \$ 313,725.00

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

Not Applicable

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

- ATTACHMENTS:**
1. Bid Tab
 2. Project Map

3. Contract Documents
4. PowerPoint

				B&B General Contractors Lufkin, Texas		CoxJones Nacogdoches, Texas		DSP Development, LLC Apple Springs, Texas		S-Co, Inc. Jewett, Texas	
Item	Quan	Unit	Description	Unit Price	TOTAL	Unit Price	TOTAL	Unit Price	TOTAL	Unit Price	TOTAL
1.	1	LS	Mobilization/Demobilization	\$14,000.00	\$14,000.00	\$3,745.00	\$3,745.00	\$8,387.91	\$8,387.91	\$33,660.00	\$33,660.00
2.	29	EA	Concrete Valley Gutter including high-early-strength admixture	\$6,850.00	\$198,650.00	\$7,259.90	\$210,537.10	\$9,966.03	\$289,014.87	\$11,600.00	\$336,400.00
3.	335	SY	Asphalt patching for Concrete Valley Gutter installations (48"-wide patch, 6" asphalt)	\$233.00	\$78,055.00	\$187.74	\$62,892.90	\$129.25	\$43,298.75	\$120.00	\$40,200.00
4.	501	LF	Sawcut, remove and replace existing concrete curb and gutter	\$35.00	\$17,535.00	\$61.05	\$30,586.05	\$58.59	\$29,353.59	\$154.00	\$77,154.00
5.	39	SF	Concrete patching	\$15.00	\$585.00	\$111.30	\$4,340.70	\$91.13	\$3,554.07	\$67.00	\$2,613.00
6.	10	EA	Install white-and-blue mosaic curb tile street labels to match existing	\$490.00	\$4,900.00	\$544.20	\$5,442.00	\$254.72	\$2,547.20	\$580.00	\$5,800.00
TOTALS					\$313,725.00		\$317,543.75		\$376,156.39		\$495,827.00



2026 Curb and Valley Gutter Project

Pin Oak Street - 75 LF Curb & Gutter
 Water Oak Street - 10 LF Curb & Gutter

Cherrybrook Drive - 2 Valley Gutters
 Gardenbrook Drive - 2 Valley Gutters
 Glenbrook Drive - 1 Valley Gutter; 24 LF Curb & Gutter
 Hollybrook Drive - 2 Valley Gutters; 47 LF Curb & Gutter

Cambridge Circle - 1 Valley Gutter

Ellis Street - 1 Valley Gutter

Cotton Street - 1 Valley Gutter; 40 LF Curb & Gutter

Rho Street - 2 Valley Gutters

Bailey Avenue - 2 Valley Gutters w/Street Name Tiles
 Houston Street - 1 Valley Gutter
 King Street - 1 Valley Gutter w/Street Name Tiles
 N. Mound Street - 100 LF Curb & Gutter

Flora Street - 1 Valley Gutter

Martinsville Street - 1 Valley Gutter

Lamar Street - 1 Valley Gutter; 10 LF Curb & Gutter
 Sutton Street - 1 Valley Gutter; 10 LF Curb & Gutter;
 39 SF Concrete Repair

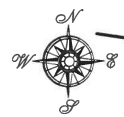
Herrin Street - 1 Valley Gutter
 Sidney Street - 22 LF Curb & Gutter
 Swift Street - 2 Valley Gutters
 Tanglewood Circle - 2 Valley Gutters; 84 LF Curb & Gutter
 Wedgewood Drive - 2 Valley Gutters; 20 LF Curb & Gutter

Nannie Street - 1 Valley Gutter; 19 LF Curb & Gutter

Francis Street - 1 Valley Gutter; 40 LF Curb & Gutter

Legend

- City Limit
- Streets



**Refer to Summary Sheet
 for Valley Gutter Locations**





**BIDDING
and
CONTRACT DOCUMENTS**

FOR

**CONSTRUCTION SERVICES
FOR
2026 CURB AND VALLEY GUTTER PROJECT**

Bid #: 26-10-127

**DUE DATE
APRIL 21, 2026 @ 2:00 PM**

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

www.nactx.us



TABLE OF CONTENTS

INSTRUCTION TO BIDDERS

CONTRACTOR'S PROPOSAL

CONTRACTOR DATA SHEET

CERTIFICATION

GENERAL AND SPECIAL CONDITIONS OF AGREEMENT

STANDARD FORM OF AGREEMENT FOR CONSTRUCTION

DRAWINGS

INSTRUCTION TO BIDDERS

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 2026 Curb and Valley Gutter Project** until **2:00 PM, April 21, 2026** 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

Installation of twenty-nine (29) concrete valley gutters, approximately 501 linear feet of curb and gutter replacement, thirty-nine (39) square feet of concrete repair and mosaic curb tile street labels (10 locations) on various City streets.

A Pre-bid Meeting will be held at City Hall Conference Room 203, Nacogdoches, Texas at 10:00 AM on Thursday, April 9, 2026. 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, 2026 Curb and Valley Gutter 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, Nacogdoches, Texas** at **10:00 AM on Thursday, April 9, 2026**. 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 adequate plant and equipment to do the work properly and expeditiously;
 - c. has paid or settled all claims for payment promptly;
 - d. has appropriate technical experience;
 - e. has job references for work of similar size and scope to the project; and
 - f. 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: April 13, 2026
To: All Interested Parties
From: Case Opperman, PE – Director of Public Works/City Engineer
Subject: City of Nacogdoches 2026 Curb and Valley Gutter Project

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

- Haul off and disposal of debris to be provided by Contractor
- No debris will be accepted at City yards or facilities
- Traffic control to be provided by Contractor as part of Mobilization/Demobilization bid item
- Curb and gutter replacements should not require full street closure, but may necessitate lane closures with appropriate traffic control. For Valley Gutter installations, intersections may be closed completely except on streets with no other outlet, in which case installation shall be in halves to allow street access to traffic at all times. Multiple streets may be worked on at once, however in all situations intersection and lane closures shall be coordinated with the City beforehand.
- On streets with at or near perpendicular intersections, valley gutter installations include curb and gutter replacement for the full length of the curve on each side of the valley.
- At angled intersections where curve radii are more varied, dimensions and curb replacement limits can vary. On side at angle below 90°, generally the width of the concrete from the back of the valley to the adjacent curb is 4'-6' typical and curb replacement limits are generally 10'-12' from the back of valley to end of curb replacement up the street, even if not to the end of the curve.
- Valley gutter detail is a typical detail, but does not cover all dimensional differences between valley gutter installation locations. It shall be the responsibility of the bidder to examine the installation locations and provide a typical bid price on the bid form to cover any and all intersection configurations.

Acknowledge and return this signed addendum with your bid. Failure to do so may cause your bid to be considered non-responsive. Clarifications have been attempted to be made to the best of the City's ability. By acknowledging this addendum, the bidder agrees that the City will not be held liable for any assumptions or misunderstandings on the contractor's part which impacts their bid.

Brian Marin
Authorized Representative

B+B Contractors
Company/Firm

4-20-26
Date

City of Nacogdoches 2026 Curb and Valley Gutter Project

BID FORM

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
------	----------	------	-------------	------------	-------

Base Bid

1.	1	LS	Mobilization/Demobilization	\$ <u>14,000</u>	\$ <u>14,000</u>
----	---	----	-----------------------------	------------------	------------------

Fourteen thousand dollars
per LS (written in words)

2.	29	EA	Concrete Valley Gutter including high-early-strength admixture, in accordance with plans and details, including all sawcuts, preparation, concrete, all materials and labor; complete, in place	\$ <u>6,850</u>	\$ <u>198,650</u>
----	----	----	---	-----------------	-------------------

Six thousand eight hundred & fifty dollars
per EA (written in words)

3.	335	SY	Asphalt patching for Concrete Valley Gutter installations (48"-wide patch, 6" asphalt installed in 2" max. lifts) in accordance with Concrete Tie-In detail, including all sawcuts, subgrade preparation, Type D hot mix asphaltic concrete, haul and disposal, all materials and labor; complete, in place	\$ <u>233</u>	\$ <u>78,055</u>
----	-----	----	---	---------------	------------------

two hundred thirty three dollars
per SY (written in words)

4.	501	LF	Sawcut, remove and replace existing concrete curb and gutter, all widths, including haul and disposal, pavement patch back, sodding of all disturbed areas, all materials and labor; complete, in place	\$ <u>35</u>	\$ <u>17,535</u>
----	-----	----	---	--------------	------------------

thirty five dollars
per LF (written in words)

5.	39	SF	Concrete patching including sawcutting to clean edges, haul and disposal of any debris, subgrade preparation, steel reinforcement and tie-in to adjacent concrete, all materials and labor; complete, in place	\$ <u>15</u>	\$ <u>585</u>
----	----	----	--	--------------	---------------

fifteen dollars
per SF (written in words)

6.	10	EA	Install white-and-blue mosaic curb tile street labels to match existing, all materials and labor; complete, in place	\$ <u>490</u>	\$ <u>4,900</u>
----	----	----	--	---------------	-----------------

four hundred ninety dollars
per EA (written in words)

City of Nacogdoches 2026 Curb and Valley Gutter Project

BID FORM

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
------	----------	------	-------------	------------	-------

BID SUMMARY

BASE BID TOTAL (Items 1-6)

\$ 313,725

BASE BID TOTAL (written in words) Three hundred thirteen thousand seven hundred twenty five dollars

TOTAL CALENDAR DAYS TO SUBSTANTIAL COMPLETION 90

BY: Brian Martin

Brian Martin Owner
Printed Name Title

COMPANY: B+B General Contractors

Phone No. 936-635-1374

P.O. Box 151943 Lufkin TX 75915
Address City State Zip

Western Surety Company

POWER OF ATTORNEY - CERTIFIED COPY

Bond No. 67853096

Know All Men By These Presents, that WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, and having its principal office in Sioux Falls, South Dakota (the "Company"), does by these presents make, constitute and appoint Sam Edward Smith

its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred, to execute, acknowledge and deliver for and on its behalf as Surety, bonds for:

Principal: B & B General Contractors LLC

Obligee: City of Nacogdoches

Amount: \$1,000,000.00

and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the Vice President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said attorney(s)-in-fact may do within the above stated limitations. Said appointment is made under and by authority of the following bylaw of Western Surety Company which remains in full force and effect.

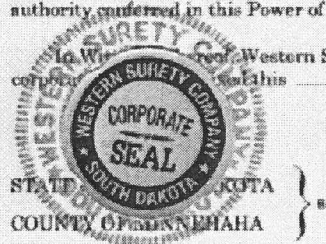
"Section 7. All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

"RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company."

If Bond No. 67853096 is not issued on or before midnight of July 16th, 2026, all authority conferred in this Power of Attorney shall expire and terminate.

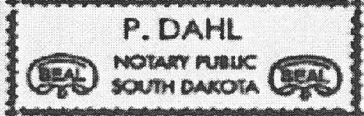
Western Surety Company has caused these presents to be signed by its Vice President, Larry Kasten, and its Secretary, Sam Edward Smith this 17th day of April, 2026.



WESTERN SURETY COMPANY

Larry Kasten
Larry Kasten, Vice President

On this 17th day of April, in the year 2026, before me, a notary public, personally appeared Larry Kasten, who being to me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.



P. Dahl
Notary Public - South Dakota
My Commission Expires June 18, 2031

I the undersigned officer of Western Surety Company, a stock corporation of the State of South Dakota, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable, and furthermore, that Section 7 of the bylaws of the Company as set forth in the Power of Attorney is now in force.

In testimony whereof, I have hereunto set my hand and seal of Western Surety Company this 17th day of April, 2026.

WESTERN SURETY COMPANY

Larry Kasten
Larry Kasten, Vice President

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.
Form FS306-1-2026

BID BOND
(Percentage)

Bond No. 67853096

KNOW ALL PERSONS BY THESE PRESENTS, That we B & B General Contractors LLC
of P. O. Box 313, Hemphill, TX 75948
_____, hereinafter referred to as the Principal, and
WESTERN SURETY COMPANY

as Surety, are held and firmly bound unto City of Nacogdoches
of _____
hereinafter referred to as the Oblige, in the amount of
Five Percent of the Amount Bid
(5%), for the payment of which we bind ourselves, our legal representatives,
successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has submitted or is about to submit a proposal to Oblige on a contract for _____
Construction Services For 2026 Curb and Valley Gutter Project 5%

NOW, THEREFORE, if the said contract be awarded to Principal and Principal shall, within such time as may be specified, enter into the contract in writing and give such bond or bonds as may be specified in the bidding or contract documents with surety acceptable to Oblige; or if Principal shall fail to do so, pay to Oblige the damages which Oblige may suffer by reason of such failure not exceeding the penalty of this bond, then this obligation shall be void; otherwise to remain in full force and effect.

SIGNED, SEALED AND DATED this 17th day of April, 2026

Principal

B & B General Contractors LLC

BY: Brian Martin

Surety

WESTERN SURETY COMPANY

BY: [Signature]
Sam Edward Smith, Attorney-in-Fact

CONTRACTOR DATA SHEET

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

Name of Company: B + B General Contractors

Company Years in Business: 9

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

Project	Municipality	\$ Amount	Type	Date
Texas A&M Forest Service	Hudson, TX	\$ 940,000. ⁰⁰		2-20-24
Sabine River Authority	Hemphill, TX	\$ 320,000. ⁰⁰		7-15-24
Tyson	Center, TX	\$ 162,000. ⁰⁰		3-7-25
Texas Dept. of Transportation	Lufkin, TX	116,000. ⁰⁰		11-11-25

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
Blake Martin	10	Sabine River Authority, Tyson
Alex Medina	12	City of Lufkin, Tx Dot

Project Manager	Years Experience	Projects
Danny West	35	Tx Dot, Texas A&M Forest Service

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

1. Texas Atm Forest Service		
Trent Burford		979 314 5865
Terry Smith		979 458 7381
Jordy Herrin		979 450 4859

2. Sabine River Authority		
Andrew Mills		936 285 8153
Don Iles		936 596 5269

3. Texas Dept of Transportation		
Justin		936 676 4907
Terri Salmon		936 546 4203
Josh Robbit		936 676 4595

4. Tyson Foods Inc.		
Steve Cox		936 591 1693
Gary Heflin		936 554 2778

5. Outlook Construction		
Jonathan Petit		979 204 2828
Christina		979 220 7044

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: Brian Martin Title: Owner

Typed Name: Brian Martin Company Name: B+B General Contractors

Phone No: 936 635 1374 Fax No: _____

Email: bandbcontractors@icloud.com

Bid Address: P.O. Box 151943 Lufkin TX 75915
P.O. Box or Street City State Zip

Remit Address: P.O. Box 151943 Lufkin TX 75915
P.O. Box or Street City State Zip

Federal Tax ID No: 61-1811157

DUNS No: 081344648

Date: 4-20-26

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 Applies to blasting operations
- Collapse 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 **B&B General Contractors** (the "Contractor"), for **Construction Services for 2026 Curb and Valley Gutter 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 2026 Curb and Valley Gutter 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 **Three Hundred Thirteen Thousand Seven Hundred Twenty-Five and 00/100 Dollars (\$ 313,725.00).**

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 subcontractor 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 **90 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 Nacogdoches, 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 Nacogdoches 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.

B&B GENERAL CONTRACTORS

CITY OF NACOGDOCHES

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

By: _____
City Manager
Date: _____

APPROVED AS TO FORM:

City Attorney
Date: _____

Exhibit A
DAVIS BACON WAGE RATES

General Decision Number: TX20260295 01/02/2026

Superseded General Decision Number: TX20250295

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

Modification Number	Publication Date
0	01/02/2026

SATX2025-009 11/15/2023

	Rates	Fringes
Agricultural Tractor Operator.....	\$ 19.97	0.00
Asphalt Distributor Operator.....	\$ 22.69	0.00
Asphalt Paving Machine Operator.....	\$ 21.26	0.00
Asphalt Raker.....	\$ 19.53	0.00
Broom or Sweeper Operator.....	\$ 17.58	0.00
Concrete Finisher, Paving and Structures.....	\$ 20.66	0.00
Concrete Pavement Finishing Machine Operator.....	\$ 23.11	0.00
Concrete Paving, Curing, Float, Texturing Machine Operator.....	\$ 23.12	0.00
Concrete Saw Operator.....	\$ 25.50	0.00

Crane Operator, Hydraulic 80 tons or less.....	\$ 27.22	0.00
Crane Operator, Lattice Boom 80 Tons or Less.....	\$ 24.33	0.00
Crane Operator, Lattice Boom Over 80 Tons.....	\$ 23.75	0.00
Crawler Tractor Operator.....	\$ 19.82	
Electrician.....	\$ 32.38	0.00
Excavator Operator, 50,000 pounds or less.....	\$ 21.05	0.00
Excavator Operator, Over 50,000 pounds.....	\$ 22.80	0.00
Flagger.....	\$ 13.99	0.00
Form Builder/Setter, Structures.....	\$ 20.05	0.00
Form Setter, Paving & Curb.....	\$ 18.25	0.00
Foundation Drill Operator, Truck Mounted.....	\$ 25.95	0.00
Front End Loader Operator, 3 CY or Less.....	\$ 18.58	0.00
Front End Loader Operator, Over 3 CY.....	\$ 19.55	0.00
Laborer, Common.....	\$ 16.72	0.00
Laborer, Utility.....	\$ 18.80	0.00
Loader/Backhoe Operator.....	\$ 20.42	0.00
Mechanic.....	\$ 24.13	0.00
Milling Machine Operator.....	\$ 19.99	0.00
Motor Grader Operator, Fine Grade.....	\$ 24.43	0.00
Motor Grader Operator, Rough.....	\$ 21.43	0.00
Off Road Hauler.....	\$ 16.90	0.00

Pavement Marking Machine Operator.....	\$ 22.96	0.00
Pipelayer.....	\$ 19.97	0.00
Reclaimer/Pulverizer Operator....	\$ 18.15	0.00
Reinforcing Steel Worker.....	\$ 22.24	0.00
Roller Operator, Asphalt.....	\$ 18.34	0.00
Roller Operator, Other.....	\$ 17.09	0.00
Scraper Operator.....	\$ 17.71	0.00
Servicer.....	\$ 20.94	0.00
Spreader Box Operator.....	\$ 18.52	0.00
Truck Driver Lowboy Float.....	\$ 23.97	0.00
Truck Driver, Single Axle.....	\$ 19.22	0.00
Truck Driver, Single or Tandem Axle Dump Truck.....	\$ 20.30	0.00
Truck Driver, Tandem Axle Tractor with Semi Trailer.....	\$ 20.32	0.00
Work Zone Barricade Servicer.....	\$ 16.89	0.00

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

=====

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>.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least \$13.30 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. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 is available at www.dol.gov/whd/govcontracts.

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.

=====

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 **Three Hundred Thirteen Thousand Seven Hundred Twenty-Five and 00/100 Dollars (\$ 313,725.00)** 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 2026 Curb and Valley Gutter 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 **Three Hundred Thirteen Thousand Seven Hundred Twenty-Five and 00/100 Dollars (\$ 313,725.00)** 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 2026 Curb and Valley Gutter 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 _____, known to me to be a credible person, and after
(Name)
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

2026 Curb and Valley Gutter Project

Pin Oak Street - 75 LF Curb & Gutter
 Water Oak Street - 10 LF Curb & Gutter

Cherrybrook Drive - 2 Valley Gutters
 Gardenbrook Drive - 2 Valley Gutters
 Glenbrook Drive - 1 Valley Gutter; 24 LF Curb & Gutter
 Hollybrook Drive - 2 Valley Gutters; 47 LF Curb & Gutter

Cambridge Circle - 1 Valley Gutter

Ellis Street - 1 Valley Gutter

Cotton Street - 1 Valley Gutter; 40 LF Curb & Gutter

Rho Street - 2 Valley Gutters

Bailey Avenue - 2 Valley Gutters w/Street Name Tiles
 Houston Street - 1 Valley Gutter
 King Street - 1 Valley Gutter w/Street Name Tiles
 N. Mound Street - 100 LF Curb & Gutter

Flora Street - 1 Valley Gutter

Martinsville Street - 1 Valley Gutter

Lamar Street - 1 Valley Gutter; 10 LF Curb & Gutter
 Sutton Street - 1 Valley Gutter; 10 LF Curb & Gutter;
 39 SF Concrete Repair

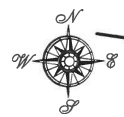
Herrin Street - 1 Valley Gutter
 Sidney Street - 22 LF Curb & Gutter
 Swift Street - 2 Valley Gutters
 Tanglewood Circle - 2 Valley Gutters; 84 LF Curb & Gutter
 Wedgewood Drive - 2 Valley Gutters; 20 LF Curb & Gutter

Nannie Street - 1 Valley Gutter; 19 LF Curb & Gutter

Francis Street - 1 Valley Gutter; 40 LF Curb & Gutter

Legend

- City Limit
- Streets



0.125 0.25 0.5 0.75
 Miles

**Refer to Summary Sheet
 for Valley Gutter Locations**



City of Nacogdoches 2026 Curb and Valley Gutter Project

Summary

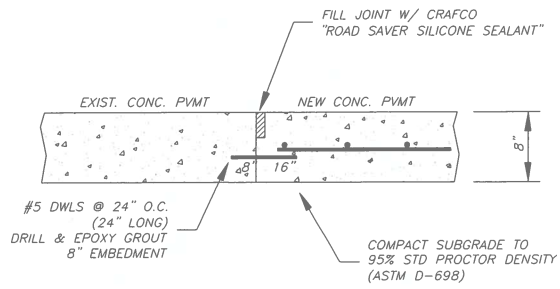
Concrete Valley Gutter Locations	
Street	Intersection
Bailey Avenue	N. Mound Street - Both Sides
Cambridge Circle	Appleby Sand Road
Cherrybrook Drive	Kenbrook Drive
Cherrybrook Drive	Ridgebrook Drive
Cotton Street	John Street
Ellis Street	Old Tyler Road
Flora Street	W. Main Street
Francis Street	Esther Boulevard
Gardenbrook Drive	Kenbrook Drive
Gardenbrook Drive	Ridgebrook Drive
Glenbrook Drive	Ridgebrook Drive
Herrin Street	Wedgewood Drive
Hollybrook Drive	Kenbrook Drive
Hollybrook Drive	Ridgebrook Drive
Houston Street	N. Mound Street
King Street	N. Mound Street
Lamar Street	E. Main Street
Martinsville Street	Logansport Street
Murray Street	Wedgewood Drive
Nannie Street	Meisenheimer Street
Rho Street	Looneyville Road
Rho Street	Gasaway Street
Sutton Street	Hasley Street
Swift Street	N. Lanana Street
Swift Street	Simpson Street
Tanglewood Circle	University Drive
Tanglewood Circle	Tanglewood Circle
Wedgewood Drive	Tanglewood Circle

Curb & Gutter Replacement	
Street	Length (ft)
Cotton Street	40
Francis Street	40
Glenbrook Drive	24
Hollybrook Drive	47
Lamar Street	10
N. Mound Street	100
Nannie Street	19
Pin Oak Street	75
Sidney Street	22
Sutton Street	10
Tanglewood Circle	84
Water Oak Street	10
Wedgewood Street	20

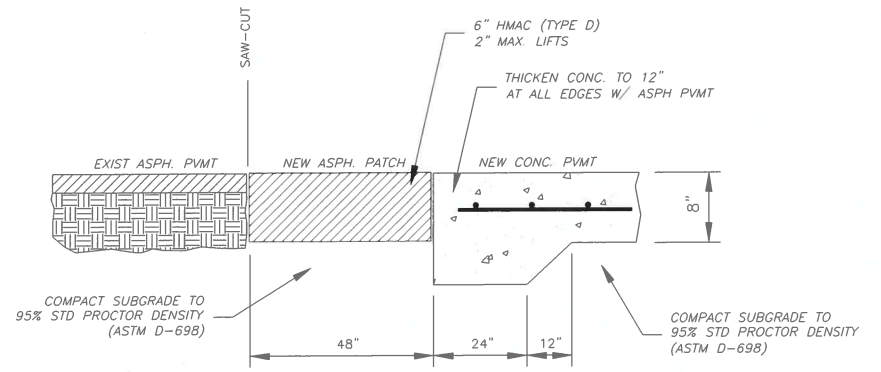
Concrete Repair	
Street	Area (sq. ft)
Sutton Street	39

Street Name Tile Replacements on Curb	
Street	Intersection
King Street	Mound Street - 2 locations
Bailey Avenue	Mound Street - 8 locations

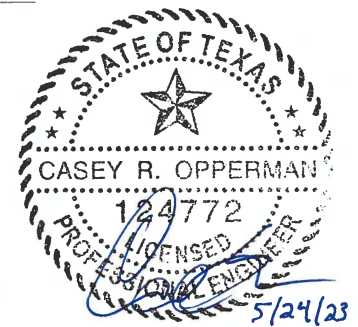
Where Valley Gutter is installed at intersections or other points on a street with no other outlet, installation shall be in halves to allow street access to traffic at all times.



CONCRETE TO CONCRETE TRANSITION



ASPHALT TO CONCRETE TRANSITION



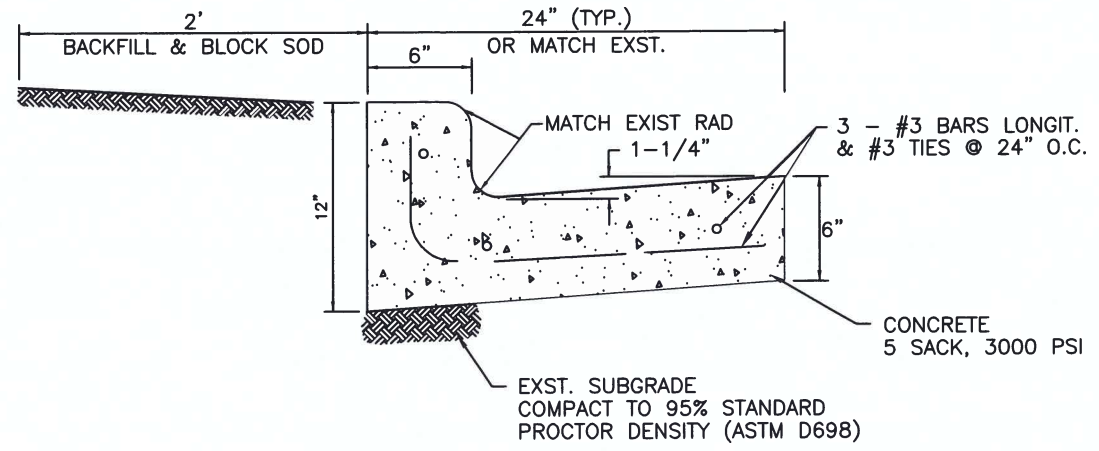
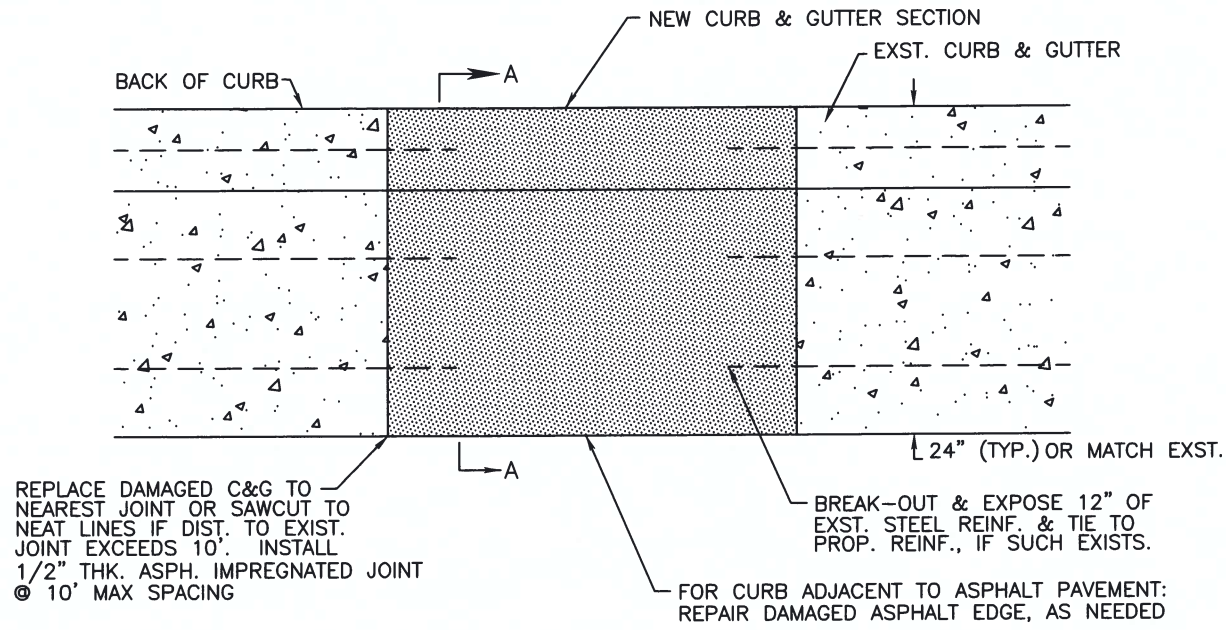
City of Nacogdoches
Engineering Department

SURVEYED	DESIGN	DRAWN	APPROVED	JOB	DATE

DRAWING NAME:

SHEET NAME:

CONCRETE TIE-IN DETAIL



SECTION A-A
CURB & GUTTER DETAIL
NOT TO SCALE



City of Nacogdoches
Engineering Department

SURVEYED	DESIGN	DRAWN	APPROVED	JOB	DATE

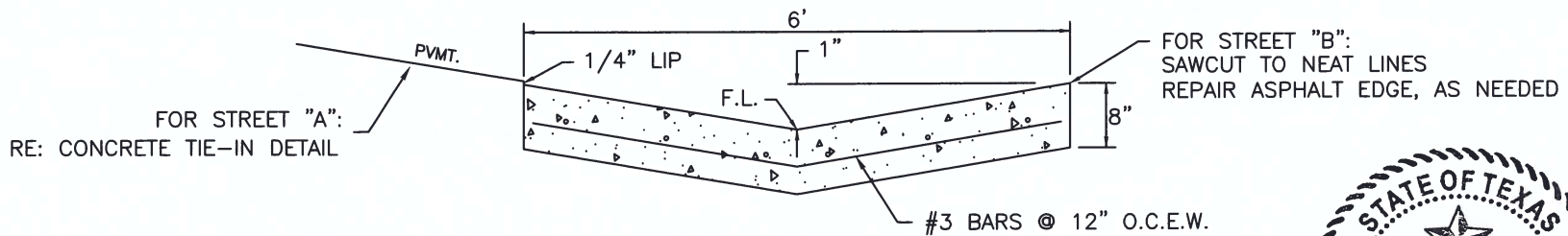
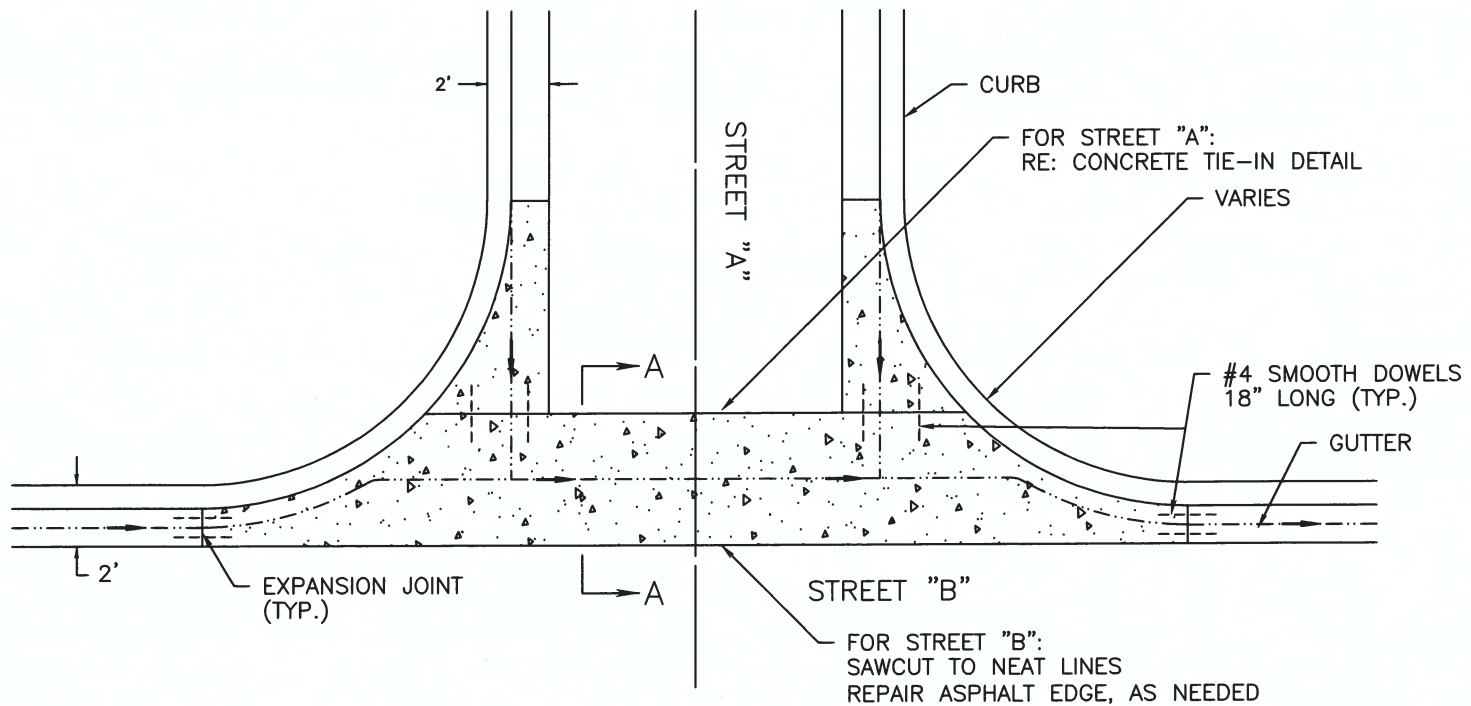
SEAL:

CURB & GUTTER
REPLACEMENT DETAIL

DRAWING NAME:

CURB & GUTTER DETAIL

SHEET NAME:



SECTION A-A

VALLEY GUTTER DETAIL

NOT TO SCALE



City of Nacogdoches
Engineering Department

SURVEYED	DESIGN	DRAWN	APPROVED	JOB	DATE

DRAWING NAME:

SHEET NAME:

VALLEY GUTTER DETAIL

CITY OF NACOGDOCHES
TABLE OF CONTENTS
TECHNICAL SPECIFICATIONS

DIVISION 1 - GENERAL REQUIREMENTS

Restoration and Clean Up

DIVISION 2 - SITEWORK

Curb and Gutter

Concrete Pavement

Pavement Patching and Repair

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

CITY OF NACOGDOCHES CONCRETE PAVEMENT

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

CITY OF NACOGDOCHES CONCRETE PAVEMENT

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

CITY OF NACOGDOCHES CONCRETE PAVEMENT

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

CITY OF NACOGDOCHES CONCRETE PAVEMENT

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.

CITY OF NACOGDOCHES CONCRETE PAVEMENT

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

CITY OF NACOGDOCHES CONCRETE PAVEMENT

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.

CITY OF NACOGDOCHES CONCRETE PAVEMENT

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

CITY OF NACOGDOCHES CONCRETE PAVEMENT

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

CITY OF NACOGDOCHES CONCRETE PAVEMENT

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.

CITY OF NACOGDOCHES
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".

CITY OF NACOGDOCHES
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 HMAC 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

CITY OF NACOGDOCHES
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
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.

2026 Curb and Valley Gutter Project Bid Award Item 8B

Case Opperman, PE
Director of Public Works & City Engineer

...

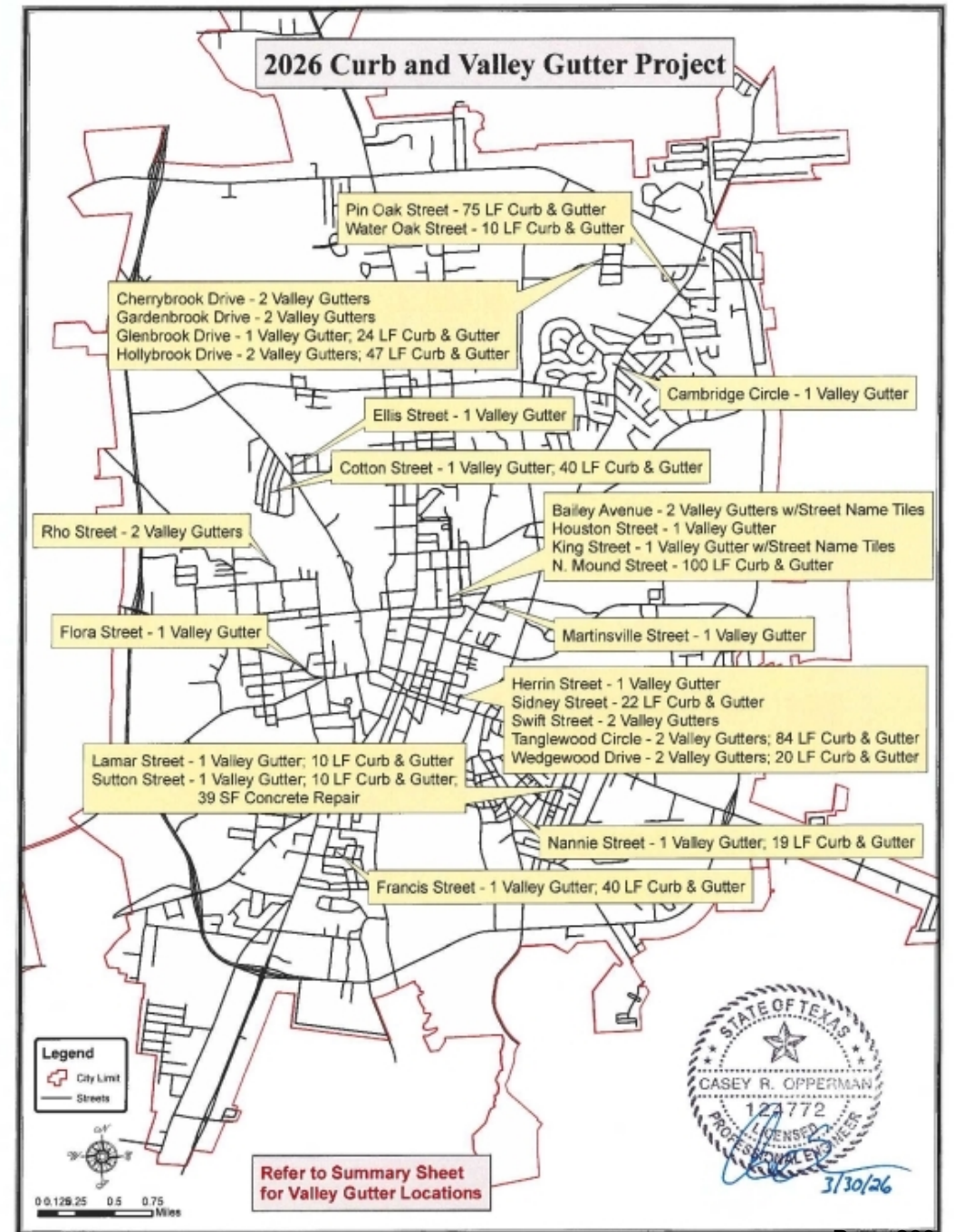
May 5, 2026

Bond-Funded Street Improvements

- Staff currently designing next bond-funded street projects
- In advance, staff released project for curb and gutter replacement and valley gutter installation
 - 29 Concrete Valley Gutters, Approx. 501' Curb and Gutter Replacement
 - Must occur ahead of paving in a project

Bid Opening – April 21, 2026

B&B General Contractors	\$ 313,725.00
CoxJones	\$ 317,543.75
DSP Development, LLC	\$ 376,156.39
S-Co, Inc.	\$ 495,827.00



B&B General Contractors – Lufkin, TX

- Has not worked for City of Nacogdoches previously
- Staff has contacted references on past projects who have confirmed ability to perform concrete construction
- Staff recommends award of low bid

Budget is available for this contract from Bond Funds

Questions?



PRESENTER: Jason Vickery, Assistant City Engineer

ITEM/SUBJECT: Consider selection of the submission by Tetra Tech in response to solicitation RFQ 26-10-112 for design of the Water and Wastewater System SCADA Replacements and Upgrades (CIP Projects WA-25-602 and WW-24-601). (Asst. Director of PW/Asst. City Engineer)

SUMMARY/BACKGROUND: Staff has seen a need to upgrade existing SCADA components which are faulty and/or outdated as well as implement SCADA where it does not currently exist within the water and wastewater systems of the City, including security and other needs identified in a SCADA Master Plan for the City completed in 2024. The City recently sent out a Request for Qualifications (RFQ 26-10-112) for professional engineering design services for water and wastewater SCADA system improvements. This will be a two- or three-year project effort that will include design, bidding, installation and commissioning. Eleven (11) submissions were received for these services. City staff evaluated the submissions based on criteria such as firm experience in similar projects, competence and qualification of project team leaders, workload capacity and proposed project approach. An accumulation of independent scoring and in-person firm interviews by the top four firms by staff found Tetra Tech to be the firm most qualified to perform these services.

Staff recommends selection of Tetra Tech for this professional services contract. Once selected, a contract would be negotiated and brought to City Council for approval.

FINANCIAL:

No financial impact associated with this item

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

Infrastructure

CITY CONTACT: Jason Vickery
Asst. Director of PW/Asst. City Engineer
vickeryj@nactx.us
(936) 559-2515

ATTACHMENTS: 1. Scoring

City of Nacogdoches Water and Wastewater SCADA System Engineering RFQ Evaluation

		Arduinra	Brock Solutions	GLX Tech	IMAVANT	JACH Controls	Kore Systems
25	Qualifications and Expertise						
	Summary of administration, organization and staffing, including subs Project Manager, team members and resumes						
	Vickery	22	23	23	20	0	22
	Riggs	25	25	23	19	12	22
	Varela	24	24	22	22	0	20
Lyles	25	25	24	24	0	24	
Average Score		24	24	23	21	3	22
35	Ability to Deliver Services						
	Approach to assessing existing SCADA systems and developing design plans for replacement systems Timeline and schedule for project delivery						
	Vickery	32	33	33	30	0	30
	Riggs	35	35	35	26	10	28
	Varela	34	34	33	32	0	31
Lyles	33	35	34	33	0	32	
Average Score		34	34	34	30	3	30
40	Scope of Work Experience with SCADA Design, Implementation and Integration						
	Outline proven practices and procedures to be used Identify three (3) current, major clients for professional engineering services and construction administration services References, including types of projects conducted						
	Vickery	37	38	38	35	0	35
	Riggs	40	40	34	22	18	28
	Varela	38	39	37	37	0	35
Lyles	40	40	40	39	0	37	
Average Score Total Score		39	39	37	33	5	34
100	TOTAL POINTS	96	98	94	85	10	86

		Pappe-Dawson	SEL Engineering	SOAP Engineering	Tetra Tech	Trac-N-Trol
25	Qualifications and Expertise					
	Summary of administration, organization and staffing, including subs Project Manager, team members and resumes					
	Vickery	23	23	20	23	23
	Riggs	25	25	18	25	23
	Varela	25	23	21	23	23
Lyles	20	25	21	24	25	
Average Score		23	24	20	24	24
35	Ability to Deliver Services					
	Approach to assessing existing SCADA systems and developing design plans for replacement systems Timeline and schedule for project delivery					
	Vickery	33	33	30	33	31
	Riggs	35	35	26	35	27
	Varela	35	34	32	33	34
Lyles	25	35	27	34	35	
Average Score		32	34	29	34	32
40	Scope of Work Experience with SCADA Design, Implementation and Integration					
	Outline proven practices and procedures to be used Identify three (3) current, major clients for professional engineering services and construction administration services References, including types of projects conducted					
	Vickery	36	35	35	37	36
	Riggs	40	40	23	40	35
	Varela	39	36	35	38	38
Lyles	30	39	35	39	40	
Average Score		36	38	32	39	37
100	TOTAL POINTS	92	96	81	96	93