City Council Meeting
July 21, 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. OPEN FORUM. Open Forum is an opportunity for citizens to address the City Council about items listed on the agenda, as well as on matters that are not specifically listed on the agenda. Alternatively, a citizen may address the City Council about an agenda item when the item comes up for consideration during the meeting. In order to address the City Council, please complete the Public Comment Form and submit it to the City Secretary prior to the start of the meeting. In accordance with the Texas Open Meetings Act, the City Council will not discuss, deliberate, or make any decisions on items not listed on the agenda. Comments are limited to 3 minutes per person.

4. ITEMS TO BE REMOVED FROM CONSENT AGENDA.

5. CONSENT AGENDA: Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.

   A. Consider approval of minutes for the City Council regular meeting held on June 16, 2026. (City Secretary)

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

   C. Consider approval of a resolution for street closures related to the annual Christmas Parade hosted by United Way of Nacogdoches in Downtown Nacogdoches. (Community Services Director)

   D. Consider approval of a change order to the construction contract of the ongoing 2026

SWTP Lagoon Sludge Removal Project (CIP Project WA-26-501) with ENVIROdredge in the amount of $45,150.00. (Asst. Director of Public Works/Asst. City Engineer)

E. Consider approval of Resolution 1420-07-26 regarding an amendment to the City of Nacogdoches adopted 2024-2029 Water Conservation and Drought Contingency Plan. (Director of Public Works/City Engineer)

F. Consider ratification of a Resilient Communities Program agreement by and between the City of Nacogdoches and the Texas General Land Office to develop an updated Comprehensive Plan. (Executive Director of Development and Infrastructure)

6. REGULAR AGENDA: City Council will receive staff recommendations and public input on the following items, and may deliberate and take formal action on the item.

A. Consider approval of an agreement by and between the City of Nacogdoches and Charles Pool, Jr. for reimbursement of a potable water line installation to serve two (2) parcels of land approximately 2.08 acres ± in size, more particularly described by Nacogdoches Central Appraisal District Parcels 81424 and 217034, and generally located near the intersection of North Street and Ernest McLain Road, in a not-to-exceed amount of $79,250.00. (Director of Public Works/City Engineer)

B. Consider approval of a contract by and between the City of Nacogdoches and Tetra Tech for Professional Engineering Design Services for the Water and Wastewater SCADA System Improvements (CIP projects WA-25-602 and WW-24-601) in the amount of $586,828.00. (Asst. Director of PW/Asst. City Engineer)

C. Consider approval of a contract by and between the City of Nacogdoches and SCS Engineers for Professional Services associated with Landfill Liner Construction Quality Assurance for the liner construction (CIP Project SW-25-101) for Block O, Cells 3 and 4 at the Nacogdoches Landfill in the amount of $360,818.00. (Asst. Dir. of Public Works/Asst. City Engineer)

D. Consider approval of a franchise agreement with Live Oak Environmental LLC, doing business as Ecowaste Solutions, for the disposal of solid waste collected in Nacogdoches County at the Nacogdoches Landfill. (Executive Director of Development and Infrastructure)

E. Consider approval of Resolution 1419-07-26 authorizing the filing of a Water Supply and Infrastructure Grant application to request financial assistance from the Texas Water Development Board. (Director of Public Works/City Engineer)

7. EXECUTIVE SESSION: Executive Sessions are for City Council to receive information and deliberate on matters specified in Subchapter D of the Texas Open Meetings Act. Council may reconvene in open session to vote on the matter.

A. Pursuant to Texas Local Government Code Section 551.072, deliberations regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in

negotiations with a third person. The subject of this Executive Session item is to discuss acquisition of property for fire stations.

B. Consultation with City Attorney - Pursuant to Texas Government Code Section 551.071, deliberation regarding attorney's advice concerning pending or contemplated litigation or a settlement offer, or on a matter in which the duty of the attorney to the governmental body under Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, clearly conflicts with this chapter.

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

9. Budget Q&A

A. Discussion regarding Council questions about information related to the Fiscal Year 2027 proposed budget.

10. 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 July 15, 2026 pursuant to Chapter 551 of the Texas Government Code.

Karen Hadnot, City Secretary

PRESENTER: Karen Hadnot, City Secretary

ITEM/SUBJECT: Consider approval of minutes for the City Council regular meeting held on June 16, 2026. (City Secretary)

SUMMARY/BACKGROUND: This document contains draft City Council minutes for meeting on June 16, 2026.

FINANCIAL:
No financial impact associated with this item.

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

CITY CONTACT: Karen Hadnot
936.559.2506
citysec@nactx.us

ATTACHMENTS: 1. Draft CC Meeting 06162026

Regular Session
Nacogdoches City Council
June 16, 2026 – 5:30 p.m.
Council Chambers
202 E. Pilar, Nacogdoches, TX

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

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 none.

4. **ITEMS TO BE REMOVED FROM THE CONSENT AGENDA:**
There being no item removed for the consent agenda.

5. **CONSENT AGENDA:**

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

6. **REGULAR AGENDA:**

Mayor Johnson announced the next item on the agenda.

6A. Consider selection of the submission by Pape-Dawson in response to solicitation RFQ 26-10-136 for Professional Services associated with Texas Water Development Board funding requests, grant administration, and project administration under the Water Supply and Infrastructure Grants program.

Case Opperman, the Director of Public Works and City Engineer, presented the staff report for the agenda item. He informed the Council that the City has the opportunity to apply for 100% grant funding from the Texas Water Development Board (TWDB) under House Bill 500. Mr. Opperman provided a detailed PowerPoint presentation to the Council.

He explained that the grant requires the construction to be fully completed by February 2031, which limits the feasible size of the project, even though the City is eligible for up to $21 million. The primary proposed project involves replacing a major transmission line between the Southwest Pump Station and the West Loop, with an estimated cost of $7 to $8 million.

Mr. Opperman also mentioned that Pape-Dawson had been identified as the most qualified firm among three submissions to administer the grant and design the project. Pape-Dawson is set to start working immediately on submitting the grant application to the TWDB for the City.

Council Member Belanger inquired about how many cities were applying for this funding. Mr. Opperman responded that he was unsure but noted that this is a very competitive grant.

Mayor Johnson then closed the floor for discussion.

Council Member Belanger made a motion to approve Regular Agenda Item 6A, which was seconded by Council Member Maule. The motion was unanimously approved.

Mayor Johnson announced the next item on the agenda.

6B. Consider approval of a contract by and between the City of Nacogdoches and Alliant Insurance Services to provide employee health benefits consulting, as described in solicitation RFQ-26-10-106, for a term of three (3) years in the total contract amount of $210,000.00.

Brittany Tucker, the Director of Human Resources, introduced the recommendation to partner with Alliant Insurance Services following a recent Request for Quotation (RFQ) process. She highlighted that Tim Brown, a representative from Alliant, along with Bob Tracy, attended the meeting.

Tim Brown emphasized Alliant's commitment to the public sector and its aim to assist the city in managing its health plan expenditures.

Mayor Johnson opened the floor for comments, but there were none.

Mayor Johnson then motioned to approve the contract between the City of Nacogdoches and Alliant Insurance Services to provide employee health benefits and consulting services as outlined in RFQ26-10-106. The contract is for a term of three years, totaling $210,000. Council Member Maule seconded the motion, which was unanimously approved.

Mayor Johnson announced the next item on the agenda.

6C. Consider approval of a contract between the City of Nacogdoches and ISI Water Company, utilizing TIPS Purchasing Cooperative Contract No. 250601, for services involving the audit and examination of the City's utility system for accuracy in metering, billing, and collections; and authorize the City Manager to execute any and all necessary documents.

Kevin Sardinha, the Assistant Director of Finance, presented the staff report. He explained that the contract would establish a partnership with the Water Company of America (WCA) to enhance performance and review revenue capture. Importantly, there is no upfront cost for the city; WCA will take the lead and be compensated based on a percentage of the increased revenue captured.

Shane Sangalli, representing WCA, presented a slideshow and described the company as unique. He emphasized that WCA specializes in thoroughly examining utility billing systems to identify errors that may result in lost revenue. The audit incurs no initial costs for the city, as WCA will receive a 50% share of the increased revenue for 48 months per corrected account.

Mr. Sangalli noted that WCA would analyze data to identify errors, such as incorrect meter sizes and rate codes. Additionally, they would physically inspect 1% to 2% of accounts, primarily focusing on commercial customers.

During the discussion, the Council highlighted the importance of ratepayer equity, the prevention of utility theft (such as unauthorized hydrant tapping), and the need for clear communication with residents about potential increases in their bills due to corrections or the ongoing installation of new Advanced Metering Infrastructure (AMI) meters.

Mayor Johnson expressed his gratitude to Todd Simoneaux and Kevin Sardinha for receiving another award recognizing their department's commitment to transparency. He remarked on the progress made by the City's Finance Department.

Council Member Huckaby moved to approve the contract outlined in Regular Agenda Item 6C. Mayor Johnson seconded the motion, and a unanimous affirmative vote was recorded.

Mayor Johnson then opened the floor for comments, but none were made.

6D. Consider approval of an Ordinance of the City of Nacogdoches, Texas, Amending Chapter 18—"Business", Article III—"Food Service Establishments", 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.

Jerry Baker, the City Attorney, presented the staff report. He proposed an amendment to Chapter 18, Article 3 of the Code of Ordinances to ensure compliance with new state legislation (SB 1008 and HB 2844). These state laws limit the permit fees for local food establishments, prohibit charging both a food fee and an alcohol fee, and shift all licensing and inspection authority for mobile food units (food trucks) to the state, effective July 1. As a result, the city will lose permitting revenue from food trucks but will save time for local health inspectors.

Mr. Baker presented a slideshow in which he explained the recent legislation. He indicated that the bill allows cities, counties, and other local health districts to charge fees only up to the state-set maximum. He provided a scenario to illustrate how these charges would be applied and noted that inspections will be conducted statewide.

Mr. Baker mentioned that the ordinance establishes a separate division under Article Three, specifically for food truck regulations, distinguishing them from those governing other establishments. Although mobile food units or food trucks are included in the definition of a food establishment, the state is now responsible for handling all regulations under this separate division. The exhibit attached to the amended ordinance includes the master fee schedule specific to Chapter 18.

Finally, the new regulations remove local permitting and health inspections for food trucks, placing these under Division Three. As a result, all licenses and permits will now be managed differently.

Council Member Belanger, what impact do you think this will have on our city? Mr. Baker stated that if we are discussing brick-and-mortar food establishments, he believes there won't be any impact. However, in my opinion, we are losing the ability to permit food trucks, which means that the permitting revenues we would have otherwise received will now go to the state of Texas.

Mayor Johnson closed the floor for discussion.

Mayor Johnson made a motion to approve an ordinance for the City of Nacogdoches, Texas, which amends Chapter 18, Business, Article 3, concerning Food Service Establishments in the city's code of ordinances. This ordinance includes a severability clause, a continuation clause, a repeal clause, and an effective date. The motion was seconded by Council Member Huckaby, and a unanimous affirmative vote was recorded.

Mayor Johnson announced the next item on the agenda.

7. **EXECUTIVE SESSION**

The Mayor and Council entered Executive Session at 6:12 p.m.

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

Council Member Huckaby made a motion to appoint Mary Francis Bradford as Director of Economic Development. Motion seconded by Council Member Maule, with a unanimous affirmative vote being recorded.

9. **ADJOURNED:** 6:27p.m.

A full recording of the Regular City Council Meeting for June 16, 2026, may be viewed here: Regular City Council Meeting – 20260616

_____
Randy Johnson, Mayor
City Council
City of Nacogdoches

ATTEST:

_____
Karen Hadnot, City Secretary

PRESENTER: Jessica Sowell, Community Services Director

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

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

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

FINANCIAL:
The Old Town Rig Down was approved as a City Partnered event during the FY 25-26 Budget cycle by the Nacogdoches City Council.

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

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

ATTACHMENTS: 1. Old Town Rig Down Resolution 2026

RESOLUTION NO. 1417-07-26

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

WHEREAS, organizers of the Old Town Rig Down are requesting that the City of Nacogdoches closes Main Street (SH 21) from its intersection with North Street eastward to its intersection at Mound Street, as well as all side streets and all streets leading in and out of Festival Park, from 6:00 a.m. Friday, September 11th, 2026 until 12:00 p.m. Sunday, September 13th, 2026, in order to provide safety for the vendors and participants; and

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

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Nacogdoches, Texas that this resolution be adopted requesting the Texas Department of Transportation to allow the closing of Main Street (SH 21) from its intersection with North Street eastward to its intersection at Mound Street, as well as all side streets and all streets leading in and out of Festival Park, from 6:00 a.m. Friday, September 11th, 2026 until 12:00 p.m. Sunday, September 13th, 2026, in order to provide safety for the vendors and participants, for the Old Town Rig Down.

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

PASSED AND APPROVED this 21st day of July, 2026.

Mayor, Randy Johnson
City of Nacogdoches

ATTEST:

Karen Hadnot, City Secretary

City Council Meeting

Date: July 21, 2026

Agenda Item: 5.C.

PRESENTER: Jessica Sowell, Community Services Director

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

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

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

FINANCIAL:
The Nine Flags Christmas Parade hosted by United Way was approved as a City Partnered event during the FY 25-26 Budget cycle by the Nacogdoches City Council.

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

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

ATTACHMENTS: 1. Christmas Parade Resolution 2026

RESOLUTION NO. 1418-07-26

WHEREAS, organizers of the 2026 Nine Flags Lighted Christmas Parade desire to have a safe and successful event for all vendors and participants; and

WHEREAS, organizers of the 2026 Nine Flags Lighted Christmas Parade are requesting that the City of Nacogdoches close Main Street (SH 21) from its intersection with North Street eastward to its intersection at Mound Street, as well as the Thomas J. Rusk Parade Route, from 12:00 p.m. December 5, 2026 until 10:00 p.m. December 5, 2026, in order to provide safety for the vendors and participants; and

WHEREAS, after duly considering such a request, it is the consent of the City Council that a resolution be adopted requesting the Texas Department of Transportation to allow the closing of Main Street for the 2026 Nine Flags Lighted Christmas Parade.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Nacogdoches, Texas that this resolution be adopted requesting the Texas Department of Transportation to allow the closing of Main Street (SH 21) from its intersection with North Street eastward to its intersection at Mound Street, as well as the Thomas J. Rusk Parade Route, from 12:00 p.m. December 5, 2026 until 10:00 p.m. December 5, 2026, in order to provide safety for the vendors and participants, for the 2026 Nine Flags Lighted Christmas Parade.

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

PASSED AND APPROVED this 21st day of July, 2026.

Mayor, Randy Johnson
City of Nacogdoches

ATTEST:

Karen Hadnot, City Secretary

PRESENTER: Jason Vickery, Assistant City Engineer

ITEM/SUBJECT: Consider approval of a change order to the construction contract of the ongoing 2026 SWTP Lagoon Sludge Removal Project (CIP Project WA-26-501) with ENVIROdredge in the amount of $45,150.00. (Asst. Director of Public Works/Asst. City Engineer)

SUMMARY/BACKGROUND: In April 2026, the City of Nacogdoches awarded a contract to ENVIROdredge in the amount of $194,350.00 for the sediment removal from the SWTP's largest lagoon which is being land-applied at the A.L. Mangham Jr. Regional Airport, consistent with the City's Texas Commission on Environmental Quality (TCEQ) Permit No. 730329. The increase in scope to include the second smaller lagoon is consistent with past sludge removal activities so that both lagoons are cleaned at the same time to insure proper operational functions of both lagoons. The total increase to the contract with Change Order No. 1 would be in the amount of $45,150.00 and brings the contract price to $239,500.00, which is within the budget. Staff recommends approval of this change order.

FINANCIAL:
Item is budgeted:
Account No.: 30.36.630.70
Account Name: *Special Services*
Amount:$45,150.00

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) 559-2518

ATTACHMENTS: 1. Change Order 1

CHANGE ORDER NO. 1

City of Nacogdoches
2026 SWTP Lagoon Sludge Removal Project
WA-26-501

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
DEDUCTIONS					
			SUBTOTAL DELETIONS		*$0.00*
ADDITIONS					
1	1	LS	Additional sludge removal from second lagoon	$23,150.00	$23,150.00
2	1	LS	Material Hauling to land apply location	$22,000.00	$22,000.00
			SUBTOTAL ADDITIONS		*$45,150.00*
			NET CONTRACT CHANGE THIS CHANGE ORDER		**$45,150.00**

ORIGINAL CONTRACT AMOUNT	$194,350.00
NET AMOUNT THIS CHANGE ORDER	$45,150.00
REVISED CONTRACT AMOUNT	**$239,500.00**

Justification: Both lagoons need to be cleaned and contractor is onsite and this additional sludge removal and disposal can be achieved within the FY25/26 budget and not exceed the 25% change order cap.

This document shall become an amendment to the contract and all provisions of the contract will apply thereto.

Requested By: (Contractor)	Recommended By: (Engineer)	Approved By: (Owner)
EnviroDredge	Jason Vickery, PE	Richard B. Beverlin, III
Signature:	Signature:	Signature:
Contractor Contracting Firm	Engineer City of Nacogdoches	City Manager City of Nacogdoches
Date: 07/13/26	Date:	Date:

PRESENTER:

ITEM/SUBJECT: Consider approval of Resolution 1420-07-26 regarding an amendment to the City of Nacogdoches adopted 2024-2029 Water Conservation and Drought Contingency Plan. (Director of Public Works/City Engineer)

SUMMARY/BACKGROUND: The Texas Commission on Environmental Quality (TCEQ) requires water suppliers to update and adopt new water conservation plans (WCP) for both their municipal and wholesale water uses every 5 years. These documents provide information on system capacities, water delivery and supply sources, water losses and outline five and ten year water conservation targets. The City's WCP was last adopted by City Council in 2024. With the TWDB Water Supply and Infrastructure Grants program opportunity that the City is applying for this month, the TWDB has requirements that they must see in cities' Water Conservation Plans that the TCEQ doesn't necessarily require. City staff has worked to incorporate those amendments to the current WCP and has received verification from the TWDB that the needed additions have been met.

Staff requests adopting a Resolution to amend the 2024 Water Conservation Plan for the City of Nacogdoches.

FINANCIAL:
No financial impact associated with this item

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

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

ATTACHMENTS:
1. Resolution
2. Water Conservation Plan

RESOLUTION NO. 1420-07-26

A RESOLUTION OF THE CITY COUNCIL OF NACOGDOCHES, TEXAS, AMENDING THE CITY'S ADOPTED 2024–2029 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN; AUTHORIZING SUBMISSION OF THE AMENDED PLAN TO THE TEXAS WATER DEVELOPMENT BOARD AND THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING FOR FINDINGS OF FACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Nacogdoches, Texas, ("City") is a public water supplier and is required to prepare, adopt, and implement a Water Conservation and Drought Contingency Plan in accordance with applicable provisions of the Texas Water Code and Title 31, Texas Administrative Code, including 31 TAC §363.15 and related Texas Water Development Board (TWDB) rules; and

WHEREAS, the City Council of the City of Nacogdoches, Texas, previously adopted a Water Conservation and Drought Contingency Plan covering the period 2024–2029 (the "2024–2029 Plan") on April 23, 2024, establishing strategies for reducing water consumption, water loss, and waste and setting five-year and ten-year goals consistent with TWDB guidance; and

WHEREAS, TWDB guidance and the Water Conservation Plan Checklist (TWDB Form 1968) contemplate that municipal water suppliers review and update their water conservation plans at least every five years, and more frequently as necessary to address changing conditions, including updated demand projections, water loss audit results, and conservation program performance; and

WHEREAS, the City Council finds that amending the 2024–2029 Plan as recommended will better promote efficient use of the City's water supplies, support long-term reliability of municipal water service, and maintain compliance with state-level water conservation planning requirements;

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. Adoption of Amended 2024–2029 Plan. The City Council hereby approves and adopts the Amended 2024–2029 Plan attached hereto as **"Exhibit A"**, and incorporated by reference for all purposes, which replaces and supersedes the previously adopted 2024–2029 Plan to the extent of any conflict.

SECTION 3. Authorization to Submit Amended Plan. The City Manager, or designee, is hereby authorized and directed to:

- Submit the Amended 2024–2029 Plan to the Texas Water Development Board in accordance with TWDB requirements for municipal Water Conservation Plans.
- Provide a copy of the Amended Plan to the Texas Commission on Environmental Quality where applicable, and to any regional water planning authority or group or other entities that require receipt of the Plan.
- Take such other actions as are reasonably necessary to implement the Amended 2024–2029 Plan and to maintain regulatory compliance related to municipal water conservation.

SECTION 4. Implementation and Reporting. City staff shall implement the strategies and measures set forth in the Amended 2024–2029 Plan and shall prepare water conservation annual reports and other documentation required by the Texas Water Development Board and other regulatory agencies, using the TWDB municipal conservation reporting tools where applicable.

SECTION 5. 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 21st day of July 2026.

CITY OF NACOGDOCHES

_____
Randy Johnson, Mayor

ATTEST:

_____
Karen Hadnot, City Secretary

APPROVED AS TO FORM:

_____
Mike Neu, Executive Director of
Development and Infrastructure

Exhibit A

Amended Water Conservation and Drought Contingency Plan
covering the period 2024–2029

7/14/2026

Texas Water Development Board
Water Conservation Division
P.O. Box 13231
Austin, Texas 78711-3231

Subject: Submission of 2026 Water Conservation Plan and Drought Contingency Plan – City of Nacogdoches; 5-Year Plan Cycle 2024-2029

Dear TWDB Conservation Staff,

On behalf of the City of Nacogdoches, I am pleased to submit the updated 2026 Water Conservation Plan (WCP) and Drought Contingency Plan (DCP) for review and approval. This update has been prepared in accordance with Texas Water Code §13.146, House Bill 1648, and the TWDB Water Conservation Plan Guidance Checklist (TWDB-1968).

The City's updated plan demonstrates full compliance with TWDB requirements, including:

- Utility Profile (Appendix A): Complete service area, population, sources, production, consumption, and water loss data.
- Conservation Coordinator: Designation of Bart Allen, Water Utilities Manager, with defined responsibilities and support staff.
- Quantified 5- and 10-Year Goals: Specific targets for Total GPCD, Residential GPCD, and Water Loss GPCD.
- Implementation Measures & Schedule: Annual actions, near-term milestones (2025–2030), long-term milestones (2030–2035), and five-year review cycle.
- Metering & Water Loss Control: Documentation of universal metering, production metering, annual water loss audits, leak detection, and meter accuracy programs.
- Rate Structure: Non-promotional, conservation-oriented rate structure.
- Public Education & Outreach: Objectives, outreach methods, tracking measures, two-year education goals.
- 2024 Ordinance/Resolution (Appendix E): Adoption by the City Council ensures enforceability and compliance.
- Drought Contingency Plan (Appendix F): Integrated into the WCP and adopted by resolution.
- Coordination with Regional Water Planning Group: Included in Section VIII.

We welcome the opportunity to provide any additional documentation the Texas Water Development Board may require. Please feel free to contact me or my staff for assistance.

Sincerely,

Bart Allen, Water Utilities Manager
936-559-2895, allenb@nactx.us

Cc: Ronnie Lyles, Water Utilities Assistant Manager
lyleswr@nactx.us
Jacqueline M. Ramos, Environmental Coordinator
ramosj@nactx.us

Water Conservation Plan

City of Nacogdoches

Public Works – Water Utilities Department

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Section I: Introduction and Utility Profile

Introduction

The City adopted its Water Conservation Plan in 2014 and updated it in 2019 and 2024 in accordance with Texas Commission on Environmental Quality (TCEQ) and Texas Water Development Board (TWDB) guidance. The current update also includes the City's Drought Contingency Plan (DCP) for adoption by City Council resolution.

Purpose of the Updates

The revised plan takes into account the existing infrastructure inventories, water usage data, and conservation objectives. There are no significant changes to the City's conservation strategy or planned initiatives. Previous updates to the plan have integrated insights gained from the extreme drought of 2011, including an ascending rate structure designed to discourage excessive water consumption, which remains a part of this 2026 amendment.

Public Access and Implementation

The adopted Water Conservation Plan and Drought Contingency Plan are available to the public in Article V and Article VII of the Municipal Code of Ordinances. Adoption of the Water Conservation Plan enables the utility to implement, administer, and enforce the program effectively.

Utility Profile Summary

The Utility Profile summarizes key system information, including population, service area, water sources, annual production, consumption patterns, residential use, and water loss. These data provide the foundation for setting conservation goals and evaluating system performance.

The utility provides potable water to residential, commercial, institutional, and industrial customers within its certificated service area. This area includes single-family homes, multifamily residences, commercial establishments, and public facilities. Anticipated population growth over the next decade reinforces the need for long-term water conservation planning.

Appendix A: Utility Profile and TWDB Goals Table

Water Supply System Data

Groundwater Supply

The utility draws raw water from groundwater and surface water sources. Nine active deep wells pump groundwater to the Southside Pump Station, where disinfection and chemical treatment are applied. The Southside plant supplies approximately 35% of the City's normal treated water demand**.**

Surface Water Supply

City-owned Lake Nacogdoches provides surface water through a treatment plant with a 29 MGD capacity. Located approximately 10 miles west of the City, the facility pumps treated water to the Southwest Pump Station for storage and distribution. The surface water facility currently supplies approximately 65% of the City's water demand.

Supplemental and Emergency Sources

The utility regularly evaluates wells, pump stations, chlorination facilities, and ground storage tanks to identify rehabilitation needs. Wells 13, 14, and 16 have been incorporated into the water system and designated as emergency sources. These wells supplement normal operations and may provide limited replacement supply during drought or other emergency conditions.

System Components
The City's water treatment and distribution system includes:

- 4 pressure zones
- 4 pump stations
- 9 active groundwater wells
- 9 ground storage tanks
- 7 elevated tanks
- 1 local booster station
- 2 major re-pump stations
- 1 surface water treatment plant

The water system consists of the operations and maintenance of 4 Water Pump Stations, with a pumping capacity of 32 million gallons (MG), 6 Elevated Storage Tanks for pressure regulation, with 1.95MG of storage capacity, and 5 Ground Storage Tanks with a storage capacity of 14MG.

Wastewater Utility System
The wastewater treatment plant and collection system are owned and operated by the utility of Nacogdoches. The collection system provides sewer service for the majority of the City, with only a few on-site private systems operating in remote locations.

The plant is permitted for 12.88 MGD under TPDES Permit No. 10342-004. Treated effluent is discharged from the plant into La Nana Creek and then to Segment 0611 (Angelina River) in the Neches River Basin.

Appendix B: Water and Wastewater Service Area Maps

Customer Data

Service Area and Population Served
Population and customer data are collected and reported in accordance with Senate Bill 181, which requires uniform methodologies for water use reporting and conservation planning. The City's billing system supports detailed sector-level reporting consistent with TWDB guidance.

Retail Customers
The City's Water Utilities Department serves approximately 50,226 residents across a 35-square-mile water distribution area, including about 10,000 Stephen F. Austin University students living on campus. Service also extends to wholesale water supply districts. Historical population levels have remained stable over the past five years. New connections have averaged ~40–50 per year over the past three years, primarily in the single-family residential and commercial sectors. The City's customer base includes residential, commercial, institutional, and industrial users, with several large-volume customers that contribute significantly to total system demand and are tracked annually.

Wholesale Customers
The City sells treated wholesale water under limited-volume contracts based on maximum contracted amounts, not supplier connections or population. Wholesale sales have remained steady over the past five years, serving an estimated 4,000 customers; uncertain future population projections do not affect contracted volumes.

Contract Requirements
Each wholesale customer must maintain a TCEQ-compliant water conservation plan and follow the City's Drought Contingency Plan during conservation periods unless an alternative water supply is available.

Appendix C: Wholesale Contracts

Wholesale Customer	Contracted Amount (Acre-feet)
D & M Water Supply	257.79
MUD 1	67.20
Appleby Water Supply	93.34
Melrose Water Supply	36.83
Central Heights	300

Section II: Conservation Coordinator

Applicability

The designation of a conservation coordinator is required by House Bill 1648, effective September 1, 2017, for all retail public water utilities with 3,300 service connections or more. The appointment of a conservation coordinator is recognized as a best management practice (BMP). Although this BMP does not directly contribute to water savings, it facilitates the effective functioning of all other BMPs. Effective coordination enhances the implementation of metering, leak detection, public outreach, and rate-based conservation initiatives. **Conservation Coordinator of Record: Bart Allen- Water Utilities Manager**

Conservation Coordinator — Role Description

The Conservation Coordinator is responsible for coordinating water utility staff, interdepartmental data, and other resources necessary to develop, implement, and evaluate the effectiveness of the City's Water Conservation Plan.

Key Functions:

- Plan Development: Prepare, execute, and refine the Water Conservation Plan.
- Program Evaluation: Monitor performance, analyze trends, recommend improvements.
- Regulatory Reporting: Submit annual reports to utility management and TWDB; maintain Drought Contingency Plan.
- Budget & Resources: Develop program budget; manage staff, consultants, contractors.
- Outreach: Promote conservation internally and publicly; serve as spokesperson.

Support Staff

Purpose and Coordination

Effective water conservation depends on coordinated support across the utility. Support staff provides the data, outreach capacity, monitoring, reporting, and operational follow-through needed to translate conservation goals into measurable results.

Key Support Functions

- Collect and validate data from production, billing, metering, engineering, and customer service systems.
- Monitor conservation performance, prepare timely reports, and support regulatory compliance.
- Coordinate public education, customer communication, drought messaging, audits, and high-use follow-ups.
- Maintain continuity, accountability, and consistent program delivery throughout the year.

Program Value of Supporting Staff

By distributing responsibilities among trained staff, the utility keeps conservation integrated into daily operations rather than dependent on a single position.
This structure supports regulatory compliance, improves operational efficiency, and advances long-term water savings.

Section III: Conservation Goals

Applicability

Setting specific, quantified 5- and 10-year targets is essential because it makes water conservation measurable and accountable. Clear numerical goals help the utility track reductions in water loss, improve overall water-use efficiency, and plan for meaningful expansion of water reuse. These targets guide operational decisions, support regulatory compliance, and ensure the utility uses existing supplies as efficiently and responsibly as possible.

Specific, Quantified 5 and 10-Year Targets

Water Conservation Plan
5-And 10-Yr Goals for Water Savings

	Historic 5-year Average	Baseline	5-yr Goal for year 2030	10-yr Goal for year 2035
Total GPCD	172	172	164	155
Residential GPCD	161	161	155	148
Water Loss GPCD	49	49	44	39

The utility has established quantified conservation goals based on the most recent five years of available data reported in the Utility Profile.

These goals address Total Per Capita Water Use (Total GPCD), Residential Per Capita Water Use (Residential GPCD), and Water Loss expressed in gallons per capita per day (Water Loss GPCD). The historic five-year averages serve as the baseline for setting measurable 2030 and 2035 targets.

Based on the calculated five-year averages, the utility's baseline values are 172 GPCD for Total Water Use, 161 GPCD for Residential Water Use, and 49 GPCD for Water Loss. These baselines reflect system performance and provide a realistic foundation for long-term conservation planning.

To support responsible water resource management and align with statewide conservation objectives, the utility strives for the following goals:

- **Total GPCD**: Reduce overall per-capita water use by approximately 5% by 2030 and 10% by 2035 through continued public education, seasonal irrigation management, and system efficiency improvements.

Total GPCD Targets			
5 Year Target: Reduce Total GPCD by 5%			
172	→	164	GPCD
10 Year Target: Reduce Total GPCD by 10%			
172	→	155	GPCD

- **Residential GPCD**: Reduce residential per-capita water use by 4% by 2030 and 8% by 2035 through customer outreach, voluntary conservation measures, and promotion of efficient indoor and outdoor water use practices.

Residential GPCD Reduction Targets			
5 Year Target: Reduce Total GPCD by 4%			
161	→	155	GPCD
10 Year Target: Reduce Total GPCD by 8%			
161	→	148	GPCD

- **Water Loss GPCD**: Reduce water loss by 10% by 2030 and 20% by 2035 through active leak detection, meter accuracy improvements, timely repair of distribution system leaks, and enhanced water loss accounting.

Water Loss GPCD			
5 Year Target: Reduce Total GPCD by 10%			
49	→	44	GPCD
10 Year Target: Reduce Total GPCD by 20%			
49	→	39	GPCD

These goals are achievable, measurable, and consistent with TWDB guidance for municipal water conservation planning. Progress toward these goals will be evaluated annually using updated production, consumption, and water loss data. The utility will continue to implement conservation measures that support long-term water supply reliability and efficient system operation.

Implementation Plan & Achieving Targets Schedule

The utility will implement a combination of supply-side and demand-side conservation measures to achieve the quantified goals established in this plan. Implementation actions are structured to ensure measurable progress toward reducing Total GPCD, Residential GPCD, and Water Loss GPCD by 2030 and 2035. The following measures will be implemented during the planning period:

1. Universal Metering and Meter Accuracy Program
   - Maintain 100% metering of all customer connections and water production points.
   - Replace or test meters older than 10 years or showing signs of inaccuracy.
   - Implement a rolling meter replacement program targeting at least 10% of aging meters every five years.

2. Water Loss Control and Distribution System Efficiency
   - Conduct annual water loss audits using TWDB's Water Loss Audit Tool.
   - Perform routine leak detection surveys and prioritize repair of identified leaks.
   - Improve system pressure management to reduce stress on aging infrastructure.
   - Enhance water accounting practices to reduce apparent losses.

3. Public Education and Outreach
   - Provide annual conservation messaging through the City website, bill inserts, social media, and community events.

- Promote efficient irrigation practices, seasonal watering guidance, and indoor water-saving behaviors.
- Support school and youth outreach programs to build long-term conservation awareness.

4. Conservation-Oriented Rate Structure
   - Maintain or evaluate rate structures that encourage efficient water use and discourage waste.
   - Review rate performance annually to ensure alignment with conservation goals.

5. Landscape Irrigation Management
   - Promote voluntary adherence to recommended watering schedules.
   - Provide customer education on irrigation system maintenance and seasonal adjustments.
   - Encourage the use of native and drought-tolerant landscaping.

6. Drought Response Coordination
   - Coordinate conservation measures with the Drought Contingency Plan to ensure consistent messaging and enforceable actions during drought stages.
   - Implement additional conservation requirements during drought conditions as needed.

7. Reuse and Non-Potable Water Opportunities
   - Evaluate opportunities for non-potable reuse for irrigation, facility operations, or industrial customers.
   - Implement feasible reuse projects to reduce potable water demand.

These implementation measures collectively support the utility's long-term objective of reducing per capita water use, improving system efficiency, and ensuring a reliable water supply for future growth.

Achieving Targets Schedule

The utility provides potable water service to residential, commercial, institutional, and industrial customers within its certificated service area. The service area includes a mix of single-family homes, multifamily residences, commercial establishments, and public facilities. Anticipated population growth over the next decade highlights the importance of long-term water conservation planning.

1. Annual Implementation Measures (Every Year Through 2035)

   - Calculate Total GPCD and Residential GPCD
   - Complete and submit the TWDB Water Loss Audit
   - Update meter testing and replacement logs
   - Conduct leak detection surveys and repair identified leaks
   - Deliver public education and outreach programs
   - Publish the Annual Water Conservation Report
   - Review BMP performance and adjust as needed

2. Near-Term Milestone Strategies (2025–2030)

By the end of 2026	• Expand public outreach to schools and community groups
By 2027	• Reduce water loss by at least 2–3% from baseline

	• Implement updated irrigation efficiency guidance for residents
By 2028	• Document measurable reductions in GPCD • Evaluate reclaimed water opportunities for parks and facilities
By 2030	• Achieve the 5-year targets: • 5% reduction in GPCD • Water loss at or below 12% • Publish a full progress review and update the WCP if needed

3. Long-Term Milestone Strategies (2030–2035)

By 2031–2032	• Continue annual audits and GPCD tracking • Expand leak detection to include nighttime flow analysis • Evaluate BMP effectiveness and adjust programs
By 2033	• Demonstrate continued reductions in water loss and GPCD • Increase reclaimed water use where feasible
By 2034	• Conduct a full mid-cycle review of conservation measures • Prepare for final evaluation of 2035 targets
By 2035	• Achieve the 10-year targets: • 10% reduction in GPCD • Sustained water loss below 12% • Submit updated WCP and Utility Profile to TWDB

4. Five-Year Review Cycle

In accordance with TWDB requirements, the utility will:

- Review and update the Water Conservation Plan every five years
- Reassess conservation goals, BMPs, and system performance
- Evaluate new technologies, data, and community needs

Method for Tracking Progress

The utility will monitor and evaluate progress toward achieving the quantified conservation goals through systematic data collection, annual reporting, and performance review. Tracking methods include:

Annual Water Use and Production Monitoring

- Track total water production, billed consumption, and residential consumption monthly.
- Calculate annual Total GPCD and Residential GPCD using TWDB-approved formulas.

Annual Water Loss Audit
- Complete the TWDB Water Loss Audit each year and evaluate trends in real and apparent losses.
- Compare annual Water Loss GPCD to the baseline value of 49 GPCD and the 2030/2035 goals.

Meter Testing and Replacement Records
- Maintain records of meter testing, replacements, and accuracy results.
- Use meter data to verify improvements in apparent loss reduction.

Conservation Program Tracking
- Document implementation of conservation measures, including outreach activities, leak repairs, and system improvements.
- Track participation in customer programs and evaluate effectiveness.

Annual Goal Comparison
- Compare annual Total GPCD, Residential GPCD, and Water Loss GPCD to the established goals:
- Identify areas where additional conservation measures may be needed.

Reporting to TWDB and TCEQ
- Submit required conservation reports, water loss audits, and utility profile updates as required by TWDB and TCEQ.
- Use reporting feedback to refine conservation strategies.

Plan Review and Updates
- Review the Water Conservation Plan at least every five years or sooner if significant system changes occur.
- Update goals, baselines, and implementation measures based on new data and system performance.

This tracking framework ensures that the utility can measure progress, adjust strategies as needed, and maintain compliance with TWDB and TCEQ requirements.

Section IV: Metering

The City's investment in accurate production metering and universal customer metering provides the foundation for reliable water accounting across the entire system. Together, these metering practices ensure that both system input volumes and customer consumption are measured with a high degree of accuracy, supporting effective tracking of real and apparent losses. These metering components form the basis of the City's broader water loss management strategy.

Production Meters

The utility maintains all primary system supply meters at critical points, including treatment plant sites, well locations, and other key locations, to capture both raw and treated water production figures. These meters were replaced in 2008 and currently receive annual inspections and frequent calibrations. All meters on the supply side of the system have an error of 5% or less.

Universal Metering

In 2008, the utility replaced all inner-city meters as part of a new AMR system. The system supports remote radio meter reading, reduces manual reading errors, and provides near real-time access to meter data throughout the system. The meters were calibrated before installation and are expected to maintain readings within a 5% margin of error. Water utility staff periodically test, remove, and replace worn or suspect meters as needed.

The software component of this system also has alerts for leak detection and other features to help water utility personnel identify problems in the system before a customer ever knows it exists. All water used within the City by customers and city personnel, except for emergency firefighting episodes, is metered and documented. Water volumes used in firefighting are estimated by the shift Captain and reported to the Water Utility staff to be recorded.

Section V: Water Loss Control Program

The utility will maintain a comprehensive Water Loss Control Program to identify, measure, reduce, and manage real and apparent water losses throughout the water production, transmission, distribution, and customer metering systems. The program supports the City's quantified water loss goals and provides an operational framework for improving system efficiency, protecting treated water supplies, and maintaining compliance with state water conservation requirements.

The program is based on annual water loss accounting, routine leak detection, timely repair of system leaks, production and customer meter accuracy, pressure monitoring, and improved documentation of authorized unbilled water uses. Water loss performance will be evaluated annually using production records, billing data, meter records, repair logs, and the Texas Water Development Board Water Loss Audit process.

Water Loss Program Objectives

The Water Loss Control Program is intended to accomplish the following objectives:

- Reduce Water Loss GPCD from the established baseline of 49 GPCD to 44 GPCD by 2030 and 39 GPCD by 2035.
- Improve the accuracy and reliability of annual water loss audit data.
- Identify and repair distribution system leaks before they become major losses or service disruptions.
- Reduce apparent losses caused by meter inaccuracy, data errors, unauthorized use, or billing adjustments.
- Strengthen documentation for authorized unbilled uses, including flushing, firefighting, construction, and maintenance activities.
- Use water loss results to prioritize capital improvements, meter replacement, pressure management, and maintenance activities.

Annual Water Loss Audit and Accounting

The utility completes an annual water loss audit using the TWDB Water Loss Audit process. The audit compares system input volume to authorized consumption and identifies real losses, apparent losses, and authorized unbilled uses. The utility will use the audit data to evaluate trends, confirm progress toward water loss targets, and identify priority actions for the following year.

Water loss accounting includes, at a minimum, treated water production, wholesale delivery volumes, billed retail consumption, documented authorized unbilled uses, customer meter adjustments, leak repair records, and production meter calibration records. The Conservation Coordinator, utility management, and supporting staff will be consistent in reviewing audit results each year and incorporating them into the City's annual conservation reporting requirements.

Leak Detection, Response, and Repair

The utility conducts routine leak detection activities throughout the distribution system and prioritizes repairs based on estimated water loss, service impact, public safety, infrastructure condition, and operational urgency. Leak detection includes visual inspections, review of customer-side alerts from the AMR system, monitoring of SCADA data for abnormal pump run times or tank level changes, and targeted field investigations in areas with elevated loss indicators. Repair records include the location, date identified, date repaired, pipe material, estimated water loss, and corrective action taken.

Field crews, meter personnel, engineering staff, and customer service staff coordinate to identify suspected leaks and confirm whether losses occur on the public side or the customer side of the meter. When

customer-side continuous-use alerts are identified, the utility notifies the customer as soon as practical and provides information to support corrective action. Public-side leaks are assigned for repair based on severity and available resources.

Meter Accuracy and Apparent Loss Control
The utility maintains production, wholesale, and customer meters within acceptable accuracy standards and uses testing, calibration, and replacement records to reduce apparent losses. Production and supply meters are inspected and calibrated on a routine schedule. Customer meters are reviewed using AMR data, consumption history, meter age, meter size, and field observations. Meters showing signs of under-registration, failure, or abnormal readings are tested, repaired, or replaced as appropriate.

Apparent loss controls include regular review of billing system data, customer class coding, inactive and duplicate accounts, zero-consumption accounts, unauthorized connections, and billing adjustment records. The utility continues to strengthen recordkeeping practices so that billed consumption, authorized unbilled use, and water loss calculations remain accurate, consistent, and reliable.

Implementation Schedule and Responsibilities
The Conservation Coordinator oversees the Water Loss Control Program and coordinates implementation among operations, metering, billing, engineering, customer service, and field maintenance staff. The Assistant Water Utilities Manager supports annual data collection, reporting, and performance tracking. Field staff document leak investigations, repairs, valve operations, flushing, and other activities that affect water loss calculations.

- Annually: Complete the water loss audit, review water loss trends, update meter and leak repair records, and identify priority actions for the next fiscal year.
- Monthly: Review production, billing, and AMR data for unusual usage patterns, continuous-use alerts, and suspected meter or data issues.
- Ongoing: Investigate reported leaks, repair confirmed system leaks, document authorized unbilled uses, and maintain meter testing and replacement records.
- Every five years: Reassess the program, update water loss goals, and incorporate audit results into the Water Conservation Plan update.

Tracking Program Performance
Progress is measured by comparing annual Water Loss GPCD, total water loss, apparent loss indicators, leak repair response time, meter testing results, and production-to-billed consumption trends against the baseline and the 2030 and 2035 goals. The utility uses these results to determine whether additional measures are needed, such as expanded leak detection, targeted meter replacement, pressure management improvements, capital replacement of aging mains, or refinements to billing and data management procedures.

Water Loss Control Program: Key Points

- The utility maintains a comprehensive program to identify, measure, reduce, and manage both real and apparent water losses.

- The program supports the City’s water loss reduction goals and helps improve system efficiency, protect treated water supplies, and meet state conservation requirements.
- Water loss management relies on annual water loss accounting, leak detection, timely repairs, meter accuracy, pressure monitoring, and documentation of authorized unbilled uses.

- The utility's targets are to reduce Water Loss GPCD from 49 GPCD to 44 GPCD by 2030 and 39 GPCD by 2035.
- Annual TWDB water loss audits are used to compare system input with authorized consumption and identify real losses, apparent losses, and authorized unbilled uses.
- Leak detection includes visual inspections, AMR alerts, SCADA monitoring, and targeted field investigations.
- Repair records document leak location, repair dates, pipe material, estimated water loss, and corrective action.
- Meter accuracy is maintained through testing, calibration, replacement records, and review of AMR data and meter performance.
- Apparent loss controls include review of billing data, account coding, inactive or duplicate accounts, unauthorized connections, and billing adjustments.
- The Conservation Coordinator oversees the program, with support from utility management, the Assistant Water Utilities Manager, field crews, metering, billing, engineering, and customer service staff.
- Program activities occur annually, monthly, continuously, and every five years through audits, data reviews, leak investigations, meter record updates, and plan reassessment.
- Progress is tracked by comparing annual Water Loss GPCD, total water loss, apparent loss indicators, leak repair response time, meter testing results, and production-to-billed consumption trends against the baseline and future goals.

Enforcement Procedure and Plan Adoption

The City Council formally adopted the 2012 Amendment to the Water Conservation Plan on August 7, 2012, and subsequently adopted the updated Plan in 2024. Enforcement of the Water Conservation Plan is administered through the municipal court system, pursuant to applicable City ordinances. Violations of water-related requirements are subject to monetary penalties as authorized by ordinance and imposed by the court.

The City employs a full-time Code Enforcement Officer responsible for monitoring compliance with all public-utility–related ordinances, issuing citations, and initiating enforcement actions as warranted. For water-related violations, the imposition of fines may be supplemented by physical disconnection from the municipal water system, consistent with established enforcement procedures and authority granted under City ordinance.

Appendix D: Signed Official Ordinance and Updated WCP Resolution

Section VI: Water Rate Structure

Non-Promotional Water Rate Structure

The City operates under a non-promotional, usage-based rate structure designed to encourage efficient water use and support long-term conservation goals. Rates vary by customer class- residential, commercial, and out-of-city—and are structured to reflect the cost of service while promoting responsible consumption.

The City's adopted rate ordinance establishes increasing block rates for higher-volume users, consistent with TWDB guidance for conservation-oriented pricing. This approach ensures that customers who use more water pay proportionally higher rates, providing a direct economic incentive to conserve. Irrigation rates are set at elevated levels to discourage excessive outdoor use and to promote sustainable landscape practices.

No promotional or discounted rates are offered, and water rate reductions are not used as economic development incentives. The rate structure is reviewed periodically to ensure that revenues support system operation, maintenance, and capital improvements while continuing to advance conservation objectives.

The City's rate design aligns with TWDB recommendations by:

- Encouraging efficient water use through tiered pricing.
- Recovering the full cost of service, including conservation program funding.
- Maintaining equity among customer classes.
- Reinforcing the City's commitment to water resource stewardship.

This rate structure supports the City's broader Water Conservation Plan by linking financial policy to measurable conservation outcomes and ensuring that water remains a valued, responsibly managed resource.

Appendix E: Water Rate Structure

Section VII: Public Education and Information Program

The utility's public outreach program supports reduced water use, water loss, waste, improved efficiency, and feasible reuse. Through the NAC Water Platform, the utility will strengthen public education consistently with TWDB and TCEQ conservation planning guidance.

The NAC Water Platform supports the City's 2030 and 2035 conservation goals and annual reporting by linking customer education with metering, water loss control, conservation rates, drought response, water quality, and source water protection.

Program records will support the Annual Conservation Report, Utility Profile, Water Loss Audit, and five-year Water Conservation Plan updates submitted to TWDB.

Program Objectives

The Public Education and Information Program is designed to accomplish the following objectives:

- Increase public understanding of water conservation, water quality, source water protection, and the responsible use of treated drinking water.
- Support the City's 2030 and 2035 goals for Total GPCD, Residential GPCD, and Water Loss GPCD.
- Encourage efficient indoor and outdoor water use practices among all customer classes.
- Provide timely information during drought conditions, seasonal high-use periods, annual water quality reporting cycles, and conservation campaigns.
- Promote customer awareness of leaks, AMR alerts, meter accuracy, irrigation efficiency, and the City's conservation-oriented rate structure.
- Maintain documentation that supports annual TWDB reporting, including outreach dates, topics, audiences, communication methods, and measurable program results.

Target Audiences

The program serves residential customers, multifamily properties, commercial and institutional customers, industrial users, public facilities, landscape and irrigation users, wholesale customers, students, community organizations, and City staff. Outreach materials are written in clear language and tailored to each audience.

Outreach Methods

The utility shares conservation, water quality, customer service, and wastewater protection information year-round through:

- Website updates, online resources, and annual Consumer Confidence Report information.
- Bill messages, inserts, newsletters, notices, and service communications.
- Social media and digital announcements for high-use periods, drought stages, water quality outreach, and conservation campaigns.
- Public meetings, community events, school programs, youth education, and utility awareness campaigns.
- Direct customer communication on alerts, suspected leaks, high use, irrigation, drought requirements, and water quality concerns.

Coordination with wholesale customers, public works staff, and partners to keep messaging consistent across the service area.

Conservation Topics

Education materials focus on practical actions customers can take to conserve water, protect drinking water quality, support source water protection, reduce water waste, and help the utility maintain reliable water and wastewater service.

- Indoor efficiency, leak detection, and fixture repair.
- Efficient irrigation, seasonal watering, system maintenance, and drought-tolerant landscaping.
- Customer leak response, AMR alerts, high-use notices, and meter accuracy.
- Source water protection.
- Drought requirements, conservation rates, system reliability, and long-term supply planning.

Implementation Schedule and Responsibilities

The Conservation Coordinator leads the program with support from Environmental, Assistant Water Utilities, customer service, billing, metering, field, wastewater, and utility management staff. Standard responsibilities include outreach messaging, materials, communications, customer response, documentation, effectiveness review, and TWDB reporting support.

Implementation Strategies:

- **Annually:** Publish reminders, promote the water quality report, document outreach, review effectiveness, update materials, and support TWDB annual conservation reporting.
- **Seasonally:** Emphasize outdoor watering, irrigation efficiency, drought awareness, and high-use guidance.
- **Ongoing:** Answer customer questions, share leak and usage information, coordinate outreach, and support drought communications.
- **Every five years:** Reassess outreach effectiveness, update education strategies, and incorporate findings into the Water Conservation Plan update.

Two-Year Public Information Plan

Provide consistent, repeated, and actionable conservation messaging to all customer classes through multiple communication channels at least quarterly. Each outreach activity will identify the BMP support, target audience, delivery method, and intended conservation outcome.

Appendix F: Two-Year Education Implementation Strategy

Program Tracking and Evaluation

- Document public education activities annually, including date, topic, audience, channel, BMP support, and materials used.
- Track bill messages, website and social media updates, presentations, school activities, customer contacts, high-use and leak alerts, drought notices, water quality communications, and conservation materials.

- Evaluate outreach effectiveness using participation, customer response, water use trends, water loss audit results, service issues, and progress toward the 2030 and 2035 conservation goals.
- Use results to support the Water Conservation Annual Report, Utility Profile updates, and five-year Water Conservation Plan revisions submitted to TWDB.

About NACWater Platform: Water Education Program

NAC Water's education program supports the City's Water Conservation Plan by providing ongoing public education that encourages year-round conservation awareness and engagement.

Education Focus Areas

The program highlights practical topics, including leak detection, water-use monitoring, drought preparedness, water-wise landscaping, rainwater harvesting, stormwater protection, wastewater awareness, and the value of public water systems.

Water Education Summary Table

NAC Water Platform		
Planning Element	**NAC Water Support**	**Related Sections**
Continuing public education on water conservation	Shares year-round conservation messages with residents, businesses, schools, and property owners, emphasizing practical ways to reduce waste even outside drought periods.	Indoor Water Saving Tips; Outdoor Water Saving Tips; Why Conserve? Water Wisely; Rainwater Harvesting; Water for Kids
Reducing water consumption, loss, and waste	Helps customers identify leaks, choose efficient fixtures, manage irrigation, track meter use, and water landscapes responsibly.	Fix-a-Leak; My Water Use; Indoor Water Saving Tips; Outdoor Water Saving Tips; Water Conservation Plan
Efficiency, Reuse, and Leak Awareness		
Improving water-use efficiency	Promotes efficient appliances, WaterSense-labeled fixtures, irrigation zones, native and adapted plants, and landscaping practices that reduce overwatering and runoff.	Indoor Water Saving Tips; Outdoor Water Saving Tips; Water Wisely; Landscape Irrigation; Yard Care
Encouraging recycling, reuse, and alternative water practices	Introduces rainwater harvesting for non-potable outdoor uses and explains how captured rainfall can reduce demand on treated municipal water and stormwater runoff.	Rainwater Harvesting; Clean Creeks, Clean Water; Why Conserve?
Building leak-reduction awareness	Explains common leak causes, warning signs, meter checks, toilet dye tests, customer and City responsibilities, and water shutoff steps for repairs.	Fix-a-Leak; My Water Use; Water Conservation Plan
Drought, Stewardship, and Regional Planning		
Supporting drought preparedness and demand management	Explains drought causes, groundwater impacts, stages, trigger criteria, customer notifications, and the need to protect water for essential uses during shortages.	Drought Contingency Plan; Outdoor Water Saving Tips; Why Conserve?
Promoting water value and utility stewardship	Connects conservation to public health, economic value, energy savings, environmental protection, water quality, wastewater management, and water operator responsibilities.	Why Conserve? No Operators, No Water; What's in My Water?; Water Conservation Plan
Increasing regional planning awareness	Shows the City's connection to the Region I Planning Committee and frames conservation as part of long-term water supply reliability.	Water Conservation Plan: Why Conserve? Resources

Section VIII: Coordination with Regional Water Planning Group

The City has reviewed Region I (East Texas) planning information and prepared this Water Conservation Plan to align with the regional water plan, TWDB guidance, and local supply and demand objectives. The City will coordinate with the Region I Regional Water Planning Group, as appropriate, to keep local conservation, drought response, water loss reduction, demand projections, and regional strategies consistent.

- Provide the adopted Water Conservation Plan to Region I as required and retain transmittal records.
- Review regional plan updates, TWDB guidance, and conservation or drought recommendations during each five-year update.
- Confirm that local goals, water loss targets, education measures, and drought actions align with regional demand projections and strategies.
- Participate in or monitor Region I planning when it may affect supply reliability, conservation, drought preparedness, or infrastructure planning.
- Include relevant regional planning information in future plan revisions and annual reports.

Five-Year Plan Submittal PWS TX 1740003_RWPG Coordination

1 message

Ramos, Jacqueline M. <ramosj@nactx.us> Mon, Apr 29, 2024 at 10:29 AM
To: regioniwater@gmail.com
Cc: Bart Allen <allenb@nactx.us>, Ronnie Lyles <lylesrw@nactx.us>

Good morning,

Per the coordination requirements of TCEQ, we are submitting copies of our 2024 WCP and DCP for review. At your earliest convenience, please respond with a letter indicating that the RWPG I was provided with copies of the plan.

Please feel free to reach out to any member of our team should you need further documentation.

Best regards,

Jacqueline M. Ramos

Environmental Coordinator- Water Utilities

Wastewater Pretreatment

936.564.5046 ext. 2204

WWTP Office: 936.559.2586

Cell: 936.465.2624 TXT or Call

4 attachments

- **Water Conservation Plan_2024 Resolution.pdf** 140K
- **Drought Contingency Plan_2024.pdf** 910K
- **WCP & Utility Profile for Wholesale PWS 2024_form 20162.pdf** 246K
- **WCP & Utility Profile for Retail PWS 2024 _ form 10218.pdf** 3307K

City of Nacogdoches _ 2024 WCP Amendment Notification

2 messages

Ramos, Jacqueline M. <ramosj@nactx.us> Wed, Jun 24, 2026 at 1:13 PM
To: regioniwater@gmail.com
Cc: Bart Allen <allenb@nactx.us>, Ronnie Lyles <lylesrw@nactx.us>

Good afternoon,

In accordance with 31 TAC RULE §363.15 concerning notification requirements, the City of Nacogdoches is notifying RWPG Region I of its intent to amend the 2024 Water Conservation Plan. Enclosed is the draft of the revised WCP for the RWPG review.

At your earliest convenience, please acknowledge that RWPG I has received a copy of the plan.

Feel free to contact any member of our team if you require further documentation.

Best regards,

Jacqueline M. Ramos

Environmental Coordinator- Water Utilities

936.564.5046

WWTP Office: 936.559.2586

Cell: 936.465.2624 TXT or Call



2024 Water Quality Report

Ramos, Jacqueline M. <ramosj@nactx.us> Wed, Jun 24, 2026 at 1:15 PM
To: regioniwater@gmail.com

WCP attached

[Quoted text hidden]
[Quoted text hidden]

Water Conservation Plan _TWDB plan year 2024_working draft.pdf
17267K

Section IX: Drought Contingency Plan

DCP Framework

The City of Nacogdoches adopted 2024 Drought Contingency Plan to establish a tiered framework to manage water shortages. It defines non-essential uses (like car washing, pool filling, ornamental fountains) and sets clear triggering thresholds for escalating drought stages based on water demand relative to system capacity.

Stage 1–2: Begin with voluntary conservation, then mandatory restrictions on irrigation, vehicle washing, and pool filling.

Stage 3–4: Intensify restrictions, prohibit hose-end sprinklers, limit golf course watering, and ban new service connections.

Stage 5: Emergency measures prohibit nearly all non-essential water use, aiming for a 75% reduction in total demand.

The plan includes rate surcharges to discourage excessive use, enforcement mechanisms with fines and service disconnection, and a variance process for essential needs. It is formally adopted by the city council and coordinated with regional/state water authorities to ensure compliance with the Texas Water Code and TCEQ requirements.

Penalties, Rates & Enforcement

Stage	Rate Surcharges (Residential & Irrigation)	Penalties	Enforcement Measures
Stage 1 – Mild	No surcharge (normal rates apply)	None (voluntary compliance)	Public education, voluntary restrictions, city supply management (reduce flushing, hydrant testing)
Stage 2 – Moderate	10,001–30,000 gal → 2× rate 30,001–75,000 gal → 2.5× rate 75,001+ gal → 3× rate	Fine $250–$2,000 per violation	Mandatory restrictions; citations issued; repeat violators risk service disconnection; reconnection fee $75
Stage 3 – Severe	10,001–30,000 gal → 2.5× rate 30,001–75,000 gal → 3× rate 75,001+ gal → 4× rate	Same fine range ($250–$2,000)	Hose end sprinklers banned; stricter irrigation limits; hydrant construction use discontinued; enforcement escalates
Stage 4 – Critical	10,001–30,000 gal → 3× rate 30,001–75,000 gal → 4× rate 75,001+ gal → 5× rate	Same fine range ($250–$2,000)	Ban on new service connections; stricter vehicle washing limits; pool filling prohibited; citations & court action
Stage 5 – Emergency	No surcharge schedule (absolute prohibitions apply)	Same fine range ($250–$2,000)	Absolute ban on irrigation & vehicle washing; only essential health/safety use allowed; service disconnection for repeat violations

Appendix F: Adopted 2024 Drought Contingency Plan

Appendices

Appendix A: Utility Profile and TWDB Goals Table

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

Contact Information

Name of Utility: City of Nacogdoches

Public Water Supply Identification Number (PWS ID): TX1740003

Contact: First Name: Bart Last Name: Allen

Title: Water Utilities Manager

Address: PO Box 635030 City: Nacogdoches State: Texas

Zip Code: 75963 Zip+4: Email: allenb@nactx.us

Telephone Number: `936-564-5046 Date:

Is this person the designated Conservation Coordinator? (•) Yes ( ) No

Regional Water Planning Group: I

Groundwater Conservation District: Pineywoods

Our records indicate that your entity:

☑ Received financial assistance of $500,000 or more from TWDB

☑ Have 3,300 or more retail connections

☑ Have a surface water right with TCEQ

A. Population and Service Area Data

1. Current service area size in square miles: 35

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

2. Historical service area population for the previous five years, starting with the most current year.

Year	Historical Population Served By Retail Water Service	Historical Population Served By Wholesale Water Service	Historical Population Served By Wastewater Water Service
2025	41,250	3,000	34,000
2024	40000	3,000	34,000
2023	40000	3,000	34,000
2022	37.00	3,000	34,000
2021	37,500	3,000	34,000
Average	38,200		

3. Projected service area population for the following decades.

Year	Projected Population Served By Retail Water Service	Projected Population Served By Wholesale Water Service	Projected Population Served By Wastewater Water Service
2030	41,500	3,000	35,000
2040	46,600	3,000	35,500
2050	51,200	4,500	36,000
2060	56,300	4,500	36,500
2070	60,000	4,500	36,500

4. Described source(s)/method(s) for estimating current and projected populations.

estimated census data and historical growth projections

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

B. System Input

System input data for the previous five years.
Total System Input = Self-supplied + Imported – Exported

Year	Water Produced in Gallons	Purchased/ Imported Water in Gallons	Exported Water in Gallons	Total System Input	Total GPCD
2025	2,701,338,947	0	45,714,300	0	0
2024	2,506,737,000	0	43,094,000	0	
2023	2,266,817,000	0	22,665,200	0	0
2022	2,563,031,579	0	22,511,700	0	0
2021	2,622,590,526	0	42,259,200	0	0
Historic 5-year Average	0	0	0	0	0

C. Water Supply System

1. Designed daily capacity of system in gallons: 32,000,000

2. Storage Capacity

2a. Elevated storage in gallons: 2,650,000

2b. Ground storage in gallons: 14,200,000

D. Projected Demands

1. Estimate the water supply requirements for the next ten years using population trends, historical water use, economic growth, etc. The 5 and 10 year projections must align with your 5 & 10 year targets and goals.

Year	Population	Water Demand (gallons)	GPCD
2027	35,375	3,039,954,000	
2028	35,730	3,070,354,000	
2029	36,090	3,101,058,000	
2030	36,451	3,132,069,000	
2031	36,816	3,163,390,000	
2032	37,184	3,195,024,000	

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

2033	37,556	3,226,974,000	
2034	37,932	3,259,244,000	
2035	38,311	3,291,836,000	
2036	38,311	3,324,754,000	

2. Description of source data and how projected water demands were determined.

Average 1 % growth rate based on historical data.

E. High Volume Customers

Please attach a list of the annual water use for the five highest RETAIL customers by volume and include customer name, water use category, and water type (Treated/Raw).

F. Utility Data Comment Section

Additional comments about utility data.

Section II: System Data

A. Retail Water Supplier Connections

1. List of active retail connections by major water use category.

Water Use Category Type	Total Retail Connections (Active + Inactive)	Percent of Total Connections
Residential - Single Family	10,889	52.36%
Residential - Multi-Family	5,498	26.44%
Industrial	33	0.16%
Commercial	1,890	9.09%
Institutional	2,486	11.95%
Agricultural	0	0.00%
Total	20,796	100.00%

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

2. Net number of retail water supplier connections, installed and removed, by water use category per year for the previous five years.

	Net Number of Retail Water Supplier Connections						
Year	**Residential - Single Family**	**Residential - Multi-Family**	**Industrial**	**Commercial**	**Institutional**	**Agricultural**	**Total**
2025	10,889	5,498	33	1,890	2,486	0	20,796
2024	10,738	5,587	32	1,899	2,499	0	20,755
2023	9,224	5,481	56	1,584	2,424	1,658	20,427
2022	9,312	5,504	59	1,607	2,384	1,654	20,520
2021	9,299	5,576	54	1,559	2,380	1,684	20,552

B. Annual and Seasonal Use

1. Gallons of RETAIL water provided to each major water use category. These volumes come from the previous five years of water use survey data. If a field is open to edit, please enter the volumes.

Year	**Residential - Single Family**	**Residential - Multi-Family**	**Industrial**	**Commercial**	**Institutional**	**Agricultural**	**Total**
2025	628,069,500	246,546,400	693,562,500	189,584,600	251,778,100		2,009,541,100
2024	610,757,500	248,669,900	633,098,200	189,711,400	243,940,800		1,926,177,800
2023	441,836,400	232,139,500	673,688,500	200,811,400	250,314,800	269,875,400	2,068,666,000
2022	443,548,500	230,902,400	709,464,300	198,251,700	247,825,400	282,988,700	2,112,981,000
2021	451,809,200	237,559,500	701,354,400	190,379,100	214,978,300	192,837,600	1,988,918,100

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

2. The gallons of water billed and metered to RETAIL customers for the previous five years. The total for each year should match the total for each year in the accounting table.

Month	Total Gallons of Treated Water				
	2025	2024	2023	2022	2021
January	138,929,300	132,436,200	157,720,400	146,608,600	131,447,000
February	150,980,500	146,312,000	137,149,400	152,370,200	152,737,400
March	132,046,100	132,379,800	128,050,300	137,126,500	146,369,100
April	154,719,500	144,370,100	153,044,300	151,993,200	151,075,800
May	153,089,700	146,367,500	153,147,300	161,016,600	147,476,300
June	162,217,600	146,993,700	158,514,200	185,580,000	149,048,500
July	161,749,700	181,240,800	188,376,500	203,941,200	170,141,100
August	194,930,100	177,982,200	243,171,700	236,663,200	189,107,100
September	204,701,100	199,559,300	246,343,700	195,452,800	213,481,100
October	203,203,700	184,571,900	196,262,300	212,373,000	198,449,600
November	192,119,300	185,839,700	169,302,800	183,354,600	184,934,300
December	160,854,500	148,124,600	137,583,100	146,501,100	154,650,800
Total	2,009,541,100	1,926,177,800	2,068,666,000	2,112,981,000	1,988,918,100

3. Summary of seasonal and annual water use.

	Summer RETAIL (Treated)	Total RETAIL (Treated)
2025	723,598,500	2,009,541,100
2024	705,776,000	1,926,177,800
2023	836,406,100	2,068,666,000
2022	821,637,200	2,112,981,000
2021	721,777,800	1,988,918,100
Average in Gallons	761,839,120	2,021,256,800

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

4. Peak Day Use

Average Daily Water Use and Peak Day Water Use for the previous five years.

Year	Average Daily Use (gal)	Peak Day Use (gal)	Ratio (peak/avg)
2025	5,505,592	7,865,201	1.43
2024	5,277,199	7,671,478	1.45
2023	5,667,578	9,091,371	1.60
2022	5,788,989	8,930,839	1.54
2021	5,449,091	7,845,411	1.44

5. Summary of Historic Water Use

Water Use Category	Historic Average	Percent of Connections	Percent of Water Use
Residential - Single Family	515,204,220	52.36%	25.49%
Residential - Multi-Family	239,163,540	26.44%	11.83%
Industrial	682,233,580	0.16%	33.75%
Commercial	193,747,640	9.09%	9.59%
Institutional	241,767,480	11.95%	11.96%
Agricultural	149,140,340	0.00%	7.38%
Total	2,021,256,800	100.00%	100.00%

C. Residential Water Use

The previous five years residential GPCD for single family and multi-family units.

Year	Total Residential GPCD
2025	146
2024	144
2023	176
2022	177
2021	162
Historic Average	161

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

D. Water Loss

Water loss data for the previous five years.

Year	Total Water Loss in Gallons	Water Loss in GPCD
2025	628,307,743	41.7
2024	1,939,509,081	132.8
2023	123,367,744	8.44
2022	181,286,987	13.42
2021	529,923,906	36.29
Average	0	0

E. System Data Comment Section

Section III: Wastewater System Data

A. Wastewater System Data

1. Design capacity of wastewater treatment plant(s) in gallons per day: 12,880,000

2. List of active wastewater connections by major water use category.

Water Use Category	Metered	Unmetered	Total Connections	Percent of Total Connections
Municipal	13453	1	0	0.00%
Industrial	19		0	0.00%
Commercial	1475		0	0.00%
Institutional	242		0	0.00%
Agricultural	0		0	0.00%
Total	0	0	0	0.00%

3. Percentage of water serviced by the wastewater system: 73.13

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

4. Number of gallons of wastewater that was treated by the utility for the previous five years.

Month	Total Gallons of Treated Water				
	2025	2024	2023	2022	2021
January	232.8	215.7	222.6	146. 3	191.6
February	256.3	247.5	232.1	145.0	170.2
March	218.7	234.1	205.7	200.3	213
April	239.1	224.0	225.1	208.8	182.9
May	254.5	362.4	250.5	185.2	395.8
June	213.9	362.4	168.9	156.1	294.1
July	168.5	242.6	140.1	150.0	182.2
August	145.8	170.4	152.4	155.6	164. 8
September	156.0	157.3	150.4	147.5	147.1
October	149.6	146.1	162.1	143.6	154.6
November	141.6	148.2	139.3	143.2	141.3
December	144.32	210.7	149.7	166. 7	155.7
Total	0	0	0	0	0

5. Could treated wastewater be substituted for potable water?

○ Yes ◉ No

UTILITY PROFILE FOR RETAIL WATER SUPPLIER

B. Reuse Data

1. Data by type of recycling and reuse activities implemented during the current reporting period.

Type of Reuse	Total Annual Volume (in gallons)
On-site Irrigation	N/A
Plant wash down	N/A
Chlorination/de-chlorination	N/A
Industrial	N/A
Landscape irrigation (park,golf courses)	N/A
Agricultural	N/A
Discharge to surface water	N/A
Evaporation Pond	N/A
Other	N/A
Total	0

C. Wastewater System Data Comment

Additional comments and files to support or explain wastewater system data listed below.

The number of gallons of wastewater that were treated by the utility for the previous five years/ month is listed in millions of gallons (MG).

The City does not recycle or reuse wastewater.

2025 highest RETAIL customers by volume and include customer name, water use category, and water type (Treated/

	Customer	Water Use Category	Water Type	Gallons
1	PILGRIMS PRIDE- NACOGDOCHES TX	Heavy Industrial	Treated	628,587,000
2	TEXAS FARM PRODUCTS COMPANY	Heavy Industrial	Treated	16,392,500
3	CAL-TEX LUMBER CO.INC.	Heavy Industrial	Treated	11,238,800
4	NORBORD TEXAS LIMIT	Heavy Industrial	Treated	9,136,100
5	PARKER-HANNIFIN CORPORATION	Heavy Industrial	Treated	8,831,400

WATER CONSERVATION PLAN
5- AND 10-YR GOALS FOR WATER SAVINGS

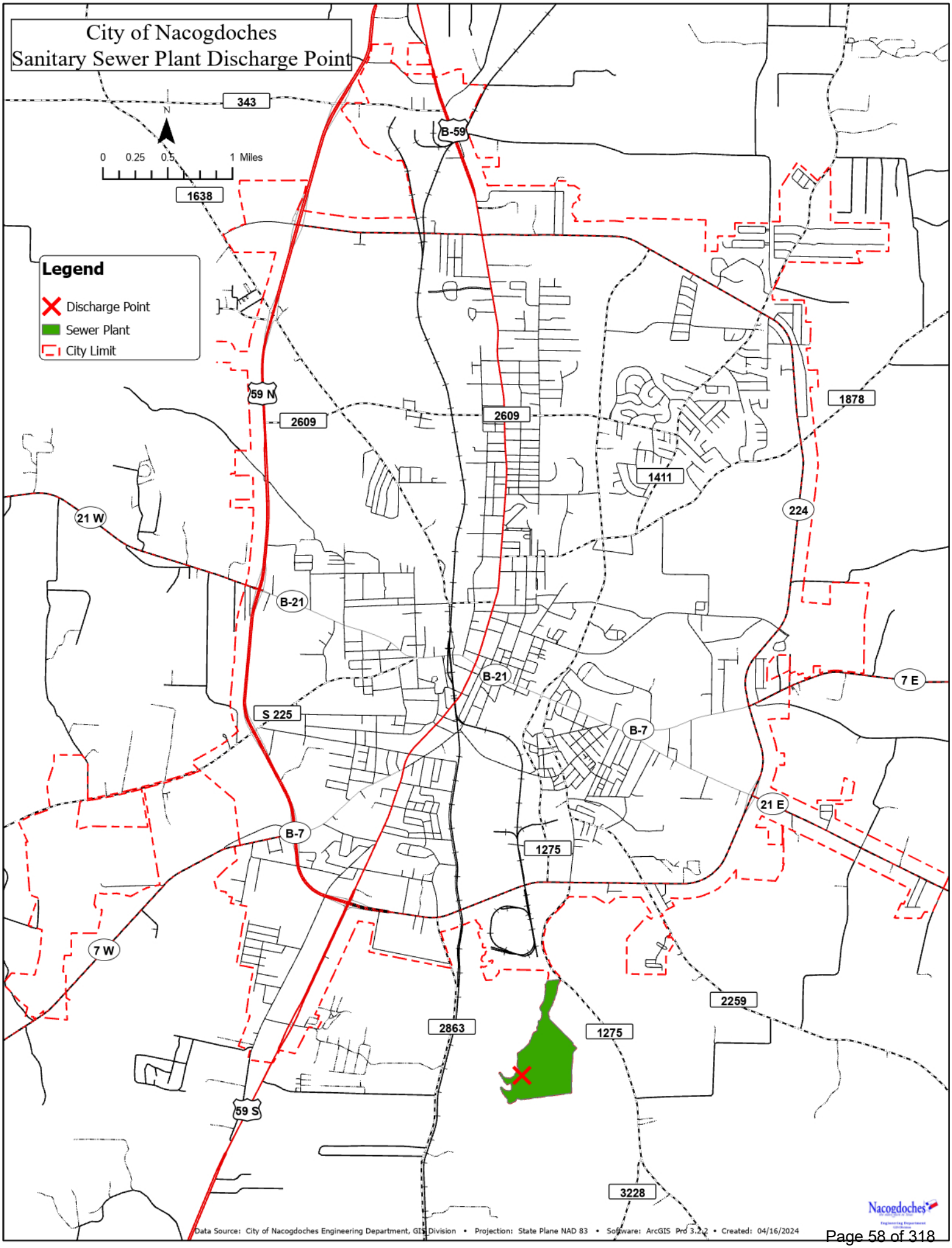
Facility Name: City of Nacogdoches

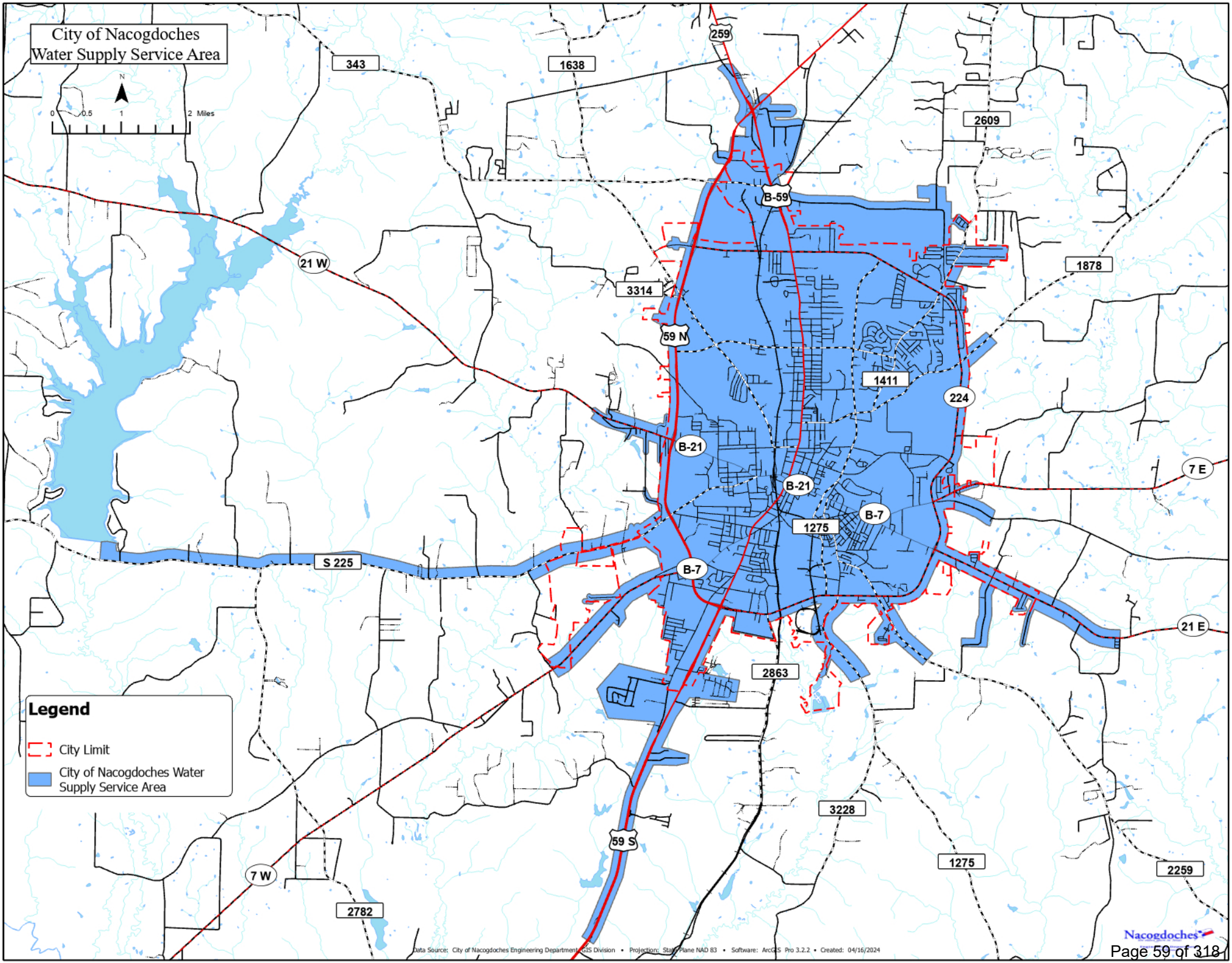
Water Conservation Plan Year: 2026

	Historic 5yr Average	Baseline	5-yr Goal for year 2031	10-yr Goal for year 2036
Total GPCD[1]	172	172	164	155
Residential GPCD[2]	161	161	155	39
Water Loss (GPCD)[3]	49	49	44	148

1. Total GPCD = (Total Gallons in System ÷ Permanent Population) ÷ 365
2. Residential GPCD = (Gallons Used for Residential Use ÷ Residential Population) ÷ 365
3. Water Loss GPCD = (Total Water Loss ÷ Permanent Population) ÷ 365

Appendix B - Water and Wastewater Service Area Maps


City of Nacogdoches
Sanitary Sewer Plant Discharge Point
N
0 0.25 0.5 1 Miles
Legend
Discharge Point
Sewer Plant
City Limit
343
B-59
1638
59 N
2609
2609
1878
1411
224
21 W
B-21
B-21
7 E
S 225
B-7
21 E
B-7
1275
7 W
2259
2863
1275
59 S
3228
Data Source: City of Nacogdoches Engineering Department, GIS Division • Projection: State Plane NAD 83 • Software: ArcGIS Pro 3.2.2 • Created: 04/16/2024


City of Nacogdoches
Water Supply Service Area
N
0
0.5
1
2 Miles
343
1638
259
2609
B-59
21 W
1878
3314
59 N
1411
224
B-21
7 E
B-21
B-7
1275
S 225
B-7
21 E
2863
Legend
City Limit
City of Nacogdoches Water Supply Service Area
3228
59 S
1275
2259
7 W
2782
Data Source: City of Nacogdoches Engineering Department GIS Division • Projection: State Plane NAD 83 • Software: ArcGIS Pro 3.2.2 • Created: 04/16/2024
Nacogdoches

Appendix C -Wholesale Contracts

EXHIBIT C – WHOLESALE WATER AGREEMENT

CONTRACT FOR WATER SERVICES

BETWEEN THE CITY OF NACOGDOCHES AND

THE ANGELINA & NECHES RIVER AUTHORITY

STATE OF TEXAS §
COUNTY OF NACOGDOCHES §

This Contract for Water Services ("Contract") is made and entered into by and between the City of Nacogdoches, a municipal corporation and home rule city, located in Nacogdoches County, Texas, acting by and through the undersigned, its duly authorized agent, hereinafter called "City" and the Angelina & Neches River Authority, a political subdivision of the State of Texas, codified in Chapter 8501 of the Special District & Local Laws Code, whose principle office is located in Angelina County, Texas, acting by and through undersigned, its duly authorized agent, hereinafter called "ANRA".

WHEREAS, City has provided at its own expense, and now owns, operates and maintains facilities for processing and distributing treated water, and at the present time is qualified and authorized to furnish and deliver treated water within Nacogdoches County; and,

WHEREAS, ANRA operates and maintains facilities for processing and distributing treated water to its ANRAs; and

WHEREAS, it is deemed to be in the best interest of both City and ANRA that said parties to enter into a mutually satisfactory agreement by means of which ANRA may obtain from City an agreed amount specified below of treated water at reasonable rates and terms; and

WHEREAS, by the execution of this Contract, neither City nor ANRA will surrender any of its rights to the ownership and operation of its present water production and distribution facilities.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, for and in consideration of the mutual covenants, promises and agreements contained herein, City and ANRA do hereby covenant and agree as follows:

1.

TERMS AND CONDITIONS

1.1 City agrees to furnish and sell to ANRA treated potable water meeting all requirements of the Safe Drinking Water Act, the Texas Commission on Environmental Quality, the Environmental Protection Agency, and other applicable regulations for water quality and delivery. Treated potable water may be from groundwater wells or a surface water source, or a mixture of both. ANRA agrees to accept treated water as-is with all chemical or natural constituents that may be normal for a treated potable groundwater or surface water source. City agrees to furnish a volume not to exceed 275,000 gallons per day on a thirty-day average ("gpd") from September 20, 2023 until December 31, 2028, and 500,000 gpd beginning January 1, 2029 for the remainder of the term of this Contract. City shall deliver water to ANRA at the rate of up to 450 gallons per minute and a minimum pressure of 35 psi under normal operating conditions and 25 psi under emergency operating conditions. ANRA agrees to accept delivery under the conditions of this Contract and to pay for the same in accordance with the terms herein. The temporary loss of pressure or supply due to pipe line breaks, power failures, floods, fires, and use of water to fight fires, earthquakes or other emergencies shall excuse City from this provision for such reasonable period of time as may be necessary to restore service.

1.1.1 ANRA will be allowed to connect and withdraw water from the designated interconnection points and will only be billed for water actually received through its point of delivery.

1.1.2 City will use commercially reasonable efforts to remain in position to furnish water as herein contracted to be sold to ANRA, and at all times ANRA will be considered by City as a regular outside City limit water customer, even during water conservation measures as outlined in the City adopted Drought Contingency Plan.

1.2 At such times as City decides it is necessary to limit or ration water within its system under the provisions of its Drought Contingency Plan or any other emergency action, City shall notify ANRA of the conservation stage currently in effect, and ANRA shall immediately implement all the provisions of City's Drought Contingency Plan for any service areas that use water supplied by the City. ANRA is not obligated to implement the provisions of City's Drought Contingency Plan to areas of their system that have alternative water supply sources. City shall provide current and updated copies of its Drought Contingency Plan to ANRA on a periodic basis. Additionally, during the term of this Contract, ANRA shall at all times maintain a fully implemented water conservation plan consistent with rules promulgated by the Texas Commission on Environmental Quality.

1.3 City shall use its best efforts to timely notify ANRA of significant service interruptions.

2.
LOCATION AND MAINTENANCE OF MEASURING DEVICES

2.1 One or more suitable meters shall measure all water furnished under this Contract by City. City shall pay all costs associated with the operation and maintenance of said appurtenances (or meters) as necessary.

2.2 The point of delivery of treated water by City is designated as the meter vault(s) located at the physical point(s) of interconnection between the two water systems. All mains and distribution facilities beyond the meter vault shall be the responsibility of ANRA. The location of each water take point and meter shall be mutually agreed upon in writing by and between the parties hereto, and the meter or meters shall not be moved or relocated except by mutual consent in writing by the parties hereto.

2.3 ANRA, at its own expense, may install a secondary meter to verify the volume of water passing the master meter, provided that it is installed on ANRA's side of the master meter and is maintained and tested in an identical fashion to the master meter. ANRA shall immediately notify City when discrepancies are found between the readings of the two meters.

2.4 ANRA shall install, on its side of the master meter, a back-flow preventer device (double check valve configuration). ANRA will maintain this device in good working order and have it inspected annually by a certified technician with City being furnished a copy of the results.

3.
METERS

3.1 All meters will be properly sealed, and seal shall not be broken unless representatives of both parties have been notified and given a reasonable opportunity to be present.

3.2 Either Party at their own expense may test the meter for accuracy using a non-destructive or non-invasive testing device. Any test of such metering equipment shall be done by employees or agents of City, or other reputable approved third-party calibration agent, in the presence of representatives of ANRA and City, if so requested by ANRA. Notifications of any proposed test shall be provided to the other Party at least seventy-two (72) hours prior to such testing being conducted

and the other Party may observe such test, if so desired. Copies of the results of such test and all related information shall be provided to the other Party within fifteen (15) days of receipt.

3.3 If it is determined that the accuracy of such meter is found to be lower than ninety-five (95%) or higher than one hundred five percent (105%) of actual flow expressed as a percentage of the full scale of the meter, the registration of the flow as determined by such defective meter shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable. If such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the date of the last calibration, but in no event farther back than a period of six (6) months. Additional payments by ANRA or credits due ANRA due to meter inaccuracy may be spread over six (6) months at the election of the paying or crediting party.

3.4 If any meter used to determine the flow of treated water to ANRA is out of service or out of repair, so that the amount of water metered cannot be ascertained or computed from the reading thereof, the water delivered during the period such meter is out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. The basis for estimating such flow includes, but is not limited to, extrapolation of past patterns of flow for said metering station under similar conditions.

4.
METER READING AND BILLING

4.1 City will read all meters provided for herein at monthly intervals, and the Parties to this Contract shall have free access to read these respective meters daily, if either Party so desires. It shall be the duty of the Parties to give immediate notice each to the other should any meter be found not to be functioning properly, and upon such notice repairs to such meter shall be made promptly.

4.2 Meter readings will be collected electronically by City and records maintained for a minimum period of sixty (60) months. ANRA shall have access to such records during reasonable business hours and shall be furnished with monthly readings for each point of delivery metering facility.

4.3 Bills for water service shall be rendered to ANRA monthly by City. All such bills shall be due and payable by ANRA within thirty (30) days of receipt by ANRA. Payments received by City shall be first applied to the past due charges, if any, and thereafter to the current charges.

4.4 If ANRA disputes a bill and is unable to resolve the difference informally, ANRA shall notify the duly authorized agent of City in writing. If the duly authorized agent and ANRA are unable to resolve the disputed bill, the bill will be submitted to the City Manager of City for review. The Parties shall make a good faith effort to settle any bill dispute. However, if the Parties fail to resolve disputed water charges, ANRA and City shall submit it to mediation. In the event a payment is not paid as specified in this Contract, interest on the unpaid balance of ten percent (10%) per annum will be calculated from the date which the payment was required to be made until paid. In the event that a billing adjustment in ANRA's favor is agreed upon or established by the City Manager of City, the amount found to be incorrect would be credited to ANRA's account together with an interest charge of ten percent (10%) per annum on the credited amount calculated from the date payment of the disputed bill was received.

4.5 IN NO EVENT SHALL ANY ADJUSTMENT BE MADE TO ANY PAYMENT FOR WATER BASED UPON ANY METER ERROR, METER READING ERROR, OR BILLING ERROR, WHETHER THE METER ERROR, METER READING ERROR OR BILLING ERROR WAS KNOWN OR UNKNOWN TO ANRA OR THE CITY, MORE THAN ONE-HUNDRED EIGHTY (180) DAYS AFTER SUCH PAYMENT IS MADE AND RECEIVED.

5.
RATES

5.1 The Parties to this Contract recognize that the initial rate to be charged to ANRA for the purchase of water from City is equal to one (1) times the residential rate charged by City to in-City customers which is agreed to be a fair and reasonable rate. On and after the 10-year anniversary of the Effective Date until the end of the term of this Contract, City will charge ANRA one and one-half (1.5) times the residential rate charged by City to in-City customers which is agreed to be a fair and reasonable rate. Additionally, for any billing period when water is used, ANRA shall be charged the applicable minimum flat rate fee which will be calculated according to ANRA's meter size. Regardless whether water is used for part or all of any given billing period, ANRA shall be charged, without proration, the applicable minimum flat rate fee for the entire billing period. The provisions of this contract pertaining to the "rates" to be paid by ANRA to City for water are subject to modification at the same time City residents' water rates are modified. Any rate increase or decrease shall be based on system-wide rates for the residential customers of City.

5.1.1 ANRA shall make all efforts to not exceed the maximum daily usage specified in this Contract.

5.1.2 In the event additional water is used by ANRA and the thirty (30) day average exceeds the allocation defined in this Contract by fifteen percent (15%), the City will give written notice to ANRA of the excess within sixty (60) days. Any subsequent billing periods with an excess of more than fifteen percent (15%) after the written notice will result in the possible closure of the interconnection point by City until a revision to this Contract has been executed by both parties and City may declare ANRA in default under this Contract.

5.1.3 In the event an emergency causes additional usage by ANRA to exceed ANRA's normal monthly average by twenty-five percent (25%) or more and the bill for that month causes or will cause a financial hardship for ANRA, ANRA may request an installment payment plan not to exceed six (6) months. The City Manager in his or her discretion, may allow or deny such request and may require interest at commercially reasonable rates and such other terms as may be reasonably required.

5.2 The Parties hereto agree that services obtained pursuant to this Contract are essential and necessary to the operation of ANRA's retail systems and that all payments made by ANRA hereunder shall constitute reasonable and necessary operating expenses of ANRA's retail systems.

5.2.1 ANRA agrees, throughout the term of this Contract to fix and collect such rates and charges for water service to be supplied to its retail ANRAs as will produce revenues in an amount equal to at least (i) all of operation and maintenance expenses of its system, including specifically its payments under this Contract and (ii) all other amounts as required by law and the provisions of the resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal or and interest on such bonds or other obligations.

6.
CONTRACT START DATE

6.1 This contract shall become effective for all purposes on September 20, 2023.

7.
TERM

7.1 Unless earlier terminated, this Contract shall be effective until September 30, 2053.

8.
ADDITIONAL PARTIES

8.1 City will use commercially reasonable efforts to provide an adequate water supply for all of its customers, including ANRA.

9.
TERMINATION; DEFAULT

9.1 This Contract may be terminated in whole or in part by the mutual written consent of ANRA and City. Notwithstanding anything contained herein to the contrary, any material breach by either Party hereto to perform any of the duties or the obligations assumed by such Party hereunder or to faithfully keep and perform any of the terms, conditions and provisions hereof shall be cause for termination of this Contract by either Party in the manner set forth in this paragraph. The following breach, default or failure to perform a duty or obligation shall be considered to be a material breach:

a. Failure by ANRA to adopt and enforce any resolutions or conservation measure, restriction or rationing required by City or TCEQ to be adopted and enforced herein;

b. Failure by ANRA to make any payment or any bill, charge or fee as provided for in this Contract;

c. Making by ANRA any unauthorized connection to the City system at any point;

d. Failure by ANRA to correct any potentially hazardous connection after reasonable written notice;

e. Failure by ANRA to provide City ingress and egress for purposes of operation and maintenance of any metering facility or connection point.

9.2 The Parties agree to give each other reasonable notice, agreed to be thirty (30) days written notice of proposed breaches, defaults or failures to perform prior to declaration of default. Irrespective of whether or not a breach hereof is a material breach or a nonmaterial breach and irrespective of any cure of such breach, a second breach of the same nature, within one (1) year, violating any term or condition herein shall entitle City, after two (2) months written notice provided to ANRA and without liability whatsoever on the part of City, to declare this Contract terminated. In event of termination of this Contract, all rights, powers and privileges of ANRA hereunder shall cease and ANRA shall make no claim to any kind whatsoever against City, its agent or representatives, by reason of such termination or act incident thereto.

9.3 Any failure by City to so terminate this Contract or the acceptance by City of any benefits under this Contract for any period of time after such material breach, default or failure by ANRA shall not be determined to be a waiver by City of any rights to terminate this Contract of any subsequent material breach, default or failure.

9.4 Any failure by ANRA to so terminate this Contract or the acceptance by ANRA of any benefits under this Contract for any period of time after such material breach, default or failure by City shall not be determined to be a waiver by ANRA of any rights to terminate this Contract for any subsequent material breach, default or failure.

10.
OWNERSHIP AND LIABILITY

10.1 No provision of this Contract shall be construed to create any type of joint or equity ownership of any property, any partnership or joint venture, nor shall same create any other rights or liabilities and ANRA payments (whether past, present or future) shall not be construed as granting ANRA partial ownership of, pre-paid capacity in or equity in City's System.

10.2 Each Party hereto agrees to save and hold the other Party harmless from all claims, demands, and causes of action, which may be asserted by anyone on account of the quality, transportation, or delivery while water is in the control of such party. This covenant is not made for the benefit of any third party. City takes the responsibility as between Parties hereto for the proper treatment, quality, transportation, or delivery of all such water provided by it to the point of delivery.

10.3 Contracts made and entered into by either ANRA or City for the construction, reconstruction or repair of the meter facility shall include the requirement that the independent contractor(s) must provide adequate insurance protecting both ANRA and City as additional insureds. Such contract must also provide that the independent contractor(s) covenant to indemnify, to the extent allowed by law, hold harmless, and defend both ANRA and City against any and all suits or claims for damages of any nature arising out of the performance of such contract.

11.
FORCE MAJEURE

11.1 If by any reason of force majeure either Party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Contract, other than the obligation of ANRA to make payments required under the terms hereof, then if

such Parties shall give notice and full particulars of such force majeure in writing to the other Party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the Party giving such notice, so far as it affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such Party shall endeavor to remove or overcome such inability with all reasonable dispatch.

11.2 The term "force majeure", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, drought, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, partial or entire failure of water supply and inability on the part of supplier to deliver water hereunder or ANRA to receive water hereunder on account of any other causes not reasonably in the control of the part claiming such inability.

12.
NOTICES

12.1 Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either Party to the other Party must be in writing to:

City: City of Nacogdoches
Attn: Keith Kiplinger, Interim City Manager
212 Pilar Street
Nacogdoches, TX 75961

ANRA: Angelina and Neches River Authority
Attn: Kelley Holcomb, General Manager
2901 N. John Redditt Drive
Lufkin, TX 75904

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

13.
INSPECTION AND AUDIT

13.1 Complete records and accounts required to be maintained by each Party hereto shall be kept for the longer of five (5) years or other applicable retention periods. Each Party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors.

13.2 ANRA shall make available to City each month the Texas Commission on Environmental Quality monthly water report for ANRA. Likewise, City shall make available to ANRA each month the Texas Commission on Environmental Quality monthly water report for the City.

13.3 ANRA shall also make available to City annually the Consumer Confidence Report that is required by the State of Texas.

14.
MISCELLANEOUS

14.1 During a temporary emergency condition created by unforeseen mechanical failure or by unprecedented high rate of water usage such as might result from a

major fire or a major water main break or other emergency event or condition, it may be necessary that water be withdrawn from the City system at a rate of usage in excess of that required for the usual peak requirements of ANRA. City agrees that all customers will share proportionately in case of shortages. It is agreed that the maximum rate of flow that would normally be applicable shall not apply for such bona fide emergency withdrawals provided that City's duly authorized agent is notified by phone of the occurrence of an emergency condition.

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

14.3 ANRA agrees to abide by any changes in this Contract made necessary by any new, amended, or revised state or federal statute or court action.

14.4 If requested by City, ANRA shall provide quarterly the following data:

a. Actual number of retail customer accounts consuming directly or indirectly from ANRA's System within its service area;

b. Classification of domestic and non-domestic accounts within its service area by number and percentage of accounts consuming directly or indirectly from ANRA's System within its service area;

c. ANRA water usage from all sources other than City's System, including, but not limited to, ground water, other surface water and water supply agreements with other entities;

d. Additional data as may be required by state or federal agencies exercising jurisdiction over water supply, water usage or sewers;

e. Additional data which may assist City and/or ANRA in developing methodology for cost of service studies, planning studies for analyzing

federal grants and system access fees; provided however that neither party shall request data that will require either party to incur unreasonable expenses in providing such data.

14.5 ANRA may not assign this Contract without the prior written consent of City. City may not assign this Contract without the prior written consent of ANRA.

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

14.7 City reserves the right to have parallel facilities to serve new annexations to the City of Nacogdoches, and its extraterritorial jurisdiction.

14.8 No tap fees or demand charges are part of this Contract.

15.
WAIVER, REMEDY AND SEVERABILITY

15.1 No waiver by either Party hereto of any term or condition of this Contract shall be deemed or constructed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

15.2 In addition to any other remedy as may be provided by law, this Contract shall be specifically enforceable by the Parties hereto. Venue for any action shall be in Nacogdoches County, Texas.

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

15.4 It is agreed that the signing of this Contract supersedes all prior contracts and understandings with the City.

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

CITY OF NACOGDOCHES, TEXAS

By: _____
Keith Kiplinger, Interim City Manager

Date Signed: 07.24.23

ATTEST:

_____
Jan Vinson, City Secretary

ANGELINA AND NECHES RIVER AUTHORITY

By: _____

Date Signed: 7/26/2023

ATTEST:

_____

CONTRACT FOR WATER SERVICES

BETWEEN THE CITY OF NACOGDOCHES AND

NACOGDOCHES COUNTY MUD#1

STATE OF TEXAS §

COUNTY OF NACOGDOCHES §

This contract and agreement is made and entered into by and between the City of Nacogdoches, a municipal corporation and home rule city, located in Nacogdoches County, Texas, acting by and through the undersigned, its duly authorized agent, hereinafter called "City" and Nacogdoches County MUD#1, a nonprofit water supply corporation subject to Chapter 67 of the Texas Water Code, located in Nacogdoches County, Texas, acting by and through Nick Stallworth its duly elected and authorized President, hereinafter called "MUD#1".

WHEREAS, City has provided at its own expense, and now owns, operates and maintains facilities for processing and distributing treated water, and at the present time is qualified and authorized to furnish and deliver treated water within Nacogdoches County; and,

WHEREAS, MUD#1 operates and maintains facilities for processing and distributing treated water to its customers; and

WHEREAS, MUD#1 may require an additional treated water supply source for daily operations or emergencies; and

WHEREAS, it is deemed to be in the best interest of both City and MUD#1 that said parties do enter into a mutually satisfactory agreement by means of which MUD#1 may obtain from City an agreed amount specified below of treated water at reasonable rates and terms; and

WHEREAS, by the execution of this Contract, neither City nor MUD#1 will surrender any of its rights to the ownership and operation of its present water production and distribution facilities.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, for and in consideration of the mutual covenants, promises and agreements contained herein, City and MUD#1 do hereby covenant and agree as follows:

1.
TERMS AND CONDITIONS

1.1 City agrees to furnish and sell to MUD#1 treated potable water meeting all requirements of the Safe Drinking Water Act, the Texas Commission on Environmental Quality, the Environmental Protection Agency, and other applicable regulations for water quality and delivery. Treated potable water may be from groundwater wells or a surface water source, or a mixture of both. MUD#1 agrees to accept treated water as-is with all chemical or natural constituents that may be normal from a treated potable groundwater or surface water source. City agrees to furnish a volume not to exceed **60,000** gallons per day on a thirty-day average ("gpd") from May 1, 2024 until April 30, 2034 beginning May 1, 2024 for the remainder of the term of this Contract. City shall deliver water to MUD#1 at the rate of up to 450 gallons per minute and at a minimum pressure of 35 psi under normal operating conditions and 25 psi under emergency operating conditions. MUD#1 agrees to accept delivery under the conditions of this Contract and to pay for the same in accordance with the terms herein. The temporary loss of pressure or supply due to supply line breaks, power failures, floods, fires, and use of water to fight fires, earthquakes or other emergencies shall excuse City from this provision for such reasonable period of time as may be necessary to restore service.

1.1.1 MUD#1 will be allowed to connect and withdraw water from the designated interconnection points and will only be billed for water received through its point of delivery.

1.1.2 City will use commercially reasonable efforts to remain in position to furnish water as herein contracted to be sold to MUD#1, and at all times MUD#1 will be considered by the City as a regular outside City limit water customer, even during water conservation measures as outlined in the City adopted Drought Contingency Plan.

1.2 At such times as the City decides it is necessary to limit or ration water within its system under the provisions of its Drought Contingency Plan or any other emergency action, the City shall notify MUD#1 of the conservation Stage currently in effect, and MUD#1 shall immediately implement all the provisions of the City's Drought Contingency Plan for any service areas that use water supplied by the City. MUD#1 is not obligated to implement the provisions of City's Drought Contingency Plan to areas of their system that have alternative water supply sources. City shall provide current and updated copies of its Drought Contingency Plan to MUD#1 on a periodic basis. Additionally, during the term of this Contract, MUD#1 shall at all times maintain a fully implemented water conservation plan consistent with rules promulgated by the Texas Commission on Environmental Quality.

1.3 City shall use its best efforts to timely notify MUD#1 of significant service interruptions.

2.

LOCATION AND MAINTENANCE OF MEASURING DEVICES

2.1 One or more suitable meters shall measure all water furnished under this Contact by City. City shall pay all costs associated with the operation and maintenance of said appurtenances (or meters) as necessary.

2.2 The point of delivery of treated water by City is designated as the meter vault(s) located at the physical point(s) of interconnection between the two water systems. All mains and distribution facilities beyond the meter vault shall be the responsibility of MUD#1. The location of each water take point and meter shall be mutually agreed upon in writing by and between the parties hereto, and the meter or meters shall not be moved or relocated except by mutual consent in writing by the parties hereto.

2.3 MUD#1, at its own expense, may install a secondary meter to verify the volume of water passing the master meter, provided that it is installed on the MUD#1's side of the master meter and is maintained and tested in an identical fashion to the master meter. MUD#1 shall immediately notify City when discrepancies are found between the readings of the two meters.

2.4 MUD#1 shall install, on its side of the master meter, a back-flow preventer device (double check valve configuration). MUD#1 will maintain this device in good working order and have it inspected annually by a certified technician with City being furnished a copy of the results.

3.
METERS

3.1 All meters will be properly sealed, and the seal shall not be broken unless representatives of both parties have been notified and given a reasonable opportunity to be present.

3.2 Either Party at their own expense may test the meter for accuracy using a non-destructive or non-invasive testing device. Any test of such metering equipment shall be done by employees or agents of City, or other reputable approved third-party calibration agent, in the presence of representatives of MUD#1 and City, if so, requested by MUD#1. Notifications of any proposed test shall be provided to the other Party at least seventy-two (72) hours prior to such testing being conducted and the other Party may observe such test, if so desired. Copies of the results of such test and all related information shall be provided to the other Party within fifteen (15) days of receipt.

3.3 If it is determined that the accuracy of such meter is found to be lower than ninety-five (95%) or higher than one hundred five percent (105%) of actual flow expressed as a percentage of the full scale of the meter, the registration of the flow as determined by such defective meter shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable. If such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the date of the last calibration, but in no event farther back than a period of six (6) months. Additional payments by MUD#1 or credits due MUD#1 due to meter inaccuracy may be spread over six (6) months at the election of the paying or crediting party.

3.4 If any meter used to determine the flow of treated water to MUD#1 is out of service or out of repair, so that the amount of water metered cannot be ascertained or computed from the reading thereof, the water delivered during the period such

meter is out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. The basis for estimating such flow includes, but is not limited to, extrapolation of past patterns of flow for said metering station under similar conditions.

4.
METER READING AND BILLING

4.1 City will read all meters provided for herein at monthly intervals, and the Parties to this Contract shall have free access to read these respective meters daily, if either Party so desires. It shall be the duty of the Parties to give immediate notice each to the other should any meter be found not to be functioning properly, and upon such notice repairs to such meter shall be made promptly.

4.2 Meter readings will be collected electronically by City and records maintained for a minimum period of sixty (60) months. MUD#1 shall have access to such records during reasonable business hours and shall be furnished with monthly readings for each point of delivery metering facility.

4.3 Bills for water service shall be rendered to MUD#1 monthly by City. All such bills shall be due and payable by MUD#1 within thirty (30) days of receipt by MUD#1. Payments received by City shall be first applied to the past due charges, if any, and thereafter to the current charges.

4.4 If MUD#1 disputes a bill and is unable to resolve the difference informally, MUD#1 shall notify the duly authorized agent of City in writing. If the duly authorized agent and MUD#1 are unable to resolve the disputed bill, the bill will be submitted to the City Manager of City for review. The Parties shall make a good faith effort to settle any bill dispute. However, if the Parties fail to resolve disputed water charges, MUD#1 and City shall submit it to mediation. In the event a payment is not paid as specified in this Contract, interest on the unpaid balance of ten percent (10%)

per annum will be calculated from the date which the payment was required to be made until paid. In the event that a billing adjustment in the MUD#1's favor is agreed upon or established by the City Manager of City, the amount found to be incorrect would be credited to MUD#1's account together with an interest charge of ten percent (10%) per annum on the credited amount calculated from the date payment of the disputed bill was received.

4.5 IN NO EVENT SHALL ANY BILLING ADJUSTMENT BE MADE, AS PROVIDED IN PARAGRAPH 4.4 ABOVE, \MORE THAN ONE-HUNDRED EIGHTY (180) DAYS AFTER SUCH PAYMENT IS MADE AND RECEIVED BY THE CITY.

5.
RATES

5.1 The Parties to this Contract recognize that the initial rate to be charged to MUD#1 for the purchase of water from City is equal to one and one half (1.5) times the residential rate charged by City to in-city customers which is agreed to be a fair and reasonable rate. Additionally, for any billing period when water is used, MUD#1 shall be charged the applicable minimum flat rate fee which will be calculated according to MUD#1's meter size. Regardless whether water is used for part or all of any given billing period, MUD#1 shall be charged, without proration, the applicable minimum flat rate fee for the entire billing period. The provisions of this contract pertaining to the "rates" to be paid by MUD#1 to City for water are subject to modification at the same time City residents' water rates are modified. Any rate increase or decrease shall be based on system-wide rates for the residential customers of City.

5.1.1 MUD#1 shall make all efforts to not exceed the maximum daily usage specified in this Contract.

5.1.2 In the event additional water is used by MUD#1 and the thirty (30) day average exceeds the allocation defined in this agreement by fifteen percent (15%), the City will give written notice to MUD#1 of the excess with sixty (60) days. Any subsequent billing periods with an excess of more than fifteen percent (15%) after the written notice will result in the possible closure of the interconnection point by City until a revision to this Contract has been executed by both parties and/or City may declare MUD#1 to be in default under this Contract.

5.1.3 In the event an emergency causes additional usage by MUD#1 to exceed MUD#1's normal monthly average by twenty-five percent (25%) or more and the bill for that month causes or will cause a financial hardship for MUD#1, MUD#1 may request an installment payment plan not to exceed six (6) months. The City Manager in his or her discretion, may allow or deny such request and may require interest at commercially reasonable rates and such other terms as may be reasonably required.

5.2 The Parties hereto agree that services obtained pursuant to this Contract are essential and necessary to the operation of MUD#1's retail systems and that all payments made by MUD#1 hereunder shall constitute reasonable and necessary operating expenses of MUD#1's retail systems.

5.2.1 MUD#1 agrees, throughout the term of this Contract to fix and collect such rates and charges for water service to be supplied to its retail MUD#1's as will produce revenues in an amount equal to at least (i) all of operation and maintenance expenses of its system, including specifically its payment under this Contract and (ii) all other amounts as required by law and the provisions of the resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal or and interest on such bonds or other obligations.

6.
TERM

6.1 This Contract shall become effective for all purposes on May 1, 2024 (the "Effective Date"), and except as it may be earlier terminated pursuant to Paragraph 8 hereinbelow, shall continue for a period of 10 years.

7.
ADDITIONAL PARTIES

7.1 City will use commercially reasonable efforts to provide an adequate water supply for all of its customers, including MUD#1.

8.
TERMINATION; DEFAULT

8.1 This Contract may be terminated in whole or in part by the mutual written consent of MUD#1 and City. Notwithstanding anything contained herein to the contrary, any material breach by either Party hereto to perform any of the duties or the obligations assumed by such Party hereunder or to faithfully keep and perform any of the terms, conditions and provisions hereof shall be cause for termination of this Contract by either party in the manner set forth in this paragraph. The following breach, default or failure to perform a duty or obligation shall be considered to be a material breach:

a. Failure by MUD#1 to adopt and enforce any resolutions or conservation measure, restriction or rationing required by City or TCEQ to be adopted and enforced herein:

b. Failure by MUD#1 to make any payment or any bill, charge or fee as provided for in this Contract;

c. Making by MUD#1 any unauthorized connection to the City system at any point;

d. Failure by MUD#1 to correct any potentially hazardous connection after reasonable written notice;

e. Failure by MUD#1 to provide City ingress and egress for purposes of operation and maintenance of any metering facility or connection point.

f. Breach by either party of any term of this contract

8.2 The Parties agree to give one other no less than thirty (30) days written notice of an alleged breach, default, or failure to perform, and an opportunity to cure the alleged breach, default, or failure to perform, prior to declaration of default. Irrespective of whether or not a breach hereof is a material breach or a nonmaterial breach and irrespective of any cure of such breach, a second breach of the same nature, within one (1) year, violating any term or condition herein shall entitle City, after two (2) months written notice provided to MUD#1 and without liability whatsoever on the part of City, to declare this Contract terminated. In event of termination of this Contract, all rights, powers and privileges of MUD#1 hereunder shall cease and MUD#1 shall make no claim to any kind whatsoever against City, its agent or representatives, by reason of such termination or act incident thereto.

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

10.
OWNERSHIP AND LIABILITY

10.1 No provision of this Contract shall be construed to create any type of joint or equity ownership of any property, any partnership or joint venture, nor shall same create any other rights or liabilities and MUD#1 payments (whether past, present or

future) shall not be construed as granting MUD#1 partial ownership of, pre-paid capacity in or equity in the City's System.

10.2 To the extent permitted by law, each Party hereto agrees to save and hold the other Party harmless from all claims, demands, and causes of action, which may be asserted by anyone on account of the quality, transportation, or delivery while water is in the control of such party. This covenant is not made for the benefit of any third party. City takes the responsibility as between Parties hereto for the proper treatment, quality, transportation, or delivery of all such water provided by it to the point of delivery.

10.3 Contracts made and entered into by either MUD#1 or City for the construction, reconstruction or repair of the meter facility shall include the requirement that the independent contractor(s) must provide adequate insurance protecting both MUD#1 and City as additional insureds. Such contract must also provide that the independent contractor(s) covenant to indemnify, to the extent allowed by law, hold harmless, and defend both MUD#1 and City against any and all suits or claims for damages of any nature arising out of the performance of such contract.

11.
FORCE MAJEURE

11.1 If by any reason of force majeure either Party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Contract, other than the obligation of MUD#1 to make payments required under the terms hereof, then if such Parties shall give notice and full particulars of such force majeure in writing to the other Party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the Party giving such notice, so far as it affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such Party shall endeavor to remove or overcome such inability with all reasonable dispatch.

11.2 The term "force majeure", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, drought, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, partial or entire failure of water supply and inability on the part of supplier to deliver water hereunder or the MUD#1 to receive water hereunder on account of any other causes not reasonably in the control of the part claiming such inability.

12.
NOTICES

12.1 Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either party to the other Party must be in writing to:

City: City of Nacogdoches
Attn: Rick Beverlin, City Manager
202 E. Pilar Street
Nacogdoches, TX 75961

MUD#1: Nacogdoches County MUD#1
Attn: Nick Stallworth, President
158 County Road 5026
Nacogdoches, TX 75964

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

13.
INSPECTION AND AUDIT

13.1 Complete records and accounts required to be maintained by each Party hereto shall be kept for the longer of five (5) years or other applicable retention periods. Each party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors.

13.2 MUD#1 shall make available to City each month the Texas Commission on Environmental Quality monthly water report for MUD#1. Likewise, City shall make available to the MUD#1 each month the Texas Commission on Environmental Quality monthly water report for the City.

13.3 MUD#1 shall also make available to City annually the Consumer Confidence Report that is required by the State of Texas.

14.
MISCELLANEOUS

14.1 During a temporary emergency condition created by unforeseen mechanical failure or by unprecedented high rate of water usage such as might result from a major fire or a major water main break or other emergency event or condition, it may be necessary that water be withdrawn from the City system at a rate of usage in excess of that required for the usual peek requirements of MUD#1. City agrees that all customers will share proportionately in case of shortages. It is agreed that the maximum rate of flow that would normally be applicable shall not apply for such bona fide emergency withdrawals provided that City's duly authorized agent is notified by phone of the occurrence of an emergency condition.

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

14.3 MUD#1 agrees to abide by any changes in this Contract made necessary by any new, amended, or revised state or federal statute or court action.

14.4 If requested by the City, MUD#1 shall provide quarterly the following data:

a. Actual number of customers accounts consuming directly or indirectly from the MUD#1's System within its service area;
b. Classification of domestic and non-domestic accounts within its service area by number and percentage of accounts consuming directly or indirectly from MUD#1's System within its service area;
c. MUD#1 water usage from all sources other than City's System, including, but not limited to, ground water, other surface water and water supply agreements with other entities;
d. Additional data as may be required by state or federal agencies exercising jurisdiction over water supply, water usage or sewers;
e. Additional data which may assist City and/or MUD#1 in developing methodology for cost-of-service studies, planning studies for analyzing federal grants and system access fees; provided however that neither Party shall request data that will require either Party to incur unreasonable expenses in providing such data.

14.5 Neither Party may assign this Contract without the prior written consent of the other Party.

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

14.7 City reserves the right to have parallel facilities to serve new annexations to the City of Nacogdoches, and its extraterritorial jurisdiction.

14.8 No tap fees or demand charges are part of this Contract.

15.
WAIVER, REMEDY AND SEVERABILITY

15.1 No waiver by either Party hereto of any term or condition of this Contract shall be deemed or constructed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

15.2 In addition to any other remedy as may be provided by law, this Contract shall be specifically enforceable by the Parties hereto. This Contract shall be construed and governed according to the laws of the State of Texas, without giving effect to its conflict of laws provisions. Nacogdoches County, Texas shall be the sole and exclusive venue for any litigation or other proceeding between the Parties that may be brought in connection with or that arises out of this Contract.

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

15.4 This Contract constitutes the entire Contract between the parties regarding the subject matter hereof and supersede all prior or contemporaneous discussions,

representations, correspondence and Contracts, or whether oral or written, pertaining thereto. Each Party to this Contract acknowledges that no representations, inducements, promises or Contracts, orally or otherwise, have been made by any Party or anyone acting on behalf of any Party, in relation to the subject matter of this Contract, that are not embodied in this written Contract, and that no such other Contract, statement or promise relating to the subject matter of this Contract and not set forth in this Contract has been relied upon or shall be valid or binding. This Contract may be amended or modified only by a writing duly executed by both Parties.

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

CITY OF NACOGDOCHES

By: _____
Rick Beverlin, City Manager

Date Signed: 6/18/24

ATTEST:

_____
Rhonda Lewis, ~~Deputy~~ City Secretary

NACOGDOCHES COUNTY MUD#1

By: _____
Nick Stallworth, President

Date Signed: 5/1/2024

ATTEST:

_____

Printed Name: Douglas Dutin
Title: Member

CONTRACT FOR WATER SERVICES

BETWEEN THE CITY OF NACOGDOCHES AND

D & M WATER SUPPLY CORPORATION

STATE OF TEXAS §

COUNTY OF NACOGDOCHES §

This contract and agreement is made and entered into by and between the City of Nacogdoches, a municipal corporation and home rule city, located in Nacogdoches County, Texas, acting by and through the undersigned, its duly authorized agent, hereinafter called "City" and D&M Water Supply Corporation, a nonprofit water supply corporation subject to Chapter 67 of the Texas Water Code, located in Nacogdoches County, Texas, acting by and through Gloria Montes its duly elected and authorized President, hereinafter called "DMWSC".

WHEREAS, City has provided at its own expense, and now owns, operates and maintains facilities for processing and distributing treated water, and at the present time is qualified and authorized to furnish and deliver treated water within Nacogdoches County; and,

WHEREAS, DMWSC operates and maintains facilities for processing and distributing treated water to its customers; and

WHEREAS, DMWSC may require an additional treated water supply source for daily operations or emergencies; and

WHEREAS, it is deemed to be in the best interest of both City and DMWSC that said parties do enter into a mutually satisfactory agreement by means of which DMWSC may obtain from City an agreed amount specified below of treated water at reasonable rates and terms; and

WHEREAS, by the execution of this Contract, neither City nor DMWSC will surrender any of its rights to the ownership and operation of its present water production and distribution facilities.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, for and in consideration of the mutual covenants, promises and agreements contained herein, City and DMWSC do hereby covenant and agree as follows:

1.
TERMS AND CONDITIONS

1.1 City agrees to furnish and sell to DMWSC treated potable water meeting all requirements of the Safe Drinking Water Act, the Texas Commission on Environmental Quality, the Environmental Protection Agency, and other applicable regulations for water quality and delivery. Treated potable water may be from groundwater wells or a surface water source, or a mixture of both. DMWSC agrees to accept treated water as-is with all chemical or natural constituents that may be normal from a treated potable groundwater or surface water source. City agrees to furnish a volume not to exceed **242,000** gallons per day on a thirty-day average ("gpd") from **July 1, 2024 until June 30, 2034** beginning July 1, 2024 for the remainder of the term of this Contract. City shall deliver water to DMWSC at the rate of up to 450 gallons per minute and at a minimum pressure of 35 psi under normal operating conditions and 25 psi under emergency operating conditions. DMWSC agrees to accept delivery under the conditions of this Contract and to pay for the same in accordance with the terms herein. The temporary loss of pressure or supply due to supply line breaks, power failures, floods, fires, and use of water to fight fires, earthquakes or other emergencies shall excuse City from this provision for such reasonable period of time as may be necessary to restore service.

1.1.1 DMWSC will be allowed to connect and withdraw water from the designated interconnection points and will only be billed for water received through its point of delivery.

1.1.2 City will use commercially reasonable efforts to remain in position to furnish water as herein contracted to be sold to DMWSC, and at all times DMWSC will be considered by the City as a regular outside City limit water customer, even during water conservation measures as outlined in the City adopted Drought Contingency Plan.

1.2 At such times as the City decides it is necessary to limit or ration water within its system under the provisions of its Drought Contingency Plan or any other emergency action, the City shall notify DMWSC of the conservation Stage currently in effect, and DMWSC shall immediately implement all the provisions of the City's Drought Contingency Plan for any service areas that use water supplied by the City. DMWSC is not obligated to implement the provisions of City's Drought Contingency Plan to areas of their system that have alternative water supply sources. City shall provide current and updated copies of its Drought Contingency Plan to DMWSC on a periodic basis. Additionally, during the term of this Contract, DMWSC shall at all times maintain a fully implemented water conservation plan consistent with rules promulgated by the Texas Commission on Environmental Quality.

1.3 City shall use its best efforts to timely notify DMWSC of significant service interruptions.

2.

LOCATION AND MAINTENANCE OF MEASURING DEVICES

2.1 One or more suitable meters shall measure all water furnished under this Contact by City. City shall pay all costs associated with the operation and maintenance of said appurtenances (or meters) as necessary.

2.2 The point of delivery of treated water by City is designated as the meter vault(s) located at the physical point(s) of interconnection between the two water systems. All mains and distribution facilities beyond the meter vault shall be the responsibility of DMWSC. The location of each water take point and meter shall be mutually agreed upon in writing by and between the parties hereto, and the meter or meters shall not be moved or relocated except by mutual consent in writing by the parties hereto.

2.3 DMWSC, at its own expense, may install a secondary meter to verify the volume of water passing the master meter, provided that it is installed on the DMWSC's side of the master meter and is maintained and tested in an identical fashion to the master meter. DMWSC shall immediately notify City when discrepancies are found between the readings of the two meters.

2.4 DMWSC shall install, on its side of the master meter, a back-flow preventer device (double check valve configuration). DMWSC will maintain this device in good working order and have it inspected annually by a certified technician with City being furnished a copy of the results.

3.
METERS

3.1 All meters will be properly sealed, and the seal shall not be broken unless representatives of both parties have been notified and given a reasonable opportunity to be present.

3.2 Either Party at their own expense may test the meter for accuracy using a non-destructive or non-invasive testing device. Any test of such metering equipment shall be done by employees or agents of City, or other reputable approved third-party calibration agent, in the presence of representatives of DMWSC and City, if so, requested by DMWSC. Notifications of any proposed test shall be provided to the other Party at least seventy-two (72) hours prior to such testing being conducted and the other Party may observe such test, if so desired. Copies of the results of such test and all related information shall be provided to the other Party within fifteen (15) days of receipt.

3.3 If it is determined that the accuracy of such meter is found to be lower than ninety-five (95%) or higher than one hundred five percent (105%) of actual flow expressed as a percentage of the full scale of the meter, the registration of the flow as determined by such defective meter shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable. If such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the date of the last calibration, but in no event farther back than a period of six (6) months. Additional payments by DMWSC or credits due DMWSC due to meter inaccuracy may be spread over six (6) months at the election of the paying or crediting party.

3.4 If any meter used to determine the flow of treated water to DMWSC is out of service or out of repair, so that the amount of water metered cannot be ascertained or computed from the reading thereof, the water delivered during the period such

meter is out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. The basis for estimating such flow includes, but is not limited to, extrapolation of past patterns of flow for said metering station under similar conditions.

4.
METER READING AND BILLING

4.1 City will read all meters provided for herein at monthly intervals, and the Parties to this Contract shall have free access to read these respective meters daily, if either Party so desires. It shall be the duty of the Parties to give immediate notice each to the other should any meter be found not to be functioning properly, and upon such notice repairs to such meter shall be made promptly.

4.2 Meter readings will be collected electronically by City and records maintained for a minimum period of sixty (60) months. DMWSC shall have access to such records during reasonable business hours and shall be furnished with monthly readings for each point of delivery metering facility.

4.3 Bills for water service shall be rendered to DMWSC monthly by City. All such bills shall be due and payable by DMWSC within thirty (30) days of receipt by DMWSC. Payments received by City shall be first applied to the past due charges, if any, and thereafter to the current charges.

4.4 If DMWSC disputes a bill and is unable to resolve the difference informally, DMWSC shall notify the duly authorized agent of City in writing. If the duly authorized agent and DMWSC are unable to resolve the disputed bill, the bill will be submitted to the City Manager of City for review. The Parties shall make a good faith effort to settle any bill dispute. However, if the Parties fail to resolve disputed water charges, DMWSC and City shall submit it to mediation. In the event a payment is not paid as specified in this Contract, interest on the unpaid balance of

ten percent (10%) per annum will be calculated from the date which the payment was required to be made until paid. In the event that a billing adjustment in the DMWSC's favor is agreed upon or established by the City Manager of City, the amount found to be incorrect would be credited to DMWSC's account together with an interest charge of ten percent (10%) per annum on the credited amount calculated from the date payment of the disputed bill was received.

4.5 IN NO EVENT SHALL ANY BILLING ADJUSTMENT BE MADE, AS PROVIDED IN PARAGRAPH 4.4 ABOVE, \MORE THAN ONE-HUNDRED EIGHTY (180) DAYS AFTER SUCH PAYMENT IS MADE AND RECEIVED BY THE CITY.

5.
RATES

5.1 The Parties to this Contract recognize that the initial rate to be charged to DMWSC for the purchase of water from City is equal to one and one half (1.5) times the residential rate charged by City to in-city customers which is agreed to be a fair and reasonable rate. Additionally, for any billing period when water is used, DMWSC shall be charged the applicable minimum flat rate fee which will be calculated according to DMWSC's meter size. Regardless whether water is used for part or all of any given billing period, DMWSC shall be charged, without proration, the applicable minimum flat rate fee for the entire billing period. The provisions of this contract pertaining to the "rates" to be paid by DMWSC to City for water are subject to modification at the same time City residents' water rates are modified. Any rate increase or decrease shall be based on system-wide rates for the residential customers of City.

5.1.1 DMWSC shall make all efforts to not exceed the maximum daily usage specified in this Contract.

5.1.2 In the event additional water is used by DMWSC and the thirty (30) day average exceeds the allocation defined in this agreement by fifteen percent (15%), the City will give written notice to DMWSC of the excess with sixty (60) days. Any subsequent billing periods with an excess of more than fifteen percent (15%) after the written notice will result in the possible closure of the interconnection point by City until a revision to this Contract has been executed by both parties and/or City may declare DMWSC to be in default under this Contract.

5.1.3 In the event an emergency causes additional usage by DMWSC to exceed DMWSC's normal monthly average by twenty-five percent (25%) or more and the bill for that month causes or will cause a financial hardship for DMWSC, DMWSC may request an installment payment plan not to exceed six (6) months. The City Manager in his or her discretion, may allow or deny such request and may require interest at commercially reasonable rates and such other terms as may be reasonably required.

5.2 The Parties hereto agree that services obtained pursuant to this Contract are essential and necessary to the operation of DMWSC's retail systems and that all payments made by DMWSC hereunder shall constitute reasonable and necessary operating expenses of DMWSC's retail systems.

5.2.1 DMWSC agrees, throughout the term of this Contract to fix and collect such rates and charges for water service to be supplied to its retail DMWSC's as will produce revenues in an amount equal to at least (i) all of operation and maintenance expenses of its system, including specifically its payment under this Contract and (ii) all other amounts as required by law and the provisions of the resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal or and interest on such bonds or other obligations.

6.
TERM

6.1 This Contract shall become effective for all purposes on July 1, 2024 (the "Effective Date"), and except as it may be earlier terminated pursuant to Paragraph 8 hereinbelow, shall continue for a period of __10_ years.

7.
ADDITIONAL PARTIES

7.1 City will use commercially reasonable efforts to provide an adequate water supply for all of its customers, including DMWSC.

8.
TERMINATION; DEFAULT

8.1 This Contract may be terminated in whole or in part by the mutual written consent of DMWSC and City. Notwithstanding anything contained herein to the contrary, any material breach by either Party hereto to perform any of the duties or the obligations assumed by such Party hereunder or to faithfully keep and perform any of the terms, conditions and provisions hereof shall be cause for termination of this Contract by either party in the manner set forth in this paragraph. The following breach, default or failure to perform a duty or obligation shall be considered to be a material breach:

a. Failure by DMWSC to adopt and enforce any resolutions or conservation measure, restriction or rationing required by City or TCEQ to be adopted and enforced herein:

b. Failure by DMWSC to make any payment or any bill, charge or fee as provided for in this Contract;

c. Making by DMWSC any unauthorized connection to the City system at any point;

d. Failure by DMWSC to correct any potentially hazardous connection after reasonable written notice;

e. Failure by DMWSC to provide City ingress and egress for purposes of operation and maintenance of any metering facility or connection point.

f. Breach by either party of any term of this contract

8.2 The Parties agree to give one other no less than thirty (30) days written notice of an alleged breach, default, or failure to perform, and an opportunity to cure the alleged breach, default, or failure to perform, prior to declaration of default. Irrespective of whether or not a breach hereof is a material breach or a nonmaterial breach and irrespective of any cure of such breach, a second breach of the same nature, within one (1) year, violating any term or condition herein shall entitle City, after two (2) months written notice provided to DMWSC and without liability whatsoever on the part of City, to declare this Contract terminated. In event of termination of this Contract, all rights, powers and privileges of DMWSC hereunder shall cease and DMWSC shall make no claim to any kind whatsoever against City, its agent or representatives, by reason of such termination or act incident thereto.

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

10.
OWNERSHIP AND LIABILITY

10.1 No provision of this Contract shall be construed to create any type of joint or equity ownership of any property, any partnership or joint venture, nor shall same create any other rights or liabilities and DMWSC payments (whether past, present or

future) shall not be construed as granting DMWSC partial ownership of, pre-paid capacity in or equity in the City's System.

10.2 To the extent permitted by law, each Party hereto agrees to save and hold the other Party harmless from all claims, demands, and causes of action, which may be asserted by anyone on account of the quality, transportation, or delivery while water is in the control of such party. This covenant is not made for the benefit of any third party. City takes the responsibility as between Parties hereto for the proper treatment, quality, transportation, or delivery of all such water provided by it to the point of delivery.

10.3 Contracts made and entered into by either DMWSC or City for the construction, reconstruction or repair of the meter facility shall include the requirement that the independent contractor(s) must provide adequate insurance protecting both DMWSC and City as additional insureds. Such contract must also provide that the independent contractor(s) covenant to indemnify, to the extent allowed by law, hold harmless, and defend both DMWSC and City against any and all suits or claims for damages of any nature arising out of the performance of such contract.

11.
FORCE MAJEURE

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

11.2 The term "force majeure", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts; drought, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, partial or entire failure of water supply and inability on the part of supplier to deliver water hereunder or the DMWSC to receive water hereunder on account of any other causes not reasonably in the control of the part claiming such inability.

12.
NOTICES

12.1 Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either party to the other Party must be in writing to:

City: City of Nacogdoches
Attn: Rick Beverlin, City Manager
202 E. Pilar Street
Nacogdoches, TX 75961

DMWSC: D&M Water Supply Corporation
Attn: Donnie Babb, General Manager
111 Buck Alley
Douglass, Texas 75943

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

13.
INSPECTION AND AUDIT

13.1 Complete records and accounts required to be maintained by each Party hereto shall be kept for the longer of five (5) years or other applicable retention periods. Each party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors.

13.2 DMWSC shall make available to City each month the Texas Commission on Environmental Quality monthly water report for DMWSC. Likewise, City shall make available to the DMWSC each month the Texas Commission on Environmental Quality monthly water report for the City.

13.3 DMWSC shall also make available to City annually the Consumer Confidence Report that is required by the State of Texas.

14.
MISCELLANEOUS

14.1 During a temporary emergency condition created by unforeseen mechanical failure or by unprecedented high rate of water usage such as might result from a major fire or a major water main break or other emergency event or condition, it may be necessary that water be withdrawn from the City system at a rate of usage in excess of that required for the usual peek requirements of DMWSC. City agrees that all customers will share proportionately in case of shortages. It is agreed that the maximum rate of flow that would normally be applicable shall not apply for such bona fide emergency withdrawals provided that City's duly authorized agent is notified by phone of the occurrence of an emergency condition.

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

14.3 DMWSC agrees to abide by any changes in this Contract made necessary by any new, amended, or revised state or federal statute or court action.

14.4 If requested by the City, DMWSC shall provide quarterly the following data:

a. Actual number of customers accounts consuming directly or indirectly from the DMWSC's System within its service area;
b. Classification of domestic and non-domestic accounts within its service area by number and percentage of accounts consuming directly or indirectly from DMWSC's System within its service area;
c. DMWSC water usage from all sources other than City's System, including, but not limited to, ground water, other surface water and water supply agreements with other entities;
d. Additional data as may be required by state or federal agencies exercising jurisdiction over water supply, water usage or sewers;
e. Additional data which may assist City and/or DMWSC in developing methodology for cost-of-service studies, planning studies for analyzing federal grants and system access fees; provided however that neither Party shall request data that will require either Party to incur unreasonable expenses in providing such data.

14.5 Neither Party may assign this Contract without the prior written consent of the other Party.

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

14.7 City reserves the right to have parallel facilities to serve new annexations to the City of Nacogdoches, and its extraterritorial jurisdiction.

14.8 No tap fees or demand charges are part of this Contract.

15.
WAIVER, REMEDY AND SEVERABILITY

15.1 No waiver by either Party hereto of any term or condition of this Contract shall be deemed or constructed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

15.2 In addition to any other remedy as may be provided by law, this Contract shall be specifically enforceable by the Parties hereto. This Contract shall be construed and governed according to the laws of the State of Texas, without giving effect to its conflict of laws provisions. Nacogdoches County, Texas shall be the sole and exclusive venue for any litigation or other proceeding between the Parties that may be brought in connection with or that arises out of this Contract.

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

15.4 This Contract constitutes the entire Contract between the parties regarding the subject matter hereof and supersede all prior or contemporaneous discussions,

representations, correspondence and Contracts, or whether oral or written, pertaining thereto. Each Party to this Contract acknowledges that no representations, inducements, promises or Contracts, orally or otherwise, have been made by any Party or anyone acting on behalf of any Party, in relation to the subject matter of this Contract, that are not embodied in this written Contract, and that no such other Contract, statement or promise relating to the subject matter of this Contract and not set forth in this Contract has been relied upon or shall be valid or binding. This Contract may be amended or modified only by a writing duly executed by both Parties.

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

CITY OF NACOGDOCHES

By: _____
Rick Beverlin, City Manager

Date Signed: 7/19/24

ATTEST:

_____
Rhonda Lewis, City Secretary

D&M WATER SUPPLY CORPORATION

By: _____
Gloria Montes, President

Date Signed: 6-20-2024

ATTEST:

_____
Jennifer Gordon, Secretary/Treasurer

CONTRACT FOR WATER SERVICES

BETWEEN THE CITY OF NACOGDOCHES AND

LILLY GROVE SPECIAL UTILITY DISTRICT

STATE OF TEXAS §

COUNTY OF NACOGDOCHES §

This contract and agreement is made and entered into by and between the City of Nacogdoches, a municipal corporation and home rule city, located in Nacogdoches County, Texas, acting by and through the undersigned, its duly authorized agent, hereinafter called "City" and Lilly Grove Special Utility District, a nonprofit water supply corporation subject to Chapter 67 of the Texas Water Code, located in Nacogdoches County, Texas, acting by and through Steve Bartlett its duly elected and authorized Chairman hereinafter called "LGSUD".

WHEREAS, City has provided at its own expense, and now owns, operates and maintains facilities for processing and distributing treated water, and at the present time is qualified and authorized to furnish and deliver treated water within Nacogdoches County; and,

WHEREAS, LGSUD operates and maintains facilities for processing and distributing treated water to its customers; and

WHEREAS, LGSUD may require an additional treated water supply source for daily operations or emergencies; and

WHEREAS, it is deemed to be in the best interest of both City and LGSUD that said parties do enter into a mutually satisfactory agreement by means of which LGSUD may obtain from City an agreed amount specified below of treated water at reasonable rates and terms; and

WHEREAS, by the execution of this Contract, neither City nor LGSUD will surrender any of its rights to the ownership and operation of its present water production and distribution facilities.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, for and in consideration of the mutual covenants, promises and agreements contained herein, City and LGSUD do hereby covenant and agree as follows:

1.
TERMS AND CONDITIONS

1.1 City agrees to furnish and sell to LGSUD treated potable water meeting all requirements of the Safe Drinking Water Act, the Texas Commission on Environmental Quality, the Environmental Protection Agency, and other applicable regulations for water quality and delivery. Treated potable water may be from groundwater wells or a surface water source, or a mixture of both. LGSUD agrees to accept treated water as-is with all chemical or natural constituents that may be normal from a treated potable groundwater or surface water source. City agrees to furnish a volume not to exceed **100,000** gallons per day on a thirty-day average ("gpd") from June 1, 2024 until Mayl 31, 2034 beginning June 1, 2024 for the remainder of the term of this Contract. City shall deliver water to LGSUD at the rate of up to 450 gallons per minute and at a minimum pressure of 35 psi under normal operating conditions and 25 psi under emergency operating conditions. LGSUD agrees to accept delivery under the conditions of this Contract and to pay for the same in accordance with the terms herein. The temporary loss of pressure or supply due to supply line breaks, power failures, floods, fires, and use of water to fight fires, earthquakes or other emergencies shall excuse City from this provision for such reasonable period of time as may be necessary to restore service.

1.1.1 LGSUD will be allowed to connect and withdraw water from the designated interconnection points and will only be billed for water received through its point of delivery.

1.1.2 City will use commercially reasonable efforts to remain in position to furnish water as herein contracted to be sold to LGSUD, and at all times LGSUD will be considered by the City as a regular outside City limit water customer, even during water conservation measures as outlined in the City adopted Drought Contingency Plan.

1.2 At such times as the City decides it is necessary to limit or ration water within its system under the provisions of its Drought Contingency Plan or any other emergency action, the City shall notify LGSUD of the conservation Stage currently in effect, and LGSUD shall immediately implement all the provisions of the City's Drought Contingency Plan for any service areas that use water supplied by the City. LGSUD is not obligated to implement the provisions of City's Drought Contingency Plan to areas of their system that have alternative water supply sources. City shall provide current and updated copies of its Drought Contingency Plan to LGSUD on a periodic basis. Additionally, during the term of this Contract, LGSUD shall at all times maintain a fully implemented water conservation plan consistent with rules promulgated by the Texas Commission on Environmental Quality.

1.3 City shall use its best efforts to timely notify LGSUD of significant service interruptions.

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LOCATION AND MAINTENANCE OF MEASURING DEVICES

2.1 One or more suitable meters shall measure all water furnished under this Contact by City. City shall pay all costs associated with the operation and maintenance of said appurtenances (or meters) as necessary.

2.2 The point of delivery of treated water by City is designated as the meter vault(s) located at the physical point(s) of interconnection between the two water systems. All mains and distribution facilities beyond the meter vault shall be the responsibility of LGSUD. The location of each water take point and meter shall be mutually agreed upon in writing by and between the parties hereto, and the meter or meters shall not be moved or relocated except by mutual consent in writing by the parties hereto.

2.3 LGSUD, at its own expense, may install a secondary meter to verify the volume of water passing the master meter, provided that it is installed on the LGSUD's side of the master meter and is maintained and tested in an identical fashion to the master meter. LGSUD shall immediately notify City when discrepancies are found between the readings of the two meters.

2.4 LGSUD shall install, on its side of the master meter, a back-flow preventer device (double check valve configuration). LGSUD will maintain this device in good working order and have it inspected annually by a certified technician with City being furnished a copy of the results.

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METERS

3.1 All meters will be properly sealed, and the seal shall not be broken unless representatives of both parties have been notified and given a reasonable opportunity to be present.

3.2 Either Party at their own expense may test the meter for accuracy using a non-destructive or non-invasive testing device. Any test of such metering equipment shall be done by employees or agents of City, or other reputable approved third-party calibration agent, in the presence of representatives of LGSUD and City, if so, requested by LGSUD. Notifications of any proposed test shall be provided to the other Party at least seventy-two (72) hours prior to such testing being conducted and the other Party may observe such test, if so desired. Copies of the results of such test and all related information shall be provided to the other Party within fifteen (15) days of receipt.

3.3 If it is determined that the accuracy of such meter is found to be lower than ninety-five (95%) or higher than one hundred five percent (105%) of actual flow expressed as a percentage of the full scale of the meter, the registration of the flow as determined by such defective meter shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable. If such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the date of the last calibration, but in no event farther back than a period of six (6) months. Additional payments by LGSUD or credits due LGSUD due to meter inaccuracy may be spread over six (6) months at the election of the paying or crediting party.

3.4 If any meter used to determine the flow of treated water to LGSUD is out of service or out of repair, so that the amount of water metered cannot be ascertained or computed from the reading thereof, the water delivered during the period such

meter is out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. The basis for estimating such flow includes, but is not limited to, extrapolation of past patterns of flow for said metering station under similar conditions.

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METER READING AND BILLING

4.1 City will read all meters provided for herein at monthly intervals, and the Parties to this Contract shall have free access to read these respective meters daily, if either Party so desires. It shall be the duty of the Parties to give immediate notice each to the other should any meter be found not to be functioning properly, and upon such notice repairs to such meter shall be made promptly.

4.2 Meter readings will be collected electronically by City and records maintained for a minimum period of sixty (60) months. LGSUD shall have access to such records during reasonable business hours and shall be furnished with monthly readings for each point of delivery metering facility.

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4.4 If LGSUD disputes a bill and is unable to resolve the difference informally, LGSUD shall notify the duly authorized agent of City in writing. If the duly authorized agent and LGSUD are unable to resolve the disputed bill, the bill will be submitted to the City Manager of City for review. The Parties shall make a good faith effort to settle any bill dispute. However, if the Parties fail to resolve disputed water charges, LGSUD and City shall submit it to mediation. In the event a payment is not paid as specified in this Contract, interest on the unpaid balance of ten percent (10%)

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4.5 IN NO EVENT SHALL ANY BILLING ADJUSTMENT BE MADE, AS PROVIDED IN PARAGRAPH 4.4 ABOVE, \MORE THAN ONE-HUNDRED EIGHTY (180) DAYS AFTER SUCH PAYMENT IS MADE AND RECEIVED BY THE CITY.

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RATES

5.1 The Parties to this Contract recognize that the initial rate to be charged to LGSUD for the purchase of water from City is equal to one and one half (1.5) times the residential rate charged by City to in-city customers which is agreed to be a fair and reasonable rate. Additionally, for any billing period when water is used, LGSUD shall be charged the applicable minimum flat rate fee which will be calculated according to LGSUD's meter size. Regardless whether water is used for part or all of any given billing period, LGSUD shall be charged, without proration, the applicable minimum flat rate fee for the entire billing period. The provisions of this contract pertaining to the "rates" to be paid by LGSUD to City for water are subject to modification at the same time City residents' water rates are modified. Any rate increase or decrease shall be based on system-wide rates for the residential customers of City.

5.1.1 LGSUD shall make all efforts to not exceed the maximum daily usage specified in this Contract.

5.1.2 In the event additional water is used by LGSUD and the thirty (30) day average exceeds the allocation defined in this agreement by fifteen percent (15%), the City will give written notice to LGSUD of the excess within sixty (60) days. Any subsequent billing periods with an excess of more than fifteen percent (15%) after the written notice will result in the possible closure of the interconnection point by City until a revision to this Contract has been executed by both parties and/or City may declare LGSUD to be in default under this Contract.

5.1.3 In the event an emergency causes additional usage by LGSUD to exceed LGSUD's normal monthly average by twenty-five percent (25%) or more and the bill for that month causes or will cause a financial hardship for LGSUD, LGSUD may request an installment payment plan not to exceed six (6) months. The City Manager in his or her discretion, may allow or deny such request and may require interest at commercially reasonable rates and such other terms as may be reasonably required.

5.2 The Parties hereto agree that services obtained pursuant to this Contract are essential and necessary to the operation of LGSUD's retail systems and that all payments made by LGSUD hereunder shall constitute reasonable and necessary operating expenses of LGSUD's retail systems.

5.2.1 LGSUD agrees, throughout the term of this Contract to fix and collect such rates and charges for water service to be supplied to its retail LGSUD's as will produce revenues in an amount equal to at least (i) all of operation and maintenance expenses of its system, including specifically its payment under this Contract and (ii) all other amounts as required by law and the provisions of the resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal or and interest on such bonds or other obligations.

6.
TERM

6.1 This Contract shall become effective for all purposes on June 1, 2024 the ("Effective Date"), and except as it may be earlier terminated pursuant to Paragraph 8 hereinbelow, shall continue for a period of **10** years.

7.
ADDITIONAL PARTIES

7.1 City will use commercially reasonable efforts to provide an adequate water supply for all of its customers, including LGSUD.

8.
TERMINATION; DEFAULT

8.1 This Contract may be terminated in whole or in part by the mutual written consent of LGSUD and City. Notwithstanding anything contained herein to the contrary, any material breach by either Party hereto to perform any of the duties or the obligations assumed by such Party hereunder or to faithfully keep and perform any of the terms, conditions and provisions hereof shall be cause for termination of this Contract by either party in the manner set forth in this paragraph. The following breach, default or failure to perform a duty or obligation shall be considered to be a material breach:

a. Failure by LGSUD to adopt and enforce any resolutions or conservation measure, restriction or rationing required by City or TCEQ to be adopted and enforced herein:

b. Failure by LGSUD to make any payment or any bill, charge or fee as provided for in this Contract;

c. Making by LGSUD any unauthorized connection to the City system at any point;

d. Failure by LGSUD to correct any potentially hazardous connection after reasonable written notice;

e. Failure by LGSUD to provide City ingress and egress for purposes of operation and maintenance of any metering facility or connection point.

f. Breach by either party of any term of this contract

8.2 The Parties agree to give one other no less than thirty (30) days written notice of an alleged breach, default, or failure to perform, and an opportunity to cure the alleged breach, default, or failure to perform, prior to declaration of default. Irrespective of whether or not a breach hereof is a material breach or a nonmaterial breach and irrespective of any cure of such breach, a second breach of the same nature, within one (1) year, violating any term or condition herein shall entitle City, after two (2) months written notice provided to LGSUD and without liability whatsoever on the part of City, to declare this Contract terminated. In event of termination of this Contract, all rights, powers and privileges of LGSUD hereunder shall cease and LGSUD shall make no claim to any kind whatsoever against City, its agent or representatives, by reason of such termination or act incident thereto.

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

10.
OWNERSHIP AND LIABILITY

10.1 No provision of this Contract shall be construed to create any type of joint or equity ownership of any property, any partnership or joint venture, nor shall same create any other rights or liabilities and LGSUD payments (whether past, present or

future) shall not be construed as granting LGSUD partial ownership of, pre-paid capacity in or equity in the City's System.

10.2 To the extent permitted by law, each Party hereto agrees to save and hold the other Party harmless from all claims, demands, and causes of action, which may be asserted by anyone on account of the quality, transportation, or delivery while water is in the control of such party. This covenant is not made for the benefit of any third party. City takes the responsibility as between Parties hereto for the proper treatment, quality, transportation, or delivery of all such water provided by it to the point of delivery.

10.3 Contracts made and entered into by either LGSUD or City for the construction, reconstruction or repair of the meter facility shall include the requirement that the independent contractor(s) must provide adequate insurance protecting both LGSUD and City as additional insureds. Such contract must also provide that the independent contractor(s) covenant to indemnify, to the extent allowed by law, hold harmless, and defend both LGSUD and City against any and all suits or claims for damages of any nature arising out of the performance of such contract.

11.
FORCE MAJEURE

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

11.2 The term "force majeure", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, drought, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, partial or entire failure of water supply and inability on the part of supplier to deliver water hereunder or the LGSUD to receive water hereunder on account of any other causes not reasonably in the control of the part claiming such inability.

12.
NOTICES

12.1 Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either party to the other Party must be in writing to:

City: City of Nacogdoches
Attn: Rick Beverlin, City Manager
202 E. Pilar Street
Nacogdoches, TX 75961

LGSUD: Lilly Grove Special Utility District
Attn: Donna Harris, General Manager
7435 FM 1638
Nacogdoches, TX 75964

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

13.
INSPECTION AND AUDIT

13.1 Complete records and accounts required to be maintained by each Party hereto shall be kept for the longer of five (5) years or other applicable retention periods. Each party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors.

13.2 LGSUD shall make available to City each month the Texas Commission on Environmental Quality monthly water report for LGSUD. Likewise, City shall make available to the LGSUD each month the Texas Commission on Environmental Quality monthly water report for the City.

13.3 LGSUD shall also make available to City annually the Consumer Confidence Report that is required by the State of Texas.

14.
MISCELLANEOUS

14.1 During a temporary emergency condition created by unforeseen mechanical failure or by unprecedented high rate of water usage such as might result from a major fire or a major water main break or other emergency event or condition, it may be necessary that water be withdrawn from the City system at a rate of usage in excess of that required for the usual peek requirements of LGSUD. City agrees that all customers will share proportionately in case of shortages. It is agreed that the maximum rate of flow that would normally be applicable shall not apply for such bona fide emergency withdrawals provided that City's duly authorized agent is notified by phone of the occurrence of an emergency condition.

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

14.3 LGSUD agrees to abide by any changes in this Contract made necessary by any new, amended, or revised state or federal statute or court action.

14.4 If requested by the City, LGSUD shall provide quarterly the following data:

a. Actual number of customers accounts consuming directly or indirectly from the LGSUD's System within its service area;
b. Classification of domestic and non-domestic accounts within its service area by number and percentage of accounts consuming directly or indirectly from LGSUD's System within its service area;
c. LGSUD water usage from all sources other than City's System, including, but not limited to, ground water, other surface water and water supply agreements with other entities;
d. Additional data as may be required by state or federal agencies exercising jurisdiction over water supply, water usage or sewers;
e. Additional data which may assist City and/or LGSUD in developing methodology for cost-of-service studies, planning studies for analyzing federal grants and system access fees; provided however that neither Party shall request data that will require either Party to incur unreasonable expenses in providing such data.

14.5 Neither Party may assign this Contract without the prior written consent of the other Party.

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

14.7 City reserves the right to have parallel facilities to serve new annexations to the City of Nacogdoches, and its extraterritorial jurisdiction.

14.8 No tap fees or demand charges are part of this Contract.

15.
WAIVER, REMEDY AND SEVERABILITY

15.1 No waiver by either Party hereto of any term or condition of this Contract shall be deemed or constructed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

15.2 In addition to any other remedy as may be provided by law, this Contract shall be specifically enforceable by the Parties hereto. This Contract shall be construed and governed according to the laws of the State of Texas, without giving effect to its conflict of laws provisions. Nacogdoches County, Texas shall be the sole and exclusive venue for any litigation or other proceeding between the Parties that may be brought in connection with or that arises out of this Contract.

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

15.4 This Contract constitutes the entire Contract between the parties regarding the subject matter hereof and supersede all prior or contemporaneous discussions,

representations, correspondence and Contracts, or whether oral or written, pertaining thereto. Each Party to this Contract acknowledges that no representations, inducements, promises or Contracts, orally or otherwise, have been made by any Party or anyone acting on behalf of any Party, in relation to the subject matter of this Contract, that are not embodied in this written Contract, and that no such other Contract, statement or promise relating to the subject matter of this Contract and not set forth in this Contract has been relied upon or shall be valid or binding. This Contract may be amended or modified only by a writing duly executed by both Parties.

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

CITY OF NACOGDOCHES

By: _____
Rick Beverlin, City Manager

Date Signed: 6/18/24

ATTEST:

_____
Rhonda Lewis, ~~Deputy~~ City Secretary

LILLY GROVE SPECIAL UTILITY DISTRICT

By: _____
Steve Bartlett, Chairman

Date Signed: 5/14/2024

ATTEST:

_____
Susan Anthony, Secretary

CONTRACT FOR WATER SERVICES

BETWEEN THE CITY OF NACOGDOCHES AND

WODEN WATER SUPPLY CORPORATION

STATE OF TEXAS §

COUNTY OF NACOGDOCHES §

This contract and agreement is made and entered into by and between the City of Nacogdoches, a municipal corporation and home rule city, located in Nacogdoches County, Texas, acting by and through the undersigned, its duly authorized agent, hereinafter called "City" and Woden Water Supply Corporation, a nonprofit water supply corporation subject to Chapter 67 of the Texas Water Code, located in Nacogdoches County, Texas, acting by and through Brady Taylor, its duly elected and authorized President, hereinafter called "WWSC".

WHEREAS, City has provided at its own expense, and now owns, operates and maintains facilities for processing and distributing treated water, and at the present time is qualified and authorized to furnish and deliver treated water within Nacogdoches County; and,

WHEREAS, WWSC operates and maintains facilities for processing and distributing treated water to its customers; and

WHEREAS, WWSC may require an additional treated water supply source for daily operations or emergencies; and

WHEREAS, it is deemed to be in the best interest of both City and WWSC that said parties do enter into a mutually satisfactory agreement by means of which WWSC may obtain from City an agreed amount specified below of treated water at reasonable rates and terms; and

WHEREAS, by the execution of this Contract, neither City nor WWSC will surrender any of its rights to the ownership and operation of its present water production and distribution facilities.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, for and in consideration of the mutual covenants, promises and agreements contained herein, City and WWSC do hereby covenant and agree as follows:

1.
TERMS AND CONDITIONS

1.1 City agrees to furnish and sell to WWSC treated potable water meeting all requirements of the Safe Drinking Water Act, the Texas Commission on Environmental Quality, the Environmental Protection Agency, and other applicable regulations for water quality and delivery. Treated potable water may be from groundwater wells or a surface water source, or a mixture of both. WWSC agrees to accept treated water as-is with all chemical or natural constituents that may be normal from a treated potable groundwater or surface water source. City agrees to furnish a volume not to exceed **250,000** gallons per day on a thirty-day average ("gpd") from June 1, 2024 until May 31, 2034 beginning June 1, 2024 for the remainder of the term of this Contract. City shall deliver water to WWSC at the rate of up to 450 gallons per minute and at a minimum pressure of 35 psi under normal operating conditions and 25 psi under emergency operating conditions. WWSC agrees to accept delivery under the conditions of this Contract and to pay for the same in accordance with the terms herein. The temporary loss of pressure or supply due to supply line breaks, power failures, floods, fires, and use of water to fight fires, earthquakes or other emergencies shall excuse City from this provision for such reasonable period of time as may be necessary to restore service.

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1.2 At such times as the City decides it is necessary to limit or ration water within its system under the provisions of its Drought Contingency Plan or any other emergency action, the City shall notify WWSC of the conservation Stage currently in effect, and WWSC shall immediately implement all the provisions of the City's Drought Contingency Plan for any service areas that use water supplied by the City. WWSC is not obligated to implement the provisions of City's Drought Contingency Plan to areas of their system that have alternative water supply sources. City shall provide current and updated copies of its Drought Contingency Plan to WWSC on a periodic basis. Additionally, during the term of this Contract, WWSC shall at all times maintain a fully implemented water conservation plan consistent with rules promulgated by the Texas Commission on Environmental Quality.

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meter is out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. The basis for estimating such flow includes, but is not limited to, extrapolation of past patterns of flow for said metering station under similar conditions.

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annum will be calculated from the date which the payment was required to be made until paid. In the event that a billing adjustment in the WWSC's favor is agreed upon or established by the City Manager of City, the amount found to be incorrect would be credited to WWSC's account together with an interest charge of ten percent (10%) per annum on the credited amount calculated from the date payment of the disputed bill was received.

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5.1.2 In the event additional water is used by WWSC and the thirty (30) day average exceeds the allocation defined in this agreement by fifteen percent (15%), the City will give written notice to WWSC of the excess with sixty (60) days. Any subsequent billing periods with an excess of more than fifteen percent (15%) after the written notice will result in the possible closure of the interconnection point by City until a revision to this Contract has been executed by both parties and/or City may declare WWSC to be in default under this Contract.

5.1.3 In the event an emergency causes additional usage by WWSC to exceed WWSC's normal monthly average by twenty-five percent (25%) or more and the bill for that month causes or will cause a financial hardship for WWSC, WWSC may request an installment payment plan not to exceed six (6) months. The City Manager in his or her discretion, may allow or deny such request and may require interest at commercially reasonable rates and such other terms as may be reasonably required.

5.2 The Parties hereto agree that services obtained pursuant to this Contract are essential and necessary to the operation of WWSC's retail systems and that all payments made by WWSC hereunder shall constitute reasonable and necessary operating expenses of WWSC's retail systems.

5.2.1 WWSC agrees, throughout the term of this Contract to fix and collect such rates and charges for water service to be supplied to its retail WWSC's as will produce revenues in an amount equal to at least (i) all of operation and maintenance expenses of its system, including specifically its payment under this Contract and (ii) all other amounts as required by law and the provisions of the resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal or and interest on such bonds or other obligations.

6.
TERM

6.1 This Contract shall become effective for all purposes on June 1, 2024 (the "Effective Date"), and except as it may be earlier terminated pursuant to Paragraph 8 hereinbelow, shall continue for a period of __10_ years.

7.
ADDITIONAL PARTIES

7.1 City will use commercially reasonable efforts to provide an adequate water supply for all of its customers, including WWSC.

8.
TERMINATION; DEFAULT

8.1 This Contract may be terminated in whole or in part by the mutual written consent of WWSC and City. Notwithstanding anything contained herein to the contrary, any material breach by either Party hereto to perform any of the duties or the obligations assumed by such Party hereunder or to faithfully keep and perform any of the terms, conditions and provisions hereof shall be cause for termination of this Contract by either party in the manner set forth in this paragraph. The following breach, default or failure to perform a duty or obligation shall be considered to be a material breach:

a. Failure by WWSC to adopt and enforce any resolutions or conservation measure, restriction or rationing required by City or TCEQ to be adopted and enforced herein:

b. Failure by WWSC to make any payment or any bill, charge or fee as provided for in this Contract;

c. Making by WWSC any unauthorized connection to the City system at any point;

d. Failure by WWSC to correct any potentially hazardous connection after reasonable written notice;

e. Failure by WWSC to provide City ingress and egress for purposes of operation and maintenance of any metering facility or connection point.

f. Breach by either party of any term of this contract

8.2 The Parties agree to give one other no less than thirty (30) days written notice of an alleged breach, default, or failure to perform, and an opportunity to cure the alleged breach, default, or failure to perform, prior to declaration of default. Irrespective of whether or not a breach hereof is a material breach or a nonmaterial breach and irrespective of any cure of such breach, a second breach of the same nature, within one (1) year, violating any term or condition herein shall entitle City, after two (2) months written notice provided to WWSC and without liability whatsoever on the part of City, to declare this Contract terminated. In event of termination of this Contract, all rights, powers and privileges of WWSC hereunder shall cease and WWSC shall make no claim to any kind whatsoever against City, its agent or representatives, by reason of such termination or act incident thereto.

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

10.
OWNERSHIP AND LIABILITY

10.1 No provision of this Contract shall be construed to create any type of joint or equity ownership of any property, any partnership or joint venture, nor shall same create any other rights or liabilities and WWSC payments (whether past, present or future)

shall not be construed as granting WWSC partial ownership of, pre-paid capacity in or equity in the City's System.

10.2 To the extent permitted by law, each Party hereto agrees to save and hold the other Party harmless from all claims, demands, and causes of action, which may be asserted by anyone on account of the quality, transportation, or delivery while water is in the control of such party. This covenant is not made for the benefit of any third party. City takes the responsibility as between Parties hereto for the proper treatment, quality, transportation, or delivery of all such water provided by it to the point of delivery.

10.3 Contracts made and entered into by either WWSC or City for the construction, reconstruction or repair of the meter facility shall include the requirement that the independent contractor(s) must provide adequate insurance protecting both WWSC and City as additional insureds. Such contract must also provide that the independent contractor(s) covenant to indemnify, to the extent allowed by law, hold harmless, and defend both WWSC and City against any and all suits or claims for damages of any nature arising out of the performance of such contract.

11.
FORCE MAJEURE

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

11.2 The term "force majeure", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, drought, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, partial or entire failure of water supply and inability on the part of supplier to deliver water hereunder or the WWSC to receive water hereunder on account of any other causes not reasonably in the control of the part claiming such inability.

12.
NOTICES

12.1 Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either party to the other Party must be in writing to:

City: City of Nacogdoches
Attn: Rick Beverlin, City Manager
202 E. Pilar Street
Nacogdoches, TX 75961

WWSC: Woden Water Supply Corporation
Attn: Steven King, Manager/Operator
4683 FM 226
Nacogdoches, TX 75961

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

13.
INSPECTION AND AUDIT

13.1 Complete records and accounts required to be maintained by each Party hereto shall be kept for the longer of five (5) years or other applicable retention periods. Each party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors.

13.2 WWSC shall make available to City each month the Texas Commission on Environmental Quality monthly water report for WWSC. Likewise, City shall make available to the WWSC each month the Texas Commission on Environmental Quality monthly water report for the City.

13.3 WWSC shall also make available to City annually the Consumer Confidence Report that is required by the State of Texas.

14.
MISCELLANEOUS

14.1 During a temporary emergency condition created by unforeseen mechanical failure or by unprecedented high rate of water usage such as might result from a major fire or a major water main break or other emergency event or condition, it may be necessary that water be withdrawn from the City system at a rate of usage in excess of that required for the usual peek requirements of WWSC. City agrees that all customers will share proportionately in case of shortages. It is agreed that the maximum rate of flow that would normally be applicable shall not apply for such bona fide emergency withdrawals provided that City's duly authorized agent is notified by phone of the occurrence of an emergency condition.

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

14.3 WWSC agrees to abide by any changes in this Contract made necessary by any new, amended, or revised state or federal statute or court action.

14.4 If requested by the City, WWSC shall provide quarterly the following data:

a. Actual number of customers accounts consuming directly or indirectly from the WWSC's System within its service area;
b. Classification of domestic and non-domestic accounts within its service area by number and percentage of accounts consuming directly or indirectly from WWSC's System within its service area;
c. WWSC water usage from all sources other than City's System, including, but not limited to, ground water, other surface water and water supply agreements with other entities;
d. Additional data as may be required by state or federal agencies exercising jurisdiction over water supply, water usage or sewers;
e. Additional data which may assist City and/or WWSC in developing methodology for cost-of-service studies, planning studies for analyzing federal grants and system access fees; provided however that neither Party shall request data that will require either Party to incur unreasonable expenses in providing such data.

14.5 Neither Party may assign this Contract without the prior written consent of the other Party.

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

14.7 City reserves the right to have parallel facilities to serve new annexations to the City of Nacogdoches, and its extraterritorial jurisdiction.

14.8 No tap fees or demand charges are part of this Contract.

15.
WAIVER, REMEDY AND SEVERABILITY

15.1 No waiver by either Party hereto of any term or condition of this Contract shall be deemed or constructed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

15.2 In addition to any other remedy as may be provided by law, this Contract shall be specifically enforceable by the Parties hereto. This Contract shall be construed and governed according to the laws of the State of Texas, without giving effect to its conflict of laws provisions. Nacogdoches County, Texas shall be the sole and exclusive venue for any litigation or other proceeding between the Parties that may be brought in connection with or that arises out of this Contract.

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

15.4 This Contract constitutes the entire Contract between the parties regarding the subject matter hereof and supersede all prior or contemporaneous discussions,

representations, correspondence and Contracts, or whether oral or written, pertaining thereto. Each Party to this Contract acknowledges that no representations, inducements, promises or Contracts, orally or otherwise, have been made by any Party or anyone acting on behalf of any Party, in relation to the subject matter of this Contract, that are not embodied in this written Contract, and that no such other Contract, statement or promise relating to the subject matter of this Contract and not set forth in this Contract has been relied upon or shall be valid or binding. This Contract may be amended or modified only by a writing duly executed by both Parties.

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

CITY OF NACOGDOCHES

By: _____
Rick Beverlin, City Manager

Date Signed: 6-18-24

ATTEST:

_____
Rhonda Lewis, ~~Deputy~~ City Secretary

WODEN WATER SUPPLY CORPORATION

By: _____
Brady Taylor, President

Date Signed: 5/20/24

ATTEST:

Carolyn Cox
_____
~~Dennis Davis~~, Secretary/Treasurer
Carolyn Cox

Appendix D - Signed Official Ordinance and WCP Resolution

RESOLUTION OF CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, APPROVING 2024 EDITION OF THE WATER CONSERVATION PLAN FOR MUNICIPAL USE BY RETAIL PUBLIC SUPPLIERS AND WATER CONSERVATION PLAN FOR WHOLESALE PUBLIC WATER SUPPLIERS IN ACCORDANCE WITH RULES PROMULGATED BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY.

WHEREAS, water is a valuable renewable resource and a critical necessity for all life; and

WHEREAS, water conservation activities have both a financial and operational benefit for the City; and

WHEREAS, the City Council of the City of Nacogdoches, Texas, desires to continue to improve water conservation efforts.

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

The City of Nacogdoches, Texas, hereby adopts the 2024 edition of the Water Conservation Plan For Municipal Use By Retail Public Suppliers and the Water Conservation Plan For Wholesale Public Water Suppliers in accordance with Texas Commission on Environmental Quality Rules as set forth in Title 30 of the Texas Administrative Code, Chapter 288.

PASSED AND APPROVED, this the 23rd **day of** April **, 2024.**

THE CITY OF NACOGDOCHES TEXAS

CITY OF NACOGDOCHES

By: _____
Randy Johnson, Mayor

ATTEST:

_____
Rhonda Lewis, City Secretary

APPROVED AS TO FORM:

_____
Jerry Baker, City Attorney

APPROVED AS TO CONTENT:

_____
Casey Opperman, Director of Public Works/City Engineer

Insert 2026 WCP Resolution

Appendix E: Water Rate Structure

CITY OF NACOGDOCHES, TEXAS

ORDINANCE NO. 2013-09-24

AN ORDINANCE AMENDING CHAPTER 106 "UTILITIES" OF THE CITY OF NACOGDOCHES, TEXAS CODE OF ORDINANCES AMENDING WATER AND SEWER RATES.

WHEREAS, the city has determined that the water and sewer rates as fixed in Ordinance No. 1658-3-14 adopted September 17, 2024 is, at this time, inadequate to cover all operation and maintenance costs for water production and distribution and sewage collection and treatment.

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Nacogdoches, Texas that the water and sewer rates for the City of Nacogdoches be amended as hereinafter set out so that henceforth Section 106-321 shall read as follows:

Sec. 106-321. Water rates and general sewer rates.

(a) *Generally.* The charges for:

(1) Water sold and delivered to customers of the waterworks system of the City of Nacogdoches; and

(2) Sanitary sewer service for customers of the sanitary sewer system of the City of Nacogdoches (other than monitored users).

(b) *Water rates.*

Effective 10/1/2024

Water rates are hereby fixed and prescribed according to the following schedules:

(1) *Minimum charges per meter size (0—2000 gallons).*

All User Classes (Inside)	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
5/8"	13.97	14.72	15.51	16.35	17.24
3/4"	13.97	14.72	15.51	16.35	17.24
1"	34.92	36.80	38.79	40.89	43.09
1.5"	69.83	73.60	77.57	81.76	86.18
2"	111.72	117.76	124.12	130.82	137.88
3"	209.48	220.79	232.72	245.28	258.53
4"	349.14	367.99	387.86	408.81	430.88

6"	698.28	735.98	775.72	817.61	861.77
8"	1,117.24	1,177.57	1,241.16	1,308.18	1,378.82
10"	1,606.03	1,692.76	1,784.17	1,880.51	1,982.06
12"	3,002.58	3,164.72	3,335.62	3,515.74	3,705.59
Multi-Unit	13.97	14.72	15.51	16.35	17.24

All User Classes (Outside)	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
⅝"	20.95	22.09	23.28	24.53	25.86
¾"	20.95	22.09	23.28	24.53	25.86
1"	52.37	55.20	58.18	61.32	64.64
1.5"	104.75	110.40	116.36	122.65	129.27
2"	167.59	176.64	186.17	196.23	206.82
3"	314.23	331.20	349.08	367.93	387.80
4"	523.71	551.99	581.80	613.22	646.33
6"	1,047.41	1,103.97	1,163.59	1,226.42	1,292.65
8"	1,675.86	1,766.36	1,861.74	1,962.27	2,068.24
10"	2,409.05	2,539.14	2,676.26	2,820.77	2,973.10
12"	4,503.88	4,747.09	5,003.43	5,273.62	5,558.39
Multi-Unit	20.95	22.09	23.28	24.53	25.86

(2) *Volumetric rates (per 1,000 gallons).*

Residential Water Inside	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
0—2,000 gallons	min	min	min	min	min
2,001—10,000 gallons	3.53	3.72	3.92	4.13	4.36
10,001—30,000 gallons	4.06	4.28	4.51	4.75	5.01
30,001—75,000 gallons	4.67	4.92	5.19	5.47	5.76
75,001 gallons and over	5.38	5.67	5.97	6.29	6.63

Irrigation Water Inside	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
0—2,000 gallons	min	min	min	min	min
2,001—10,000 gallons	4.42	4.65	4.91	5.17	5.45
10,001—30,000 gallons	5.08	5.35	5.64	5.95	6.27
30,001—75,000 gallons	5.84	6.15	6.49	6.84	7.21
75,001 gallons and over	6.71	7.08	7.46	7.86	8.29

Non-Residential Water Inside	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
0—2,000 gallons	min	min	min	min	min
2,001—10,000 gallons	3.53	3.72	3.92	4.13	4.36
10,001—20,000 gallons	4.06	4.28	4.51	4.75	5.01
20,001—30,000 gallons	4.06	4.28	4.51	4.75	5.01
30,001—75,000 gallons	4.67	4.92	5.19	5.47	5.76
75,001 gallons and over	5.38	5.67	5.97	6.29	6.63

Heavy Industry Water Inside	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
0—2,000 gallons	min	min	min	min	min
2,001 gallons and over	3.50	3.69	3.89	4.10	4.32

Outside City Limits
1½ times the inside rate that is applicable

(3) *Wholesale (outside city).* According to contract negotiated with each wholesale user. Where more than one residential, non-residential or industrial unit is served by the same meter (except for wholesale users):

a. The minimum monthly charge shall be equal to the sum of the minimum monthly charges that would apply to the various units if they were metered separately.

b. The minimum monthly meter charge shall cover the first minimum number of gallons (if any) times the number of units.

c. Charges for water in excess of the minimum as defined above shall be at the highest rate for any user class represented in the various units served by the meter.

(c) *Sewer rates.*

Effective 10/1/2024

(1) *Minimum charges.*

	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
Residential Inside	16.07	16.94	17.86	18.82	19.84
Residential Outside	24.12	25.42	26.79	28.24	29.76
Non-Residential Inside (1)	18.49	19.49	20.54	21.65	22.82
Non-Residential Outside (1)	27.73	29.23	30.81	32.47	34.22
Monitored Customers (2)	7.04	7.42	7.82	8.24	8.69

(2) *Volumetric charges (per 1,000 gallons).*

	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
Residential Inside	5.32	5.61	5.91	6.23	6.57
Residential Outside	7.99	8.42	8.88	9.35	9.86
Non-Residential Inside (1)	6.12	6.45	6.80	7.17	7.56
Non-Residential Outside (1)	9.18	9.68	10.20	10.75	11.33
Monitored Customers (2)	3.53	3.72	3.92	4.13	4.36

a. Does not include monitored users such as poultry processors.

b. Charges for BOD 0.2002 per 100 mg/liter and suspended solids 0.1127 per 100 mg/liter shall be added to flow calculation, according to section VII. This charge is exclusive of any applicable pretreatment.

Billing industrial and commercial sewer customers who treat their effluent and have a settling pond.

Industrial and commercial sewer customers who are required to treat their effluent and have a settling pond for such shall be billed on one of the following basis:

1. Amount of water used or registered by the city water meter.
2. If such industrial or commercial customer as defined above shall install an approved flow measuring device to measure the amount of water returned to the city sanitary sewer for treatment, then the reading from such measuring

device will be used for determining the city sewer charge rather than the water meter reading.

(4) *Exemption from sewer charge.* Customers who use water that is not deposited in the city's sewer lines for treatment shall comply with the following conditions to be eligible to be exempted from sewer charges:

a. Customers must have a separate water tap from the city's water main and a separate meter for water used but not deposited in the sewer. The customer will pay for such additional tap and meter cost.

b. If for any reason such service is disconnected or discontinued by said customer who later wishes to return this meter to service, a reconnect fee of $25 will be charged for each occasion or $45 if after regular work hours.

(d) *Other charges.* Tap fees, reconnection charges and other miscellaneous charges shall be as prescribed in other city ordinances.

(e) *Disconnection of service.* The city may disconnect water service to any customer for any of the following reasons:

(1) Written request of the customer.

(2) Failure to pay all water and sewer charges within a time limit prescribed in other city ordinances.

(3) Existence of a known dangerous condition resulting from water service to that customer.

(4) Service established through meter bypassing, unauthorized connection or unauthorized reconnection.

(5) Tampering with meter.

(6) Any reasons listed in the sewer use ordinance.

If disconnection is solely due to failure to pay bills the city must:

(1) Give ten calendar days' notice prior to disconnection.

(2) Have city personnel available to collect delinquent bills and to make reconnection on the day of disconnection and on the following:

All city water, sewer and sanitation bills are due upon receipt and are considered delinquent 15 days after billing date. A delinquent fee of ten percent shall be added to all water, sewer and sanitation bills that are not paid within the 15-day period after billing date.

The following charges shall also apply:

Original service connect fee	$25.00
Transfer of service fee	$25.00
Re-connect service fee:	
Regular work hours 8:00 a.m. to 5:00 p.m.	$25.00
After regular work hours	$45.00

BE IT FURTHER ORDAINED that if any section or provision of this Ordinance, or the application of same to any person or set of circumstances is invalidated or rendered unenforceable by a court of competent jurisdiction, such judgment shall not affect the validity of any remaining parts of the Ordinance which can be given effect without the invalidated part or parts, or their application to other persons or sets of circumstances.

FURTHER, all Ordinances, Orders or Resolutions or parts thereof, heretofore passed and adopted by the City Council, in conflict herewith shall be, and the same are, hereby repealed, and such Ordinance shall be in full force and effect with the October 1, 2024, billing from and after its passage, approval and publication.

PASSED & APPROVED this, the 30th day of September 2024, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Nacogdoches, Texas.

Randy Johnson, Mayor
City of Nacogdoches

ATTEST:

By: _____
Rhonda Lewis, City Secretary

APPROVED AS TO FORM:

By: _____
Jerry Baker, City Attorney

APPROVED AS TO CONTENT:

By: _____
Rebecca Elliott, Director of Finance

Appendix F - Drought Contingency Plan

Texas Commission on Environmental Quality
Water Availability Division
MC-160, P.O. Box 13087 Austin, Texas 78711-3087
Telephone (512) 239-4600, FAX (512) 239-2214

Drought Contingency Plan for a Retail Public Water Supplier

This form is provided as a model of a drought contingency plan for a retail public water supplier. If you need assistance in completing this form or in developing your plan, please contact the Conservation Staff of the Resource Protection Team in the Water Availability Division at (512) 239-4600.

Drought Contingency Plans must be formally adopted by the governing body of the water provider and documentation of adoption must be submitted with the plan. For municipal water systems, adoption would be by the city council as an ordinance. For other types of publicly-owned water systems (example: utility districts), plan adoption would be by resolution of the entity's board of directors adopting the plan as administrative rules. For private investor-owned utilities, the drought contingency plan is to be incorporated into the utility's rate tariff. Each water supplier shall provide documentation of the formal adoption of their drought contingency plan.

Name:	City of Nacogdoches	
Address:	PO Box 635030 Nacogdoches TX 75963	
Telephone Number:	(936)564-5046	Fax: (936) 569-2729
Water Right No.(s):	4864	
Regional Water Planning Group:	Regional Water Planning Group I	
Form Completed by:	Bart Allen	
Title:	Water Utility Manager	
Person responsible for implementation:	Bart Allen	Phone: (936) 564-50046
Signature:		Date: 4/9/24

Chapter 106 "Utilities" be amended as follows:

DIVISION 2. WHOLESALE SUPPLIER DROUGHT CONTINGENCY PLAN

Sec. 106-591. - Declaration of policy, purpose, and intent.

In order to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of

water supply shortage or other water supply emergency conditions, the City of Nacogdoches (hereinafter referred to as "city") adopts the following drought contingency plan (the plan) for wholesale water customers.

Sec. 106-592. - Wholesale water customer education.

The city will periodically provide wholesale water customers with information about the plan, including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of providing copies of the plan and/or changes to the plan, and scheduled meetings to discuss the plan and any changes.

Title 30 TAC Chapter 288.30(4) states: Wholesale public water suppliers shall submit a drought contingency plan meeting the requirements of Subchapter B of this Chapter to the executive director not later than September 1, 1999, after adoption of the drought contingency plan by the governing body of the water supplier. Thereafter, any new or revised plans shall be submitted to the executive director within 90 days of adoption by the governing body of the wholesale public water supplier. Wholesale public water suppliers shall also provide a copy of the drought contingency plan to the regional water planning group for each region within which the wholesale water supplier operates.

Sec. 106-596. - Triggering criteria for initiation and termination of drought response stages.

(a) The manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the plan. Customer notification of the initiation or termination of drought response stage will be made directly by telephone, followed by certified mail. The news media will also be informed.

(b) The triggering criteria described below are based on a statistical analysis of the vulnerability of the water source under drought of record conditions.

(1) Stage 1—Mild water shortage conditions.

a. Requirements for initiation—The city will recognize that a mild condition exists when total daily water demand equals or exceeds 90 percent of the daily water plant production for four consecutive days or 92 percent of the daily water plant production for a single day.

b. Requirement for termination—Stage 1 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 14 consecutive days. The city will notify its wholesale customers and the media of the termination of stage 1 in the manner described above.

(2) Stage 2—Moderate water shortage conditions.

a. Requirements for initiation—The city will recognize that a moderate water shortage condition exists when daily water demand equals or exceeds 92 percent of the daily water plant production for four consecutive days or 94 percent of the daily water plant production for a single day.

b. Requirements for terminations—Stage 2 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days. Upon termination of stage 2, stage 1 becomes operative. The city will notify its wholesale customers and the media of the termination of stage 2 in the manner described above.

(3) Stage 3—Severe water shortage conditions.

a. Requirements for initiation—The city will recognize that a severe water shortage condition exists when total daily water demand equals or exceeds 94 percent of the daily water plant production for four consecutive days or 96 percent of the daily water plant production for a single day.

b. Requirements for terminations—Stage 3 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of five consecutive days. Upon termination of stage 3, stage 2 becomes operative. The city will notify its wholesale customers and the media of the termination of stage 2 in the manner described above.

(4) Stage 4—Emergency water shortage conditions.

a. Requirements for initiation—The city will recognize that an emergency water shortage condition exists, when:

(i) Major water line breaks, or pump or system failures occur which cause unprecedented loss of capability to provide water service; or

(ii) Manmade contamination of the water supply source(s) has occurred.

b. Requirements for termination—Stage 4 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 24 consecutive hours (one day). The city will notify its wholesale customers and the media of the termination of stage 4 in the manner described above.

Sec. 106-597. - Drought response stages.

The manager, or his/her designee, shall monitor water supply and/or demand conditions and, in accordance with the triggering criteria set forth in section 106-596, shall determine that mild, moderate, or severe water shortage conditions exist, or that an emergency condition exists, and shall implement the following actions:

A. *Stage 1—Mild water shortage conditions.*

1. *Goal:* Achieve a voluntary five percent reduction in total daily water use.
2. *Supply management measures:*

(a) In order to manage a limited water supply and/or reduce water demand, the city will implement the following supply management measures:

(1) Reduce or discontinue flushing of water mains.

(2) Discontinue fire hydrant testing;

(3) Implement measures to return any system component to full production capability (i.e. water wells, booster pumps, etc.);

(4) Repair all existing main breaks.

(b) Demand management measures:

(1) The manager, or his/her designee, will contact wholesale water customer to discuss water supply and/or demand conditions and will request that wholesale water customers initiate voluntary measures to reduce water use (e.g., implement stage 1 of the customer's drought contingency plan).

(2) The manager, or his/her designee, will provide a weekly report to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

B. *Stage 2—Moderate water shortage conditions.*

1. Goal: Achieve a seven percent reduction in total daily water use.
2. Supply management measures:

(a) In order to manage a limited water supply and/or reduce water demand, the city will implement the following supply management measures:

(1) All of the measures described for stage 1;

(2) Alternatively, discontinued irrigation of public landscaped areas, including parks and ball fields.

(b) Water use restrictions. Under threat of penalty for violation, the following water uses restrictions shall apply to all persons:

(1) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6, or 8), and Saturdays and Wednesdays for 1, 3, 5, 7, or 9). The irrigation of landscaped areas is further limited to the hours of 10:00 p.m. and 6:00 a.m. on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five gallons or less, or drip irrigation system.

(2) Use of water to wash any motor vehicle is prohibited except on designated watering days between the hours of 8:00 p.m. and 12:00 midnight. Such watering, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

(3) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 10:00 p.m. and 6:00 a.m.

(4) Operation of any ornamental fountain or pond for aesthetic or scenic purposed is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(5) Use of water from fire hydrants shall be limited to fire fighting and related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the city.

(6) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of 10:00 p.m. and 6:00 a.m. However, if the golf course utilizes a water source other than that provided by the city, the facility shall not be subject to these regulations.

(7) All restaurants are prohibited from serving water to its patrons except when requested.

(8) The following uses of water are defined as nonessential and are prohibited:

(i) Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas.

(ii) Use of water to wash down buildings or structures for purposes other than immediate fire protection;

(iii) Use of water for dust control;

(iv) Flushing gutters or permitting water to run or accumulate in any gutter or street; and

(v) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

3. Demand management measures:
   (a) The manager, or his/her designee, will initiate weekly contact with wholesale water customers to discuss water supply and/or demand conditions and the possibility of pro rata curtailment of water diversions and/or deliveries.
   (b) The manager, or his/her designee, will request wholesale water customers to initiate mandatory measures to reduce nonessential water use (e.g., implement the appropriate stage (usually stage 2) of the customer's drought contingency plan).
   (c) The manager, or his/her designee, will initiate preparations for the implementation of pro rata curtailment of water diversions and/or allocation baseline for each wholesale customer according to the procedures specified in section 106-598 of the plan.
   (d) The manager, or his/her designee, will provide a weekly report to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought persists, and consumer information on water conservation measures and practices.

C. *Stage 3—Severe water shortage conditions.*

1. *Goal:* Achieve a nine percent reduction in total daily water use.
2. *Supply management measures:* In order to manage a limited water supply and/or reduce water demand, the city will continue implementing all of the measures described for stage 1 and stage 2. Irrigation of public landscaped areas, included parks and ball fields shall be discontinued.
3. *Demand management measures:*
   (a) The manager, or his/her designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate additional mandatory measures to reduce nonessential water use (e.g., implement the appropriate stage (usually Stage 3) of the customer's drought contingency plan).
   (b) The manager, or his/her designee, will initiate pro rata curtailment of water diversions and/or deliveries for each wholesale customer according to the procedures specified in section 106-598 of the plan.
   (c) The manager, or his/her designee, will provide a weekly report to news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

D. *Stage 4—Emergency water shortage conditions.* Whenever emergency water shortage conditions exist as defined in section 106-596 of the plan, the manager shall;

1. Assess the severity of the problem and identify the actions needed and time required to solve the problem.
2. Inform the utility director or other responsible official of each wholesale water customer by telephone or in-person and suggest actions, as appropriate, to alleviate problems (e.g., notification of the public to reduce water use until service is restored).
3. If appropriate, notify city, county, and/or state emergency response officials for assistance.
4. Undertake necessary actions, including repairs and/or clean-up as needed.
5. Prepare a post-event assessment report on the incident and
6. Critique of emergency response procedures and actions.

Sec. 106-598. - Pro rata water allocation.

In the event that the triggering criteria specified in section 106-596 of the plan for stage 3—Severe water shortage conditions have been met, the manager is hereby authorized to initiate allocation of water supplies on a pro-rate basis in accordance with V.T.C.A., Water Code § 11.039 and according to the following water allocation policies and procedures;

(1) A wholesale customer's monthly allocation shall be a percentage of the customer's water usage baseline. The percentage will be set by resolution of the Nacogdoches City council based on the manager's assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries and may be adjusted periodically by resolution of the council as conditions warrant. Once pro rata allocation is in effect, water diversions by, or deliveries to, each wholesale customer shall be limited to the allocation established for each month.

(2) A monthly water usage allocation shall be established by the manager, or his/her designee, for each wholesale customer. The wholesale customer's water usage baseline will be computed on the average water usage by month for the last five-year period as shown in the example given below. If the wholesale water customer's billing history is less than five years, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists.

Example Calculation of Monthly Allocation for a Hypothetical Wholesale Water Customer

	1994	1995	1996	1997	1998	SUM	AVE	Allocation Percentage	Monthly Allocation
Jan.									
Feb.									

March									
April									
May									
June									
July									
August									
Sept.									
Oct.									
Nov.									
Dec.									
Total									

(3) The manager shall provide notice by certified mail to each wholesale customer informing them of their monthly water usage allocations and shall notify the news media and the Executive Director of the Texas Commission on Environmental Quality upon initiation of the pro-rate water allocation.

(4) Upon request of the customer or at the initiative of the manager, the allocation may be reduced or increased if: (1) the designated period does not accurately reflect the wholesale customer's normal water usage; (2) the customer; agrees to transfer part of its allocation to another wholesale customer; or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Nacogdoches City Council.

Sec. 106-600. - Variances.

(a) The manager, or his/her designee, may in writing, grant a temporary variance to pro rata water allocation policies provided by this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety and if one or more of the following conditions are met:

(1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect.

(2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

(b) Persons requesting an exemption from the provisions of this plan shall file a petition for variance with the city within five days after pro rata allocation has been invoked. All petitions for variances shall be reviewed by the manager, and shall include the following

(1) Name and address of the petitioner(s).

(2) Detailed statement with supporting data and information as to how the pro rata allocation for water under the policies and procedures established in the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this division.

(3) Description of the relief requested.

(4) Period of time for which the variance is sought.

(5) Alternative measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date.

(6) Other pertinent information.

(d) Variances granted by the city shall be subject to the following conditions unless waived or modified by the manager or its designee:

(1) Variances granted shall include a timetable for compliance.

(2) Variances granted shall expire when the plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

(e) No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.

Sec. 106-601. - Severability and violations.

It is hereby declared to be the intention of the Nacogdoches City Council and the sections, paragraphs, sentences, clauses, and phrases of this plan are severable and, if any phrase, clause, sentence, paragraph, or section of this plan shall be declared unconstitutional by the valid judgment of decree or any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this plan, which shall remain in full force and effect, since the same would not have been enacted by the Nacogdoches City Council without the incorporation into this plan or any such unconstitutional phrase, clause, sentence, paragraph, or section.

That any person, firm, or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Ordinance No. 1252-4-01 of the Nacogdoches Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this article has a penalty for violation, it shall become effective ten days after its publication.

DIVISION 3. - RETAIL SUPPLIER DROUGHT CONTINGENCY PLAN

Sec. 106-639. - Drought contingency plan water rates.

The following rates shall apply to all residential customers and all landscape irrigation meters. Water rates shall be the same as those listed in Sec. 106-321 with the following modifications:

(a) Stage 2 residential and irrigation water use, inside and outside city limits
   a. 10,001 - 30,000 gallons: 2 times the current rate
   b. 30,001 - 75,000 gallons: 2.5 times the current rate
   c. 75,001 gallons and above: 3 times the current rate

(b) Stage 3 residential and irrigation water use, inside and outside city limits
   a. 10,001 - 30,000 gallons: 2.5 times the current rate
   b. 30,001 - 75,000 gallons: 3 times the current rate
   c. 75,001 gallons and above: 4 times the current rate

(c) Stage 4 residential and irrigation water use, inside and outside city limits
   a. 10,001 - 30,000 gallons: 3 times the current rate
   b. 30,001 - 75,000 gallons: 4 times the current rate
   c. 75,001 gallons and above 5 times the current rate

PASSED AND APPROVED this the 23rd day of April, 2024, by a vote of 5 (ayes) to 0 (nays) of the City Council of the City of Nacogdoches.

CITY OF NACOGDOCHES

THE CITY OF NACOGDOCHES TEXAS

BY: _____
Randy Johnson, Mayor

ATTEST:

_____
Rhonda Lewis, City Secretary

APPROVED AS TO FORM:

_____
Jerry Baker, City Attorney

APPROVED AS TO CONTENT:

_____
Casey Opperman, PE, City Engineer

Appendix G: Two-Year Education Implementation Strategy

Year 1 — Implementation Schedule

Quarter 1 (Jan–Mar)	**Quarter 2 (Apr–Jun)**	**Quarter 3 (Jul–Sep)**	**Quarter 4 (Oct–Dec)**
Topic: Indoor Efficiency + Leak Awareness	Topic: Spring Irrigation Startup	Topic: Peak-Use Reduction	Topic: Winterization & Indoor Conservation
Bill inserts: Find & Fix Leaks at Home	Door hangers in high-use neighborhoods	Weekly watering guidance (social + website)	Flyer: Protect Your Pipes
Press release: Social media series: 5 indoor tips	Media: How to Set Your Irrigation Controller	Social media PSA: Water Wisely NAC	Social media: 12-day conservation countdown
Website update: Leak detection checklist	Booth at Blueberry Festival or Farmers Market	Community Education Surfacewater Plant tour	School poster contest
School outreach: Water cycle + leak awareness activity	Partner with local org for irrigation workshop	Youth library program: Water Heroes Week	Annual conservation results infographic
Launch Conservation Campaign via NACWater platform	Bill message: Check your system before summer	Bill inserts: Summer Water Saver Guide	Public recognition: Water Saver of the Year

Year 2 — Implementation Schedule

Quarter 1 (Jan–Mar)	**Quarter 2 (Apr–Jun)**	**Quarter 3 (Jul–Sep)**	**Quarter 4 (Oct–Dec)**
Topic: Conservation Basics + Customer Survey	Topic: Smart Irrigation Month Prep	Topic: Outdoor Efficiency + Drought Messaging	Topic: Annual Reporting + Winter Prep
Customer survey (required every 2 years)	Irrigation checkup campaign	Repeat summer watering guidance	Publish annual conservation report
Bill inserts: Your Water, Your Community	Partner with nurseries for native plant promotion	Social media posts PSA + newspaper column	Bill inserts: Your Conservation Impact This Year
Website refresh: Update conservation pages	Social media: Before You Water…series	Community event booth	Winterization campaign
Surfacewater plant tour kick-off	Bill message: Set your controller for spring	Youth STEM workshop: Build a Mini Aquifer	Focus group (required every 2 years)

PRESENTER: Mike Neu, Executive Director of Development and Infrastructure

ITEM/SUBJECT: Consider ratification of a Resilient Communities Program agreement by and between the City of Nacogdoches and the Texas General Land Office to develop an updated Comprehensive Plan. (Executive Director of Development and Infrastructure)

SUMMARY/BACKGROUND: This item seeks Council ratification of an agreement to accept State funding to support the development of a new Comprehensive Plan. The Texas General Land Office (GLO) allocated up to $100 million in Community Development Block Grant Mitigation (CDBG-MIT) funds for the Resilient Communities Program (RCP). RCP funds the development, adoption, and implementation of resilient building codes, flood damage prevention ordinances, zoning ordinances, comprehensive plans, and land use plans. The approved maximum grant award for Nacogdoches, based on the city's population size and eligible activity (Comprehensive Plan), is $250,000.

Comprehensive Plan Performance Requirements:
- Must be forward-looking, and be integrated with the Hazard Mitigation Plan, if one exists.
- Must identify local hazard risks and explain how it mitigates those risks.
- Must include a (1) Population Study; (2) Housing Study; (3) Land Use Study/Plan; (4) Zoning Ordinance; (5) Infrastructure Study / CIP.
- Adoption of the Comprehensive Plan must be complete within the RCP grant contract term (approximately 3 years). NOTE: If not satisfied, all funds will be recaptured.

Prior Actions:
In July 2003, the City adopted its existing Comprehensive Plan, which was last revised in 1994. On December 16, 2025, Council approved a resolution authorizing the City's submission of an application requesting RCP grant funding for Comprehensive Plan development.

FINANCIAL:
No financial impact associated with this item.

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Downtown Entertainment and Destination District, Neighborhood Revitalization and Attainable Housing, Community Engagement/Diverse Environment, Infrastructure

CITY CONTACT: Mike Neu,
Executive Director of Development and Infrastructure

ATTACHMENTS: 1. TxGLO Contract

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GLO CONTRACT NO. 23-160-212-F794
COMMUNITY DEVELOPMENT BLOCK GRANT MITIGATION PROGRAM
RESILIENT COMMUNITIES PROGRAM
NON-RESEARCH & DEVELOPMENT
MITIGATION FUNDING

The **GENERAL LAND OFFICE** (the "GLO"), a Texas state agency, and **CITY OF NACOGDOCHES**, Texas Identification Number (TIN) **17560006219** ("Subrecipient"), each a "Party" and collectively the "Parties," enter into this Subrecipient agreement (the "Contract") under the U.S. Department of Housing and Urban Development's Community Development Block Grant Mitigation ("CDBG-MIT") program to provide financial assistance with funds appropriated under the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Public Law 115-123), enacted on February 9, 2018, for necessary expenses for Activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 et seq.) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, mitigation, and affirmatively furthering fair housing, in accordance with Executive Order 12892, in the most impacted and distressed areas resulting from major declared disasters that occurred in 2015, 2016, and 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121 et seq.).

Through CDBG-MIT Federal Award Number B-18-DP-48-0002, awarded January 12, 2021, as may be amended from time to time, the GLO administers grant funds as Community Development Block Grants (Catalog of Federal Domestic Assistance Number 14.228, "Community Development Block Grants/State's program and Non-Entitlement Grants in Hawaii"), as approved by the Texas Land Commissioner and limited to use for facilitating recovery efforts in Presidentially-declared major disaster areas.

ARTICLE I - GENERAL PROVISIONS

1.01 SCOPE OF PROJECT AND SUBAWARD

(a) **Scope of Project**

The purpose of this Contract is to set forth the terms and conditions of Subrecipient's participation in the CDBG-MIT program. In strict conformance with the terms and conditions of this Contract, Subrecipient shall perform, or cause to be performed, the Planning Activities defined in **Attachment A** (the "Project"). Subrecipient shall conduct the Project in strict accordance with this Contract, including all Contract Documents listed in **Section 1.02**, below, and any Amendments, Revisions, or Technical Guidance Letters issued by the GLO.

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(b) **Subaward**

Subrecipient submitted a Grant Application under the Program. The GLO enters into this Contract based on Subrecipient's approved Grant Application.

Subject to the terms and conditions of this Contract and Subrecipient's approved Grant Application, the GLO shall issue a subaward to Subrecipient in an amount not to exceed **$250,000.00**, payable as reimbursement of Subrecipient's allowable expenses, to be used in strict conformance with the terms of this Contract and the Performance Statement, Budget, and Benchmarks in **Attachment A**.

The GLO is not liable to Subrecipient for any costs Subrecipient incurs before the effective date of this Contract or after the expiration or termination of this Contract. The GLO, in its sole discretion, may reimburse Subrecipient for allowable costs incurred before the effective date of this Contract, in accordance with federal law.

1.02 CONTRACT DOCUMENTS

This Contract and the following Attachments, attached hereto and incorporated herein in their entirety for all purposes, shall govern this Contract:

ATTACHMENT A: Performance Statement, Budget, and Benchmarks

ATTACHMENT B: Federal Assurances and Certifications

ATTACHMENT C: General Affirmations

ATTACHMENT D: Nonexclusive List of Applicable Laws, Rules, and Regulations

ATTACHMENT E: GLO Information Security Appendix

ATTACHMENT F: Contract Reporting Template

1.03 GUIDANCE DOCUMENTS

Subrecipient is deemed to have read and understood, and shall abide by, all Guidance Documents applicable to the CDBG-MIT program, including, without limitation, the following:

(a) 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;

(b) the relevant Federal Register publications;

(c) the Action Plan;

(d) Other guidance posted at https://recovery.texas.gov/action-plans/mitigation/index.html;

(e) Other guidance posted at https://recovery.texas.gov/mitigation/programs/resilient-communities-program/index.html; and

(f) Other guidance posted at: https://www.hudexchange.info/.

All Guidance Documents identified herein are incorporated herein in their entirety for all purposes.

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1.04 DEFINITIONS

"Act" means Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. § 5301, et seq.).

"Action Plan" means the *State of Texas CDBG Mitigation (CDBG-MIT) Action Plan*, as amended, found at https://recovery.texas.gov/action-plans/mitigation/index.html.

"Activity" means a defined class of works or services eligible to be accomplished using CDBG-MIT funds. Activities are specified in Subrecipient's Performance Statement and Budget in **Attachment A**.

"Administrative and Audit Regulations" means all applicable statutes, regulations, and other laws governing administration or audit of this Contract, including Title 2, Part 200, of the Code of Federal Regulations and Chapters 321 and 2155 of the Texas Government Code.

"Advance Payment" means any payment issued by the GLO to Subrecipient before Subrecipient disburses awarded funds for Program purposes, as further defined at 2 C.F.R. § 200.1 and 2 C.F.R. § 200.305.

"Amendment" means a written agreement, signed by the Parties hereto, that documents alterations to the Contract other than those permitted by Technical Guidance Letters or Revisions, as herein defined.

"Application" or "Grant Application" means the information Subrecipient provided to the GLO that is the basis for the award of funding under this Contract.

"Attachment" means documents, terms, conditions, or additional information physically added to this Contract following the execution page or included by reference.

"Audit Certification Form" means the form, as specified in the GLO Guidance Documents, that Subrecipient will complete and submit to the GLO annually, in accordance with **Section 4.01** of this Contract, to identify Subrecipient's fiscal year expenditures.

"Benchmark" means the milestones identified in **Attachment A** that define actions and Deliverables required to be completed by Subrecipient for release of funding by the GLO throughout the life of the Contract.

"Budget" means the budget for the Activities funded by the Contract, a copy of which is included in **Attachment A.**

"CDBG-MIT" means the Community Development Block Grant Mitigation Program administered by the U.S. Department of Housing and Urban Development, in cooperation with the GLO.

"C.F.R." means the United States Code of Federal Regulations, the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States.

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"Comprehensive Plan" means a document that formalizes community goals and aspirations into actionable policies that govern the growth of a community, specifically what types of buildings can be built and where.

"Contract" means this entire document; any Attachments, both physical and incorporated by reference; and any Amendments, Revisions, or Technical Guidance Letters the GLO may issue, to be incorporated by reference herein for all purposes as they are issued.

"Contract Documents" means the documents listed in **Section 1.02**.

"Contract Period" means the period of time between the effective date of the Contract and its expiration or termination date.

"Deliverable" means a work product required to be submitted to the GLO as set forth in the Performance Statement and Benchmarks, which are included in **Attachment A**.

"Equipment" means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by Subrecipient for financial statement purposes or $10,000, as defined at 2 C.F.R. § 200.1.

"Event of Default" means the occurrence of any of the events set forth in **Section 3.03**, herein.

"Federal Assurances" means Standard Form 424B (for non-construction projects) or Standard Form 424D (for construction projects), as applicable, in **Attachment B,** attached hereto and incorporated herein for all purposes.

"Federal Certifications" means the document titled "Certification Regarding Lobbying – Compliant with Appendix A to 24 C.F.R. Part 87" and Standard Form LLL, "Disclosure of Lobbying Activities," also in **Attachment B**, attached hereto and incorporated herein for all purposes.

"Federal Register" means the official journal of the federal government of the United States that contains government agency rules, proposed rules, and public notices, including U.S. Department of Housing and Urban Development's Federal Register Notice 84 Fed. Reg. 45838 (August 30, 2019) and any other publication affecting CDBG-MIT funding allocations.

"Flood Damage Protection Ordinance" means the regulatory framework through which a community controls and manages flood risks within its jurisdiction.

"GAAP" means "generally accepted accounting principles."

"GASB" means accounting principles as defined by the Governmental Accounting Standards Board.

"General Affirmations" means the affirmations in **Attachment C**, which Subrecipient certifies by signing this Contract.

"GLO" means the Texas General Land Office and its officers, employees, and designees, acting in their official capacities.

"GLO Implementation Manual" means the manual created by the GLO for subrecipients of CDBG-MIT grant allocations to provide guidance and training on the policies and

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procedures required so that subrecipients can effectively implement CDBG-MIT programs and timely spend grant funds.

"Grant Completion Report" or "GCR" means a report containing an as-built accounting of all Activities completed under the Project and all information required for final acceptance of Deliverables and Contract closeout.

"Grant Manager" means the authorized representative of the GLO responsible for the day-to-day management of the Project and the direction of staff and independent contractors in the performance of work relating thereto.

"Guidance Documents" means the documents referenced in **Section 1.03**.

"Hazard Mitigation Plan" means a comprehensive document, developed by a community and approved by FEMA, that contains detailed information about the types of natural hazards a community faces and the actions a community can take to reduce their vulnerability to these natural hazards before they strike.

"HUD" means the United States Department of Housing and Urban Development.

"In-House Work Plan" means a plan developed for each selected Project Activity that includes, at a minimum, the Activity objective, a timeline with significant milestones such as community meetings, draft plans, written approval of the Activity, and a list of the department and staff responsible for the Activity tasks. In-House Work Plans will be outlined by the Grant Manager in the grant kick off meeting with Subrecipient and plan requirements written into the RCP standard operating procedures and the RCP Application Guide when those documents are created and updated.

"Intellectual Property" means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights and all applications and worldwide registration of such, schematics, industrial models, inventions, know-how, trade secrets, computer software programs, other intangible proprietary information, and all federal, state, or international registrations or applications for any of the foregoing.

"Land-Use Plan" means a document that formalizes the regulatory framework through which a community controls and manages land usage within its jurisdiction.

"MID" means "most impacted and distressed," referencing a geographical area identified by the State of Texas or HUD as an area that sustained significant damage from a major disaster.

"Performance Statement" means the statement of work for the Project in **Attachment A**, which includes specific Benchmarks and Activities, provides specific Project details and location(s), and lists Project beneficiaries.

"Planning" means an Activity performed to assist in determining community disaster recovery needs such as urban environmental design, flood control, drainage improvements, surge protection, or other recovery responses. Planning services cannot include engineering design.

"Program" means the CDBG-MIT program, administered by HUD and the GLO.

"Project" means the work to be performed under this Contract, as described in **Section 1.01(a)** and **Attachment A.**

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"Public Information Act" or "PIA" means Chapter 552 of the Texas Government Code.

"Resilient Communities Program" or "RCP" means the program administered by the GLO through which funds are awarded to Subrecipients to assist them in developing, updating, adopting, and implementing modern and resilient codes, plans, and ordinances to ensure that structures built within Subrecipient's community can withstand future hazards.

"Resilient Communities Program Application Guide" or "RCP Application Guide" means the GLO's guidance document that outlines the program requirements of the GLO's RCP.

"Revision" means the GLO's written approval of changes to Deliverable due dates, movement of funds among budget categories, and other Contract adjustments the GLO may approve without a formal Amendment.

"Start-Up Documentation" means the documents identified in the RCP Application Guide or by the Grant Manager that must be completed and/or submitted to the GLO as specified in **Section 4.01**, below, before the GLO may reimburse Subrecipient for any invoiced expenses.

"Subrecipient" means City of Nacogdoches, a recipient of federal CDBG-MIT funds through the GLO as the pass-through funding agency. Subrecipient may also be referred to as "Provider" herein.

"Technical Guidance Letter" or "TGL" means an instruction, clarification, or interpretation of the requirements of this Contract or the CDBG-MIT Program that is issued by the GLO and provided to Subrecipient, applicable to specific subject matters pertaining to this Contract, and to which Subrecipient shall be subject as of a specific date.

"Texas Integrated Grant Reporting System" or "TIGR" means the GLO system of record for documenting and reporting the use of grant funding.

"U.S.C." means the United States Code.

"Zoning Ordinance" means a regulatory framework through which a community may control and manage how property in specific geographic zones can be used.

1.05 INTERPRETIVE PROVISIONS

(a) The meaning of a defined term applies to its singular and plural forms.

(b) The words "hereof," "herein," "hereunder," and similar words refer to this Contract as a whole and not to any particular provision, section, Attachment, or schedule of this Contract unless otherwise specified.

(c) The term "including" means "including, without limitation."

(d) Unless otherwise expressly provided, a reference to a contract includes subsequent amendments and other modifications thereto that were executed according to the contract's terms and a reference to a statute, regulation, ordinance, or other law includes subsequent amendments, renumbering, recodification, and other modifications thereto made by the enacting authority.

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(e) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract.

(f) The limitations, regulations, and policies contained herein are cumulative and each must be performed in accordance with its terms without regard to other limitations, regulations, and policies affecting the same matter.

(g) Unless otherwise expressly provided, reference to any GLO action by way of consent, approval, or waiver is deemed modified by the phrase "in its sole discretion." Notwithstanding the preceding, the GLO shall not unreasonably withhold or delay any consent, approval, or waiver required or requested of it.

(h) All due dates and/or deadlines referenced in this Contract that occur on a weekend or holiday shall be considered as if occurring on the next business day.

(i) All time periods in this Contract shall commence on the day after the date on which the applicable event occurred, report is submitted, or request is received.

(j) Time is of the essence in this Contract.

(k) In the event of conflicts or inconsistencies between this Contract, its Attachments, federal and state requirements, and any documents incorporated herein by reference, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: all applicable laws, rules, and regulations, including, but not limited to, those included in **Attachment D**; the Contract; **Attachment A**; **Attachment B**; **Attachment C**; **Attachment E**; **Attachment F**; applicable Guidance Documents; and the GLO Implementation Manual. Conflicts or inconsistencies between GLO Implementation Manual and this Contract; any laws, rules, or regulations; or any of the Guidance Documents should be reported to the GLO for clarification of the GLO Implementation Manual.

ARTICLE II – REIMBURSEMENT, EXPENDITURES, AND PROGRAM INCOME

2.01 REIMBURSEMENT REQUESTS

Each invoice submitted by Subrecipient shall be supported by actual receipts, cancelled checks, and/or such other documentation that, in the judgment of the GLO, allows for full substantiation of the costs incurred. Requests for payment must be submitted via the GLO's Texas Integrated Grant Reporting (TIGR) system of record or as otherwise specified in a Technical Guidance Letter issued under this Contract.

Subrecipient will be paid in accordance with the Contract Budget and the Benchmarks described in **Attachment A**. Failure by Subrecipient to perform any action or submit any Deliverable as described in **Attachment A** could result in the GLO placing a hold on further Subrecipient draws, conducting an official monitoring risk assessment, or requiring repayment, in part or in full, by Subrecipient of drawn funds in addition to other remedies provided to the GLO under this Contract.

A draw request for an Advance Payment must be supported with documentation clearly demonstrating that the Advance Payment is required by Subrecipient in order for Subrecipient to continue carrying out the purpose of the Project.

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2.02 TIMELY EXPENDITURES

In accordance with the Federal Register and to ensure timely expenditure of grant funds, Subrecipient shall submit reimbursement requests under this Contract, at a minimum, quarterly.

THE GLO MUST RECEIVE A REIMBURSEMENT REQUEST FOR AN INCURRED EXPENSE NOT LATER THAN ONE HUNDRED TWENTY (120) DAYS FROM THE DATE SUBRECIPIENT OR ANY OF ITS SUBCONTRACTORS INCUR THE EXPENSE. THE GLO MAY, IN ITS SOLE DISCRETION, DENY REIMBURSEMENT REQUESTS THAT DO NOT MEET THIS REQUIREMENT, ISSUE DELINQUENCY NOTICES, WITHHOLD CAPACITY POINTS ON FUTURE FUNDING COMPETITIONS, IMPOSE A MONITORING REVIEW OF SUBRECIPIENT'S ACTIVITIES, OR IMPLEMENT OTHER CORRECTIVE ACTIONS.

Unless otherwise instructed in this Section, Subrecipient shall submit final reimbursement requests to the GLO prior to Contract expiration or within thirty (30) days after the date of Contract termination. The GLO, in its sole discretion, may deny payment and de-obligate remaining funds from the Contract upon expiration or termination of the Contract. The GLO's ability to de-obligate funds under this **Section 2.02** notwithstanding, the GLO shall pay all eligible reimbursement requests that are timely submitted.

2.03 PROGRAM INCOME

In accordance with 24 C.F.R. § 570.489(e), Subrecipient shall maintain records of the receipt and accrual of all program income, as "program income" is defined in that section. Subrecipient shall report program income to the GLO in accordance with **Article IV** of this Contract. Subrecipient shall return all program income to the GLO at least quarterly unless otherwise authorized by the GLO in writing. Any GLO-authorized use of Program Income by Subrecipient shall be subject to GLO, HUD, and statutory restrictions and requirements.

ARTICLE III - DURATION, EXTENSION, AND TERMINATION OF CONTRACT

3.01 DURATION OF CONTRACT AND EXTENSION OF TERM

This Contract shall become effective on the date on which it is signed by the last Party and shall terminate on **September 30, 2029**, or upon the completion of all Benchmarks listed in **Attachment A** and required closeout procedures, whichever occurs first. **Subrecipient must meet all Project Benchmarks identified in Attachment A. Subrecipient's failure to meet any Benchmark may result in suspension of payment or termination under Sections 3.02, 3.03, or 3.04, below**.

Upon receipt of a written request and acceptable justification from Subrecipient, the GLO, at its discretion, may agree to amend this Contract to extend the Contract Period for up to two (2) additional one-year terms. **ANY REQUEST FOR EXTENSION MUST BE RECEIVED BY THE GLO AT LEAST SIXTY (60) DAYS BEFORE THE ORIGINAL TERMINATION DATE OF THIS CONTRACT AND, IF APPROVED, SUCH EXTENSION SHALL BE DOCUMENTED IN A WRITTEN AMENDMENT.**

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3.02 EARLY TERMINATION

The GLO may terminate this Contract by giving written notice specifying a termination date at least thirty (30) days after the date of the notice. Upon receipt of such notice, Subrecipient shall cease work, terminate any subcontracts, and incur no further expense related to this Contract. Such early termination shall be subject to the equitable settlement of the respective interests of the Parties, accrued up to the date of termination.

3.03 EVENTS OF DEFAULT

Each of the following events shall constitute an Event of Default under this Contract: (a) Subrecipient fails to comply with any term, covenant, or provision contained in this Contract; (b) Subrecipient makes a general assignment for the benefit of creditors or takes any similar action for the protection or benefit of creditors; or (c) Subrecipient makes a materially incorrect representation or warranty in a Performance Statement, a reimbursement request for payment, or any report submitted to the GLO under the Contract. Prior to a determination of an Event of Default, the GLO shall allow a thirty (30) day period to cure any deficiency or potential cause of an Event of Default. The GLO may extend the time allowed to cure any deficiency or potential cause of an Event of Default. The GLO shall not arbitrarily withhold approval of an extension of the time allowed to cure a deficiency or potential cause of an Event of Default. In no event shall the amount of time allowed to cure a deficiency or potential cause of an Event of Default extend beyond the Contract Period.

3.04 REMEDIES; NO WAIVER

Upon the occurrence of any Event of Default, the GLO may avail itself of any equitable or legal remedy available to it, including without limitation, withholding payment, disallowing all or part of noncompliant Activities, or suspending or terminating the Contract.

The Parties' rights or remedies under this Contract are not intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Contract, or hereafter legally existing, upon the occurrence of an Event of Default. The GLO's failure to insist upon the strict observance or performance of any of the provisions of this Contract or to exercise any right or remedy provided in this Contract shall not impair, waive, or relinquish any such right or remedy with respect to another Event of Default.

3.05 REVERSION OF ASSETS

Upon expiration or termination of the Contract and subject to this Article:

(a) If applicable, Subrecipient shall transfer to the GLO any CDBG-MIT funds Subrecipient has in its possession at the time of expiration or termination that are not attributable to work performed on the Project and any accounts receivable attributable to the use of CDBG-MIT funds awarded under this Contract; and

(b) If applicable, real property under Subrecipient's control that was acquired or improved, in whole or in part, with funds in excess of $25,000 under this Contract shall be used to meet one of the CDBG-MIT National Objectives pursuant to 24

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C.F.R. § 570.208, as identified in the Action Plan, until five (5) years after the expiration of this Contract or such longer period of time as the GLO deems appropriate. If Subrecipient fails to use the CDBG-MIT funded real property in a manner that meets a CDBG-MIT National Objective for the prescribed period of time, Subrecipient shall pay the GLO an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG-MIT funds for acquisition of, or improvement to, the property. Subrecipient may retain real property acquired or improved under this Contract after the expiration of the five-year period or such longer period of time as the GLO deems appropriate.

ARTICLE IV - CONTRACT ADMINISTRATION

4.01 SUBMISSIONS – GENERALLY

Except for legal notices that must be sent by specific instructions pursuant to **Section 8.12** of the Contract, any report, form, document, or request required to be submitted to the GLO under this Contract shall be sent in the format prescribed by the GLO.

If Subrecipient fails to submit to the GLO any required Program documentation in a timely and satisfactory manner as required under this Contract, the GLO, in its sole discretion, may issue a delinquency notification and withhold any payments, pending Subrecipient's correction of the deficiency.

(a) **Start-Up Documentation**

Not later than the close of business sixty (60) calendar days after the effective date of this Contract, Subrecipient must submit its Start-Up Documentation to the GLO.

(b) **Audit Certification Form**

Not later than the close of business sixty (60) calendar days after the end of Subrecipient's fiscal year for each year during the Contract term, Subrecipient must submit a completed Audit Certification Form to the GLO.

(c) **Other Forms**

In conformance with required state and federal laws applicable to the Contract:

(i) Subrecipient certifies, by the execution of this Contract, all applicable statements in **Attachment C,** General Affirmations;

(ii) Subrecipient must execute Standard Form 424B, Federal Assurances for Non-Construction Programs, found at Page 1 of **Attachment B**;

(iii) Subrecipient must execute the "Certification Regarding Lobbying Compliant with Appendix A to 24 C.F.R. Part 87," found at Page 3 of **Attachment B**; and

(iv) If any funds granted under this Contract have been used for lobbying purposes, Subrecipient must complete and execute Standard Form LLL, "Disclosure of Lobbying Activities," found at Page 4 of **Attachment B**.

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4.02 REPORTING REQUIREMENTS

Subrecipient shall submit any requested reports to the GLO through the TIGR system as prescribed in **Attachment A** or as specified by the GLO Grant Manager.

4.03 HUD CONTRACT REPORTING REQUIREMENT

HUD requires the GLO to maintain a public website that accounts for the use and administration of all GLO-administered CDBG-MIT grant funds. To assist the GLO in meeting this requirement, Subrecipient must prepare and submit monthly to the GLO a written summary of all contracts procured by Subrecipient using grant funds awarded under this Contract. Subrecipient shall only report contracts as defined in 2 C.F.R. § 200.1. Subrecipient must use the template in **Attachment F** to prepare the monthly reports. On or before the fifth day of each month during the Contract Period, reports summarizing required information for the preceding month shall be submitted through the TIGR system as prescribed in **Attachment F** or as specified by the GLO Grant Manager. Additional information about this reporting requirement is available in published HUD guidance and Federal Register publications governing the CDBG-MIT funding allocation.

ARTICLE V - FEDERAL AND STATE FUNDING, RECAPTURE OF FUNDS, AND OVERPAYMENT

5.01 FEDERAL FUNDING

(a) Funding for this Contract is appropriated under the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018) (Public Law 115-123), enacted on February 9, 2018, for necessary expenses for Activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 et seq.) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, mitigation, and affirmatively furthering fair housing, in accordance with Executive Order 12892, in the most impacted and distressed areas resulting from major declared disasters that occurred in 2015, 2016, and 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121 et seq.). The fulfillment of this Contract is based on those funds being made available to the GLO as the lead administrative state agency. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the CDBG-MIT Program, and any other applicable laws. **All funds disbursed under this Contract are subject to recapture and repayment for non-compliance.**

(b) **Subrecipient must have an assigned Unique Entity Identifier (UEID). Subrecipient must report its UEID to the GLO for use in various reporting documents.** A UEID may be obtained by visiting the System for Award Management website at https://www.sam.gov. **Subrecipient is responsible for renewing its registration with the System for Award Management annually and maintaining an active registration status throughout the Contract Period**.

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5.02 STATE FUNDING

(a) This Contract shall not be construed as creating any debt on behalf of the State of Texas or the GLO in violation of Article III, Section 49, of the Texas Constitution. The GLO's obligations hereunder are subject to the availability of state funds. If adequate funds are not appropriated or become unavailable, the GLO may terminate this Contract. In that event, the Parties shall be discharged from further obligations, subject to the equitable settlement of their interests accrued up to the date of termination.

(b) Any claim by Subrecipient for damages under this Contract may not exceed the amount of payment due and owing Subrecipient or the amount of funds appropriated for payment but not yet paid to Subrecipient under this Contract. Nothing in this provision shall be construed as a waiver of the GLO's sovereign immunity.

5.03 RECAPTURE OF FUNDS

Subrecipient shall conduct, in a satisfactory manner as determined by the GLO, the Activities as set forth in the Contract. The discretionary right of the GLO to terminate for convenience under **Section 3.02** notwithstanding, the GLO may terminate the Contract and recapture, and be reimbursed by Subrecipient for, any payments made by the GLO (a) that exceed the maximum allowable HUD rate; (b) that are not allowed under applicable laws, rules, and regulations; or (c) that are otherwise inconsistent with this Contract, including any unapproved expenditures. **This recapture provision applies to any funds expended for the Project or any Activity that is not eligible under CDBG-MIT regulations.**

5.04 OVERPAYMENT AND DISALLOWED COSTS

Subrecipient shall be liable to the GLO for any costs disallowed pursuant to financial and/or compliance audit(s) of funds Subrecipient received under this Contract. Subrecipient shall reimburse the GLO for such disallowed costs from funds that were not provided or otherwise made available to Subrecipient under this Contract. Subrecipient must refund disallowed costs and overpayments of funds received under this Contract to the GLO within 30 days after the GLO issues notice of overpayment to Subrecipient.

ARTICLE VI - INTELLECTUAL PROPERTY

6.01 OWNERSHIP AND USE

(a) The Parties shall jointly own all right, title, and interest in and to all reports, drafts of reports, or other material, data, drawings, computer programs and codes associated with this Contract, and/or any copyright or other intellectual property rights, and any material or information developed and/or required to be delivered under this Contract, with each Party having the right to use, reproduce, or publish any or all of such information and other materials without obtaining permission from the other Party, subject to any other restrictions on publication outlined in this Contract, and without expense or charge.

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(b) Subrecipient grants the GLO and HUD a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for U.S. Government purposes, all reports, drafts of reports, or other material, data, drawings, computer programs, and codes associated with this Contract, and/or any copyright or other intellectual property rights, and any material or information developed and/or required to be delivered under this Contract.

6.02 NON-ENDORSEMENT BY STATE AND THE UNITED STATES

Subrecipient shall not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still or motion pictures, articles, manuscripts, or other publications) that states or implies the GLO, the State of Texas, U.S. Government, or any government employee, endorses a product, service, or position Subrecipient represents. Subrecipient may not release information relating to this Contract or state or imply that the GLO, the State of Texas, or the U.S. Government approves of Subrecipient's work products or considers Subrecipient's work product to be superior to other products or services.

6.03 DISCLAIMER REQUIRED

On all public information releases issued pursuant to this Contract, Subrecipient shall include a disclaimer stating that the funds for this Project are provided by Subrecipient and the Texas General Land Office through HUD's CDBG-MIT Program.

ARTICLE VII - RECORDS, AUDIT, AND RETENTION

7.01 BOOKS AND RECORDS

Subrecipient shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary for fully disclosing to the GLO, the Texas State Auditor's Office, the United States Government, and/or their authorized representatives sufficient information to determine Subrecipient's compliance with this Contract and all applicable laws, statutes, rules, and regulations, including the applicable laws and regulations provided in **Attachment D**.

7.02 INSPECTION AND AUDIT

(a) All records related to this Contract, including records of Subrecipient and its subcontractors, shall be subject to the Administrative and Audit Regulations. Accordingly, such records and work product shall be subject, at any time, to inspection, examination, audit, and copying at Subrecipient's primary location or any location where such records and work product may be found, with or without notice from the GLO or other government entity with necessary legal authority. Subrecipient shall cooperate fully with any federal or state entity in the conduct of inspection, examination, audit, and copying, including providing all information requested. Subrecipient will ensure that this clause concerning federal and state entities' authority to inspect, examine, audit, and copy records and work product,

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and the requirement to fully cooperate with the federal and state entities, is included in any subcontract it awards.

(b) 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 the 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. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. **The Office of the Comptroller General of the United States, the Government Accountability Office, the Office of Inspector General, or any authorized representative of the U.S. Government shall also have this right of inspection.** Subrecipient shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Subrecipient and the requirement to cooperate is included in any subcontract it awards.

(c) Subrecipient will be deemed to have read and know of all applicable federal, state, and local laws, regulations, and rules pertaining to the Project, including those identified in **Attachment D**, governing audit requirements.

(d) At any time, the GLO may perform, or instruct a for-profit Subrecipient to perform, an annual Program-specific, fiscal, special, or targeted audit of any aspect of Subrecipient's operation. Subrecipient shall maintain financial and other records prescribed by the GLO or by applicable federal or state laws, rules, and regulations.

7.03 PERIOD OF RETENTION

All records relevant to this Contract shall be retained for a period of three (3) years subsequent to the final closeout of the overall State of Texas CDBG-MIT grant, in accordance with federal regulations. **The GLO will notify all Program participants of the date upon which local records may be destroyed.**

ARTICLE VIII - MISCELLANEOUS PROVISIONS

8.01 LEGAL OBLIGATIONS

For the duration of this Contract, Subrecipient shall procure and maintain any license, authorization, insurance, waiver, permit, qualification, or certification required by federal, state, county, or city statute, ordinance, law, or regulation to be held by Subrecipient to provide the goods or services required by this Contract. Subrecipient shall pay all costs associated with all taxes, assessments, fees, premiums, permits, and licenses required by law. Subrecipient shall pay any such government obligations not paid by its subcontractors during performance of this Contract. Subrecipient shall maintain copies of such licenses and permits as a part of its local records in accordance with **Section 7.01** of this Contract or as otherwise specifically directed by the GLO.

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8.02 INDEMNITY

As required under the Constitution and laws of the State of Texas, each Party understands that it is solely liable for any liability resulting from its acts or omissions. No act or omission of a Party shall be imputed to the other Party. Neither Party shall indemnify or defend the other Party.

8.03 INSURANCE AND BOND REQUIREMENTS

(a) Unless Subrecipient is authorized by Chapter 2259 of the Texas Government Code to self-insure, Subrecipient shall carry insurance for the duration of this Contract in types and amounts necessary and appropriate for the Project.

(b) Subrecipient shall require all contractors, subcontractors, vendors, service providers, or any other person or entity performing work described in **Attachment A** to carry insurance for the duration of the Project in the types and amounts customarily carried by a person or entity providing such goods or services. Subrecipient shall require any person or entity required to obtain insurance under this section to complete and file the declaration pages from the insurance policies with Subrecipient whenever a previously identified policy period expires during the term of Subrecipient's contract with the person or entity, as proof of continuing coverage. Subrecipient's contract with any such person or entity shall clearly state that acceptance of the insurance policy declaration pages by Subrecipient shall not relieve or decrease the liability of the person or entity. **Persons or entities shall be required to update all expired policies before Subrecipient's acceptance of an invoice for monthly payment from such parties**.

8.04 ASSIGNMENT AND SUBCONTRACTS

Subrecipient must not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the GLO's prior written consent. Any attempted assignment, transfer, or delegation in violation of this provision is void and without effect. Notwithstanding this provision, it is mutually understood and agreed that Subrecipient may subcontract with others for some or all of the services to be performed under this Contract. In any approved subcontracts, Subrecipient must legally bind the subcontractor to perform and make such subcontractor subject to all the duties, requirements, and obligations of Subrecipient as specified in this Contract. Nothing in this Contract shall be construed to relieve Subrecipient of the responsibility for ensuring that the goods delivered and/or the services rendered by Subrecipient and/or any of its subcontractors comply with all the terms and provisions of this Contract.

For subcontracts to which Federal Labor Standards requirements apply, Subrecipient shall submit to the GLO all documentation required to ensure compliance. Subrecipient shall retain five percent (5%) of the payment due under each of Subrecipient's construction or rehabilitation subcontracts until the GLO determines that the Federal Labor Standards requirements applicable to each such subcontract have been satisfied.

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8.05 PROCUREMENT

Subrecipient must comply with applicable procurement procedures stated at 2 C.F.R. §§ 200.318 through 200.327 and all other applicable federal, state, and local procurement procedures and laws, regulations, and rules. Failure to comply with applicable procurement procedures and laws, regulations, and rules could result in recapture of funds. Subrecipient must confirm that its vendors and subcontractors are not debarred from receiving state or federal funds at each of the following web addresses:

(a) the Texas Comptroller's Vendor Performance Program at https://comptroller.texas.gov/purchasing/; and

(b) the U.S. General Services Administration's System for Award Management at https://www.sam.gov/.

8.06 CHILD SUPPORT OBLIGATION

Subrecipient represents and warrants that it will include the following clause in the award and contract documents for every subaward and subcontract and will require subawardees and subcontractors to certify accordingly: "Under Section 231.006 of the Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application."

8.07 SUBAWARD AND SUBCONTRACT MONITORING

Subrecipient represents and warrants that it will monitor the activities of any subawardee as necessary to ensure that the subaward is used for authorized purposes, in compliance with applicable statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved. Subrecipient represents and warrants that it will monitor the activities of any subcontractor as necessary to ensure that subcontract funds are used for authorized purposes, in compliance with applicable statutes, regulations, and the terms and conditions of the subcontract, and that subcontract performance goals are achieved.

8.08 EQUIPMENT AND COMPUTER SOFTWARE

Any purchase of Equipment or computer software made pursuant to this Contract shall be made in accordance with all applicable laws, regulations, and rules, including those defined in 2 C.F.R. § 200.313.

In accordance with 24 C.F.R. § 570.502(a), if Equipment is acquired, in whole or in part, with funds under this Contract and is then sold, the proceeds shall be considered program income, as defined in **Section 2.03** above. Equipment not needed by Subrecipient for Activities under this Contract shall be (a) transferred to the GLO for the CDBG-MIT or (b) retained by Subrecipient after compensating the GLO an amount equal to the current

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fair market value of the Equipment less the percentage of non-CDBG-MIT funds used to acquire the Equipment.

8.09 COMMUNICATION WITH THIRD PARTIES

The GLO and the authorities named in **Article VII**, above, may initiate communications with any subcontractor of Subrecipient, and may request access to any books, documents, personnel, papers, and records of a subcontractor which are pertinent to this Contract. Such communications may be required to conduct audits, examinations, Davis-Bacon Labor Standards interviews, and gather additional information as provided in **Article VII** herein.

8.10 RELATIONSHIP OF THE PARTIES

Subrecipient is associated with the GLO only for the purposes and to the extent specified in this Contract. Subrecipient is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract creates a partnership or joint venture, an employer-employee or principal-agent relationship, or any liability whatsoever with respect to the indebtedness, liabilities, or obligations of Subrecipient or any other party. Subrecipient shall be solely responsible for, and the GLO shall have no obligation with respect to, the following: the withholding of income taxes, FICA, or any other taxes or fees; industrial or workers' compensation insurance coverage; participation in any group insurance plans available to employees of the State of Texas; participation or contributions by the State of Texas to the State Employees Retirement System; accumulation of vacation leave or sick leave; or unemployment compensation coverage provided by the State of Texas.

8.11 COMPLIANCE WITH OTHER LAWS

In the performance of this Contract, Subrecipient must comply, and must ensure the compliance of its subawardees and contracts, with all applicable federal, state, and local laws, statutes, ordinances, and regulations, including those listed in **Attachments B, C,** and **D**, and policies in effect or hereafter established. Subrecipient is deemed to know of and understand all applicable laws, statutes, ordinances, and regulations affecting its performance under this Contract. In addition, Subrecipient represents and warrants that it will comply with all requirements imposed by the awarding agency concerning special requirements of law, program requirements, and other administrative requirements. In instances where multiple requirements apply to Subrecipient, the more restrictive requirement applies.

8.12 NOTICES

Any notices required under this Contract shall be deemed delivered when deposited either in the United States mail (certified, postage paid, return receipt requested) or with a common carrier (overnight, signature required) to the appropriate address below.

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GLO
Texas General Land Office
1700 North Congress Avenue, 7th Floor
Austin, Texas 78701
Attention: Contract Management Department

Subrecipient
City of Nacogdoches
202 East Pilar Street
Nacogdoches, Texas 75961
Attention: Richard Beverlin

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for notice by written notice to the other Party sent in accordance with this section.

8.13 GOVERNING LAW AND VENUE

This Contract and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract shall be in a court of competent jurisdiction in Travis County, Texas. Subrecipient irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of *forum non conveniens*, that it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction with respect to this Contract or any related document. **NOTHING IN THIS CONTRACT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**

8.14 SEVERABILITY

If a court of competent jurisdiction determines any provision of this Contract is invalid, void, or unenforceable, the remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

8.15 DISPUTE RESOLUTION

Except as otherwise provided by statute, rule or regulation, Subrecipient shall use the dispute resolution process established in Chapter 2260 of the Texas Government Code and related rules to attempt to resolve any dispute under this Contract, including a claim for breach of contract by the GLO, that the Parties cannot resolve in the ordinary course of business. Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of such a claim constitutes grounds for Subrecipient to suspend performance of this Contract. Notwithstanding this provision, the GLO reserves all legal and equitable rights and remedies available to it. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF THE GLO'S SOVEREIGN IMMUNITY.**

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8.16 CONFIDENTIALITY

To the extent permitted by law, Subrecipient and the GLO shall keep all information, in whatever form produced, prepared, observed, or received by Subrecipient or the GLO, confidential to the extent that such information is: (a) confidential by law; (b) marked or designated "confidential" (or words to that effect) by Subrecipient or the GLO; or (c) information that Subrecipient or the GLO is otherwise required to keep confidential by this Contract. Subrecipient must not make any communications or announcements relating to this Contract through press releases, social media, or other public relations efforts without the prior written consent of the GLO.

8.17 PUBLIC RECORDS

The GLO shall post this Contract to the GLO's website. Subrecipient understands that the GLO will comply with the Texas Public Information Act (Texas Government Code Chapter 552, the "PIA"), as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas (the "Attorney General"). Information, documentation, and other material in connection with this Contract may be subject to public disclosure pursuant to the PIA. Subrecipient is required to make any information created or exchanged with the GLO or the State of Texas pursuant to the Contract, and not otherwise excepted from disclosure under the PIA, available to the GLO in portable document file (".pdf") format or any other format agreed upon between the Parties that is accessible by the public at no additional charge to the GLO or the State of Texas. By failing to mark any information that Subrecipient believes to be excepted from disclosure as "confidential" or a "trade secret," Subrecipient waives any and all claims it may make against the GLO for releasing such information without prior notice to Subrecipient. The Attorney General will ultimately determine whether any information may be withheld from release under the PIA. Subrecipient shall notify the GLO's Office of General Counsel within twenty-four (24) hours of receipt of any third-party written requests for information and forward a copy of said written requests to PIALegal@glo.texas.gov. If a request for information was not written, Subrecipient shall forward the third party's contact information to the above-designated e-mail address.

8.18 AMENDMENTS TO THE CONTRACT

Amendments to decrease or increase the subaward, to add or delete an Activity as allowed by the Guidance Documents, to extend the term of the Contract, and/or to make other substantial changes to the Contract may be made only by written agreement of the Parties under the formal Amendment process outlined below, except that, upon completion of the Project, the GLO shall issue a closeout letter pursuant to **Section 8.24**. The formal Amendment process requires official request documentation from Subrecipient detailing all provisions to be amended and supporting documentation as required. The GLO Grant Manager will confirm and review the request and, as appropriate, submit the proposed amended language or amount to the GLO's Contract Management Department for the preparation of a formal Amendment and circulation for necessary GLO and Subrecipient signatures. In the sole discretion of the GLO and in conformance with federal law, the GLO may approve other adjustments required by the GLO during Project performance through a Revision or Technical Guidance Letter

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unilaterally issued by the GLO and acknowledged by Subrecipient. Such GLO approvals must be in writing and may be delivered by U.S. mail or electronic mail.

8.19 ENTIRE CONTRACT AND MODIFICATIONS

This Contract, its Attachments, and any Amendment(s), Technical Guidance Letter(s), and/or Revision(s) issued in conjunction with this Contract, if any, constitute the entire agreement of the Parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements made in connection with the subject matter hereof. Any additional or conflicting terms in issued Attachments, Technical Guidance Letters, and/or Revisions shall be harmonized with this Contract to the extent possible. Unless an Attachment, Technical Guidance Letter, or Revision specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language shall be construed consistently with the Contract.

8.20 PROPER AUTHORITY

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to legally bind its respective entity. If applicable, a resolution, motion, or similar action has been duly adopted or passed as an official act of Subrecipient's governing body, authorizing the filing of the grant Application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative or the designee of Subrecipient to act in connection with the Application and to provide such additional information as may be required.

8.21 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall together constitute but one and the same Contract.

8.22 SURVIVAL

The provisions of **Articles V, VI,** and **VII** and **Sections 1.01, 1.03, 2.02, 2.03, 3.02, 3.04, 3.05, 8.03, 8.04, 8.10, 8.11, 8.12, 8.13, 8.14, 8.16, 8.17, 8.18, 8.19, 8.23, 8.24,** and **8.29** of this Contract and any other continuing obligations of Subrecipient shall survive the termination or expiration of this Contract.

8.23 CONTRACT CLOSEOUT

Upon completion of all Activities required for the Contract and submittal of the final reimbursement request, the GLO will close the contract in accordance with 2 C.F.R. §§ 200.344 through 200.346 and GLO CDBG-MIT guidelines consistent therewith.

SUBRECIPIENT SHALL SUBMIT A FINAL BUDGET AND ACTUAL EXPENDITURES TO THE GLO PRIOR TO CONTRACT EXPIRATION OR WITHIN THIRTY (30) DAYS OF CONTRACT TERMINATION OR AT THE CONCLUSION OF ALL CONTRACT ACTIVITIES, WHICHEVER OCCURS FIRST. FAILURE TO SUBMIT THE FINAL BUDGET AND ACTUAL EXPENDITURES TO THE GLO IN ACCORDANCE WITH THIS SECTION MAY RESULT IN FORFEITURE AND

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DE-OBLIGATION OF ALL REMAINING UNREQUESTED FUNDS, AT THE GLO'S SOLE DISCRETION.

The GLO will provide Subrecipient an official grant closeout letter upon satisfaction of all Project requirements.

8.24 INDIRECT COST RATES

Unless, under the terms of 2 C.F.R. Part 200, Appendix V, Subrecipient has negotiated or does negotiate an indirect cost rate with the federal government, subject to periodic renegotiations of the rate during the Contract Period, or is exempt from such negotiations and has developed and maintains an auditable central service cost allocation plan, Subrecipient's *de minimis* indirect cost rate shall be set according to 2 C.F.R. § 200.414(f).

8.25 CONFLICT OF INTEREST

(a) Subrecipient shall abide by the provisions of this section and include the provisions in all subcontracts. Subrecipient shall comply with all conflict-of-interest laws and regulations applicable to the Program.

(b) Subrecipient shall maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.

(c) Subrecipient represents and warrants that performance under the Contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. Further, Subrecipient represents and warrants that, in the administration of the grant, it will comply with all conflict-of-interest prohibitions and disclosure requirements required by applicable law, rules, and policies, including Chapter 176 of the Texas Local Government Code, if applicable. If circumstances change during the course of the Contract, Subrecipient shall promptly notify the GLO.

8.26 FORCE MAJEURE

Except with respect to the obligation of payments under this Contract, if either of the Parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected Party (collectively referred to as "Force Majeure"), then, while compliance is so prevented, the affected Party's obligation to comply with such covenant shall be suspended, and the affected Party shall not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure must promptly notify the other Party of the Force Majeure event in writing, and, if possible, such notice must set forth the extent and duration of the Force Majeure. The Party claiming Force Majeure must exercise due diligence to prevent, eliminate, or overcome such Force Majeure event when it is possible to do so and must resume performance at the earliest possible date. However, if nonperformance continues for more

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than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Subrecipient.

8.27 CITIZEN PARTICIPATION AND ALTERNATIVE REQUIREMENTS

(a) Subrecipient must ensure that all citizens have equal and ongoing access to information about an Activity or the Project, including ensuring that Activity or Project information is available in the appropriate languages for the geographical area served by Subrecipient.

(b) Complaint Procedures: Subrecipient must prepare as part of its Start Up Documentation and maintain written citizen-complaint procedures for providing a timely written response (within fifteen [15] working days) to complaints and grievances. Subrecipient shall notify citizens of the location and the days and hours when the location is open for business so they may obtain a copy of these written procedures.

(c) Subrecipient shall timely respond to all submitted, written citizen complaints, in accordance with its published complaint procedures. Subrecipient shall maintain a citizen participation file that includes a copy of Subrecipient's complaint procedures, documentation and evidence of opportunities provided for citizen participation (e.g., public notices, advertisements, flyers, etc.), documentation of citizen participation events (e.g., meeting minutes, attendance lists, sign-in sheets, news reports, etc.), and documentation of any complaints, responses to complaints, and technical assistance requested and/or provided.

8.28 PREFERENCE AND PROCUREMENT OF MATERIALS

To the extent applicable, Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired in the following manner:

(a) competitively within a timeframe allowing compliance with the Contract's performance schedule;

(b) in a way that meets the Contract's performance requirements; or

(c) at a reasonable price.

To ensure maximum use of recovered/recycled materials pursuant to 2 C.F.R. § 200.323, information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guideline Program website, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

8.29 INFORMATION AND DATA SECURITY STANDARDS

Subrecipient shall comply with all terms specified in the **GLO Information Security Appendix**, incorporated herein for all purposes as **Attachment E**.

8.30 CYBERSECURITY TRAINING PROGRAM (LOCAL GOVERNMENT SYSTEM)

If Subrecipient is a local government as defined in Chapter 2054 of the Texas Government Code, Subrecipient represents and warrants its compliance with Section

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2054.5191 of the Texas Government Code relating to the cybersecurity training program for local government employees who have access to a local government computer system or database.

8.31 DISCLOSURE PROTECTIONS FOR CERTAIN CHARITABLE ORGANIZATIONS, CHARITABLE TRUSTS, AND PRIVATE FOUNDATIONS

If Subrecipient is a governmental entity as defined in Chapter 2252 of the Texas Government Code, Subrecipient represents and warrants that it will comply with Section 2252.906 of the Texas Government Code relating to disclosure protections for certain charitable organizations, charitable trusts, and private foundations.

8.32 LIMITATIONS ON GRANT EXPENDITURE

Subrecipient shall expend funds received under the grant or contract subject to the limitations and reporting requirements similar to those provided by the following:

(a) Parts 2, 3, and 5 of the Texas General Appropriations Act, Article IX, except there is no requirement for increased salaries for local government employees;

(b) Sections 556.004, 556.005, and 556.006 of the Texas Government Code; and

(c) Sections 2113.012 and 2113.101 of the Texas Government Code.

8.33 LOBBYING EXPENDITURE RESTRICTION

Subrecipient represents and warrants that the GLO's payments to Subrecipient and Subrecipient's receipt of appropriated or other funds under the Contract are not prohibited by Sections 403.1067 or 556.0055 of the Texas Government Code, which restrict lobbying expenditures.

8.34 OPEN MEETINGS

If Subrecipient is a governmental entity, Subrecipient represents and warrants its compliance with Chapter 551 of the Texas Government Code, which requires all regular, special, or called meetings of a governmental body to be open to the public, except as otherwise provided by law.

8.35 POLITICAL POLLING PROHIBITION

Subrecipient represents and warrants that it does not perform political polling and acknowledges that appropriated funds may not be granted to, or expended by, any entity that performs political polling, except that this prohibition does not apply to a poll conducted by an academic institution as a part of the institution's academic mission that is not conducted for the benefit of a particular candidate or party.

8.36 REPORTING SUSPECTED FRAUD AND UNLAWFUL CONDUCT

Subrecipient represents and warrants that it will comply with Section 321.022 of the Texas Government Code, which requires that suspected fraud and unlawful conduct be reported to the State Auditor's Office. Subrecipient represents and warrants its compliance with 2 C.F.R. § 200.113, which requires the disclosure in writing of credible

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evidence of violations of federal criminal law involving fraud, conflict of interest, bribery, and gratuity and the reporting of matters related to recipient integrity and performance.

8.37 STATEMENTS OR ENTRIES

WARNING: ANY PERSON WHO KNOWINGLY MAKES A FALSE CLAIM OR STATEMENT TO HUD MAY BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES UNDER 18 U.S.C. § 287, 18 U.S.C. § 1001, AND 31 U.S.C. § 3729.

Except as otherwise provided under federal law, any person who knowingly and willfully falsifies, conceals, or covers up a material fact by any trick, scheme, or device or who makes any materially false, fictitious, or fraudulent statement or representation or who makes or uses any false writing or document despite knowing the writing or document to contain any materially false, fictitious, or fraudulent statement or entry shall be prosecuted under Title 18, United States Code, § 1001.

Under penalties of 18 U.S.C. § 287, 18 U.S.C. § 1001, and 31 U.S.C. § 3729, the undersigned Subrecipient representative hereby declares that he/she has examined this Contract and Attachments, and, to the best of his/her knowledge and belief, any statements, entries, or claims made by Subrecipient are true, accurate, and complete.

SIGNATURE PAGE FOLLOWS

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SIGNATURE PAGE FOR GLO CONTRACT NO. 23-160-212-F794
RESILIENT COMMUNITIES PROGRAM SUBRECIPIENT AGREEMENT

GENERAL LAND OFFICE

Signed by: Jennifer G Jones
E70CDF09B56540E...

Jennifer G. Jones

Chief Clerk and Deputy Land Commissioner

Date of execution: 7/13/2026

CITY OF NACOGDOCHES

Signed by:
A88A4552811F413...

By: Richard Beverlin

Title: City Manager

Date of execution: 7/7/2026

OGC DS NL

PM Initial SP

SDD DS HL

DGC DS MB

GC DS JG

DCC DS AP

ATTACHED TO THIS CONTRACT:

ATTACHMENT A: Performance Statement, Budget, and Benchmarks

ATTACHMENT B: Federal Assurances and Certifications

ATTACHMENT C: General Affirmations

ATTACHMENT D: Nonexclusive List of Applicable Laws, Rules, and Regulations

ATTACHMENT E: GLO Information Security Appendix

ATTACHMENT F: Contract Reporting Template

ATTACHMENTS FOLLOW

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CITY OF NACOGDOCHES
23-160-212-F794

PERFORMANCE STATEMENT

The Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018, Pub. L. 115-123, approved February 9, 2018), made available $12 billion in Community Development Block Grant – Mitigation ("CDBG-MIT") for mitigation Activities for areas impacted by disasters occurring in 2015, 2016, and 2017. CDBG-MIT funds provide an opportunity for communities to carry out strategic and high-impact Activities to mitigate disaster risks and reduce the potential for future losses in areas impacted by recent disasters.

The Resilient Communities Program ("RCP") funds CDBG-MIT Activities that work to increase a community's resilience to disasters and reduce or eliminate the impact of future disasters. RCP provides aid to the most impacted and distressed (MID) areas covered in the State of Texas CDBG Mitigation (CDBG-MIT) Action Plan as designated by State of Texas.

Subrecipient shall perform, or cause to be performed, the Activities identified herein for the target area specified in its approved RCP Grant Application: Develop and Adopt Comprehensive Plan.

Subrecipient shall carry out the following Planning Activities in strict accordance with the terms of Subrecipient's GLO-approved Project guidelines, the terms of this Contract and all Attachments, and the requirements of the GLO Implementation Manual and the RCP Application Guide, as each may be amended over time. Each of these documents is incorporated by reference into this Contract.

The grant total is $250,000.00. Subrecipient will be required to maintain a detailed Budget breakdown in the official system of record of the GLO's Community Development and Revitalization division (GLO-CDR).

PROJECT DESCRIPTION

Subrecipient shall conduct the following Planning Activities according to the requirements set forth below and in the RCP Application Guide. Subrecipient's Planning Activities performed under this Contract will result in the development and formal adoption by Subrecipient of plans, codes, and/or ordinances.

Comprehensive Plan

Subrecipient shall develop and adopt a Comprehensive Plan that must include, at a minimum, the following elements for all base studies.

- Identification of local hazard risk(s), aligning with Subrecipient's local hazard mitigation plan, if one exists.

- Population study providing an estimate of the current population and projection for population increase over the next 20 years.

- Housing study describing the composition of the existing housing stock (including total number of units, number of single family and multifamily units, and vacancy rates) and a projection for the number of future housing units needed ten (10) years from the date of the plan, including the composition of said units (e.g., single family, multifamily).

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- Land Use Plan or study that formalizes long-term community goals into governing policies describing the land use of every parcel within the jurisdiction and including a future land use map that accounts for future population changes. The Land Use Plan shall describe the location and types of structures that may be built within a given jurisdictional area and may serve as guidance document for the development of local codes and zoning ordinances or equivalent enforcement mechanisms. The Land Use Plan shall contain, at a minimum, the following:

    1) An integration of relevant portions of an applicable local hazard mitigation plan, if one exists;
    2) Identification of local hazard risks;
    3) Explanation of how the plan mitigates the identified local hazard risks; and
    4) Zoning ordinances or equivalent enforcing regulations or code provisions that codify the plan upon adoption by the applicable governmental entity.

- Infrastructure study that describes the water, wastewater, drainage, and streets systems, including length, width, materials, and condition or age (if available), as well as a capital improvement plan with proposed prioritized improvements to those systems.

- Additional studies (e.g., environmental, economic, etc.) may also be included.

- Zoning Ordinance(s), or similar governing regulation(s) or code provision(s), to support the adoption of the Comprehensive Plan. Each Zoning Ordinance or equivalent enforcing regulation or code provision, as applicable, will establish the set of regulations that define how the real property identified therein may be used and the type(s) of construction that may occur on said real property.

Adoption of the Comprehensive Plan and associated Zoning Ordinance(s) or equivalent enforcing regulation(s) or code provision(s) must be completed within 30 months of Contract execution. If Subrecipient fails to formally adopt the Comprehensive Plan and associated Zoning Ordinance(s) or equivalent enforcing regulation(s) or code provision(s), as applicable, within the prescribed period, all funds drawn by Subrecipient relating to efforts supporting the development and adoption of the Comprehensive Plan will be subject to recapture by the GLO. At a minimum, supporting Comprehensive Plan documentation submitted to the GLO must include resolutions from the applicable governing body documenting the adoption of the Comprehensive Plan and associated Zoning Ordinance(s) or equivalent enforcing regulation(s) or code provision(s).

MILESTONES

Subrecipients may draw funds in accordance with the table(s) below subject to completion of the described milestones, as determined by the GLO. Subrecipient may draw up to, but not exceed, the identified percentage of the associated Activity line-item amount in the Project Budget until stated Deliverable(s) and reimbursement requests are submitted to and approved by the GLO.

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Comprehensive Plan

Milestones	**Not-to-Exceed Percentage of Activity Line-Item Amount in Budget**
GLO approval of: • Start Up Documentation • Procurement documentation / In-House Work Plan	0-5%
GLO approval of: • Assessment of current Comprehensive Plans • Base studies • Docs - 1st round of public meetings • Draft Goals/Objectives/Policies	5.01-35%
GLO approval of: • Docs - 2nd round of public meetings • Preliminary Draft Comprehensive Plan	35.01-65%
GLO approval of: • Docs - 3rd round of public meetings • Adopted Comprehensive Plan, includes adoption of Land Use Plan • Adopted Zoning Ordinance(s) or equivalent enforcing regulation(s) or code provision(s) • Evidence of adoption by jurisdiction	65.01 – 95%
GLO approval of: • Grant closeout documents (including Grant Completion Report)	95.01-100%

BUDGET

HUD ACTIVITY TYPE	**GRANT AMOUNT**	**OTHER FUNDS**	**TOTAL**
Comprehensive Plan	$250,000.00	$0.00	$250,000.00
TOTAL	**$250,000.00**	**$0.00**	**$250,000.00**

ASSURANCES – NON-CONSTRUCTION PROGRAMS

OMB Approval No. 4040-0007
Expiration Date: 07/31/2028

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C.§794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
Signed by: A88A4552811E413...	City Manager
APPLICANT ORGANIZATION City of Nacogdoches	DATE SUBMITTED 7/7/2026

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CERTIFICATION REGARDING LOBBYING
COMPLIANT WITH APPENDIX A TO 24 C.F.R. PART 87*

Certification for Contracts, Grants, Loans, and Cooperative Agreements:

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ‘‘Disclosure Form to Report Lobbying,’’ in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance:

The undersigned states, to the best of his or her knowledge and belief, that: If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ‘‘Disclosure Form to Report Lobbying,’’ in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification.

NAME OF APPLICANT	AWARD NUMBER AND/OR PROJECT NAME
City of Nacogdoches	23-160-212-F794

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Richard Beverlin — City Manager

SIGNATURE — Signed by: A88A4552811E413... — DATE 7/7/2026

* 24 C.F.R. 87 App. A, available at https://www.gpo.gov/fdsys/granule/CFR-2011-title24-vol1/CFR-2011-title24-vol1-part87-appA. Published Apr. 1, 2011. Accessed Aug. 1, 2018.

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Disclosure of Lobbying Activities

OMB Number: 4040-0013
Expiration Date: 06/30/2028

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. *Type of Federal Action:	**2. *Status of Federal Action:**	**3. *Report Type:**
____ a. contract	_____ a. bid/offer/application	_____ a. initial filing
____ b. grant	_____ b. initial award	_____ b. material change
____ c. cooperative agreement	_____ c. post-award	
____ d. loan		
____ e. loan guarantee		
____ f. loan insurance		

4. Name and Address of Reporting Entity:
____ Prime _____Subawardee
*Name: _____
*Street 1:_____ Street 2:_____
*City: _____ State:_____ Zip:_____
Congressional District, *if known*:_____

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

6. Federal Department/Agency:	**7. Federal Program Name/Description:** Assistance Listing Number, *if applicable*: ___
8. Federal Action Number, *if known:*	**9. Award Amount**, *if known:* **$**

10. a. Name and Address of Lobbying Registrant
Prefix_____ *First Name_____ Middle Name _____
*Last Name _____ Suffix _____
*Street 1:_____ Street 2:_____
*City: _____ State:_____ Zip:_____

b. Individual Performing Services *(including address if different from No. 10a)*
Prefix_____ *First Name_____ Middle Name _____
*Last Name _____ Suffix _____
*Street 1:_____ Street 2:_____
*City: _____ State:_____ Zip:_____

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

***Signature:**_____

***Name: Prefix**_____ ***First Name**_____ **Middle Name** _____
***Last Name** _____ **Suffix** _____
Title: _____ **Telephone No.:**_____ **Date:** _____

Federal Use Only:	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

Federal Agency Form Instructions Form Identifiers	**Information**
Agency Owner	Grants.gov
Form Name	Disclosure of Lobbying Activities (SF-LLL)
Form Version Number	2.0
OMB Number	4040-0013
OMB Expiration Date	06/30/2028

Field Number	**Field Name**	**Required or Optional**	**Information**
1.	*Type of Federal Action:	Required	Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action. This field is required.
2.	*Status of Federal Action	Required	Identify the status of the covered Federal action. This field is required.
2-a.	a. Bid/Offer/ Application	Check if applicable	Click if the Status of Federal Action is a bid, an offer or an application.
2-b.	b. Initial Award	Check if applicable	Click if the Status of Federal Action is an initial award.
2-c.	c. Post-Award	Check if applicable	Click if the Status of Federal Action is a post-award.
3.0	*Report Type	Required	Identify the appropriate classification of this report.
3-a.	a. Initial filing	Check if applicable	Check if Initial filing.
3-b.	b. Material change	Check if applicable	If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the previously submitted report by this reporting entity for this covered Federal action. This field is required.
	Material Change Year	Conditionally Required	If this is a follow up report caused by a material change to the information previously reported, enter the year in which the change occurred.
	Material Change Quarter	Conditionally Required	If this is a follow up report caused by a material change to the information previously reported, enter the quarter in which the change occurred.
	Material Change Date of Last Report	Conditionally Required	Enter the date of the previously submitted report by this reporting entity for this covered Federal action.
4.	Name and Address of Reporting Entity	Required	Provide the information for Name and Address of Reporting Entity.
	Prime	Check if applicable	Click to designate the organization filing the report as the Prime Federal recipient.
	Subawardee	Check if applicable	Click to designate the organization filing the report as the SubAwardee Federal recipient. Sub-awards include but are not limited to subcontracts, subgrants and contract awards under grants.
	Tier if known:	Optional	Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier.
	Name	Required	Enter the name of reporting entity. This field is required
	Street 1	Required	Enter Street 1 of the reporting entity. This field is required.
	Street 2	Optional	Enter Street 2 of the reporting entity.
	City	Required	Enter City of the reporting entity This field is required.
	State	Required	Enter the state of the reporting entity. This field is required
	ZIP	Required	Enter the ZIP of the reporting entity. This field is required
	Congressional District, if known	Optional	Enter the primary Congressional District of the reporting entity. Enter in the following format: 2 character state abbreviation – 3 characters district number, e.g., CA-005 for California 5th district, CA-012 for California 12th district, NC-103 for North Carolina's 103rd district.
5.	If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime	Conditionally Required	If Reporting Entity in No. 4 is Subawardee, provide the information for the Name and Address of Prime
	Name	Required	If the organization filing the report in item 4, checks "Subawardee", enter the full name of the prime Federal recipient.
	Street 1	Required	If the organization filing the report in item 4, checks "Subawardee", enter the address of the prime Federal recipient.

	Street 2	Optional	If the organization filing the report in item 4, checks "Subawardee", enter the address of the prime Federal recipient.
	City	Required	If the organization filing the report in item 4, checks "Subawardee", enter the city of the prime Federal recipient.
	State	Required	If the organization filing the report in item 4, checks "Subawardee", select the appropriate state from this pull down menu.
	ZIP	Required	Enter the ZIP of Prime. This field is required
	Congressional District, if known	Optional	Enter the Congressional District of Prime. Enter in the following format: 2 character state abbreviation – 3 characters district number, e.g., CA-005 for California 5th district, CA-012 for California 12th district, NC-103 for North Carolina's 103rd district.
6.	Federal Department /Agency	Required	Enter the name of the Federal Department or Agency making the award or loan commitment. This field is required.
7.	Assistance Listing Number:	Required	Enter the full Assistance Listing Number for grants, cooperative agreements, loans and loan commitments. Pre-populated from SF-424 if using Grants.gov.
	Assistance Listing Title:	Required	Enter the Federal program name or description for the covered Federal action. Pre-populated from SF-424 if using Grants.gov.
8.	Federal Action Number	Optional	Enter the most appropriate Federal identifying number available for the Federal action, identified in item 1 (e.g., Request for Proposal (RFP) number, invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/ proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".
9.	Award Amount	Optional	For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment of the prime entity identified in item 4 or 5.
10.a.	Name And Address of Lobbying Registrant	Required	Provide the information for the Name and Address of Lobbying Registrant.
	Prefix	Optional	Enter the prefix (e.g., Mr., Mrs., Miss), if appropriate, for the Lobbying Registrant.
	First Name	Required	Enter the first name of Lobbying Registrant. This field is required.
	Middle Name	Optional	Enter the middle name of Lobbying Registrant.
	Last Name	Required	Enter the last name of Lobbying Registrant. This field is required.
	Suffix	Optional	Enter the suffix (e.g., Jr. Sr., PhD), if appropriate, for the Lobbying Registrant.
	Street 1	Required	Enter the first line of street address for the Lobbying Registrant.
	Street 2	Optional	Enter the second line of street address for the Lobbying Registrant.
	City	Required	Enter the city of the Lobbying Registrant.
	State	Required	Select the appropriate state of the Lobbying Registrant.
	ZIP Code	Required	Enter the Zip Code (or ZIP+4) of the Lobbying Registrant.
10.b.	Individual Performing Services	Required	Provide the information for Individual Performing Services
	Prefix	Optional	Enter the prefix (e.g., Mr., Mrs., Miss), if appropriate, for the Individual Performing Services.
	First Name	Required	Enter the first name of the Individual Performing Services. This field is required.
	Middle Name	Optional	Enter the middle name of the Individual Performing Services.
	Last Name	Required	Enter the last name of the Individual Performing Services. This field is required.
	Suffix	Optional	Enter the suffix (e.g., Jr. Sr., PhD), if appropriate, for the Individual Performing Services.
	Street 1	Required	Enter the first line of street address for the Individual Performing Services.
	Street 2	Optional	Enter the second line of street address for the Individual Performing Services.
	City	Required	Enter the city of the Individual Performing Services.
	State	Required	Select the state for the address of the Individual Performing Services from this pull down menu.
	ZIP Code	Required	Enter the Zip Code (or ZIP+4) of the Individual Performing Services.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 4040-0013. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

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GENERAL AFFIRMATIONS

TO THE EXTENT APPLICABLE, Subrecipient affirms and agrees to the following, without exception:

1. Subrecipient represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Subrecipient nor the firm, corporation, partnership, or institution represented by Subrecipient, or anyone acting for such a firm, corporation, partnership, or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Contract or any solicitation response upon which this Contract is based to any competitor or any other person engaged in the same line of business as Subrecipient.*
2. Subrecipient shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from the GLO. Any attempted assignment or delegation in violation of this provision is void and without effect. This provision does not apply to subcontracting.
3. If the Contract is for services, Subrecipient shall comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts, but for contracts subject to 2 C.F.R. 200, only to the extent such compliance is consistent with 2 C.F.R. 200.319.
4. Under Section 231.006 of the Family Code, the vendor or applicant [Subrecipient] certifies that the individual or business entity named in this Contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate, in addition to other remedies set out in Section 231.006(f) of the Family Code.*
5. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. Subrecipient certifies it has submitted this information to the GLO.*
6. If the Contract is for a "cloud computing service" as defined by Texas Government Code Section 2157.007, then pursuant to Section 2063.408(d)-(f) of the Texas Government Code, relating to cloud computing state risk and authorization management program, Subrecipient represents and warrants that it complies with the requirements of the state risk and authorization management program and Subrecipient agrees that throughout the term of the Contract it shall maintain its certifications and comply with the program requirements in the performance of the Contract.
7. If the Contract is for the purchase or lease of computer equipment, as defined by Texas Health and Safety Code Section 361.952(2), Subrecipient certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code, related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in Title 30 Texas Administrative Code Chapter 328.
8. If the Contract authorizes Subrecipient to access, transmit, use, or store data for the GLO, then in accordance with Section 2054.138 of the Texas Government Code, Subrecipient certifies that it will comply with the security controls required under this Contract and will

* This section does not apply to a contract with a "governmental entity" as defined in Texas Government Code Chapter 2251.

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maintain records and make them available to the GLO as evidence of Subrecipient's compliance with the required controls.

9. Subrecipient represents and warrants that it 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 the Contract.
10. Subrecipient agrees that any payments due under the Contract shall be applied towards any debt or delinquency that is owed by Subrecipient to the State of Texas.
11. Upon request of the GLO, Subrecipient shall provide copies of its most recent business continuity and disaster recovery plans.
12. If the Contract is for consulting services governed by Texas Government Code Chapter 2254, Subchapter B, in accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, Subrecipient certifies that it does not employ an individual who has been employed by the GLO or another agency at any time during the two years preceding the Subrecipient's submission of its offer to provide consulting services to the GLO or, in the alternative Subrecipient, in its offer to provide consulting services to the GLO, disclosed the following: (i) the nature of the previous employment with the GLO or other state agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.*
13. If the Contract is not for architecture, engineering, or construction services, then except as otherwise provided by statute, rule, or regulation, Subrecipient must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO OR, IF APPLICABLE, OF GOVERNMENTAL IMMUNITY BY SUBRECIPIENT.
14. If the Contract is for architecture, engineering, or construction services, then subject to Texas Government Code Section 2260.002 and Texas Civil Practice and Remedies Code Chapter 114, and except as otherwise provided by statute, rule, or regulation, Subrecipient shall use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve all disputes arising under this Contract. Except as otherwise provided by statute, rule, or regulation, in accordance with the Texas Civil Practice and Remedies Code, Section 114.005, claims encompassed by Texas Government Code, Section 2260.002(3) and Texas Civil Practice and Remedies Code Section 114.002 shall be governed by the dispute resolution process set forth below in subsections (a)-(d). NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO OR, IF APPLICABLE, OF GOVERNMENTAL IMMUNITY BY SUBRECIPIENT.
    a. Notwithstanding Texas Government Code, Chapter 2260.002(3) and Chapter 114.012 and any other statute or applicable law, if Subrecipient's claim for breach of contract cannot be resolved by the Parties in the ordinary course of business, Subrecipient may make a claim against the GLO for breach of contract and the GLO may assert a counterclaim against Subrecipient as is contemplated by Texas Government Code, Chapter 2260, Subchapter B. In such event, Subrecipient must provide written notice to the GLO of a claim for breach of the Contract not later than the 180th day after the date

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of the event giving rise to the claim. The notice must state with particularity: (1) the nature of the alleged breach; (2) the amount Subrecipient seeks as damages; and (3) the legal theory of recovery.

b. The chief administrative officer, or if designated in the Contract, another officer of the GLO, shall examine the claim and any counterclaim and negotiate with Subrecipient in an effort to resolve them. The negotiation must begin no later than the 120th day after the date the claim is received, as is contemplated by Texas Government Code, Chapter 2260, Section 2260.052.

c. If the negotiation under paragraph (b) above results in the resolution of some disputed issues by agreement or in a settlement, the Parties shall reduce the agreement or settlement to writing and each Party shall sign the agreement or settlement. A partial settlement or resolution of a claim does not waive a Party's rights under this Contract as to the parts of the claim that are not resolved.

d. If a claim is not entirely resolved under paragraph (b) above, on or before the 270th day after the date the claim is filed with the GLO, unless the Parties agree in writing to an extension of time, the Parties may agree to mediate a claim made under this dispute resolution procedure. This dispute resolution procedure is Subrecipient's sole and exclusive process for seeking a remedy for an alleged breach of contract by the GLO if the Parties are unable to resolve their disputes as described in this section.

e. Nothing in the Contract shall be construed as a waiver of the state's or the GLO's sovereign immunity, or, if applicable, the governmental immunity of Subrecipient. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas or Subrecipient. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas or, if applicable, of Subrecipient under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. The GLO does not waive any privileges, rights, defenses, or immunities available to it by entering into this Contract or by its conduct, or by the conduct of any representative of the GLO, prior to or subsequent to entering into this Contract. Subrecipient does not waive any privileges, rights, defenses, or immunities available to it by entering into this Contract or by its conduct, or by the conduct of any representative of the Subrecipient, prior to or subsequent to entering into this Contract.

f. Except as otherwise provided by statute, rule, or regulation, compliance with the dispute resolution process provided for in Texas Government Code, Chapter 2260, subchapter B and incorporated by reference in subsection (a)-(d) above is a condition precedent to the Subrecipient: (1) filing suit pursuant to Chapter 114 of the Civil Practices and Remedies Code; or (2) initiating a contested case hearing pursuant to Subchapter C of Chapter 2260 of the Texas Government Code.

15. If Chapter 2271 of the Texas Government Code applies to this Contract, Subrecipient verifies that it does not boycott Israel and will not boycott Israel during the term of the Contract.*

16. This Contract is contingent upon the continued availability of lawful appropriations by the Texas Legislature. Subrecipient understands that all obligations of the GLO under this

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Contract are subject to the availability of funds. If such funds are not appropriated or become unavailable, the GLO may terminate the Contract. The Contract shall not be construed as creating a debt on behalf of the GLO in violation of Article III, Section 49a of the Texas Constitution.

17. Subrecipient certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

18. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Subrecipient certifies that it is not (1) the executive head of the GLO, (2) a person who at any time during the four years before the effective date of the Contract was the executive head of the GLO, or (3) a person who employs a current or former executive head of the GLO.

19. Subrecipient represents and warrants that all statements and information prepared and submitted in connection with this Contract are current, complete, true, and accurate. Submitting a false statement or making a material misrepresentation during the performance of this Contract is a material breach of contract and may void the Contract or be grounds for its termination.

20. Pursuant to Section 2155.004(a) of the Texas Government Code, Subrecipient certifies that neither Subrecipient nor any person or entity represented by Subrecipient has received compensation from the GLO to participate in the preparation of the specifications or solicitation on which this Contract is based. Under Section 2155.004(b) of the Texas Government Code, Subrecipient certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate. This Section does not prohibit Subrecipient from providing free technical assistance.*

21. In accordance with Section 2252.901 of the Texas Government Code, for the categories of contracts listed in that section, Subrecipient represents and warrants that none of its employees including, but not limited to, those authorized to provide services under the contract, were employees of the GLO during the twelve (12) month period immediately prior to the date of execution of the contract. Solely for professional services contracts as described by Chapter 2254 of the Texas Government Code, Subrecipient further represents and warrants that if a former employee of the GLO was employed by Subrecipient within one year of the employee's leaving the GLO, then such employee will not perform services on projects with Subrecipient that the employee worked on while employed by the GLO.*

22. The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to any Party.

23. IF THE CONTRACT IS NOT FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, SUBRECIPIENT, TO THE EXTENT ALLOWED BY LAW, SHALL DEFEND, INDEMNIFY AND HOLD

* This section does not apply to a contract with a "governmental entity" as defined in Texas Government Code Chapter 2251.

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HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF SUBRECIPIENT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY SUBRECIPIENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUBRECIPIENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. SUBRECIPIENT AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.*

24. IF THE CONTRACT IS FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, SUBRECIPIENT, TO THE EXTENT ALLOWED BY LAW, SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO SUBRECIPIENT'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE SUBRECIPIENT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO SUBRECIPIENT, OR ANY OTHER ENTITY OVER WHICH SUBRECIPIENT EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY SUBRECIPIENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUBRECIPIENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. SUBRECIPIENT AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.*

25. TO THE EXTENT ALLOWED BY LAW, SUBRECIPIENT SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF SUBRECIPIENT PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT,

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CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR SUBRECIPIENT'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY SUBRECIPIENT OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF SUBRECIPIENT'S PERFORMANCE UNDER THE CONTRACT. SUBRECIPIENT AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. SUBRECIPIENT SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY SUBRECIPIENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUBRECIPIENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, SUBRECIPIENT WILL REIMBURSE THE GLO AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE GLO DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF SUBRECIPIENT OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND SUBRECIPIENT WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.*

26. Subrecipient has disclosed in writing to the GLO all existing or known potential conflicts of interest relative to the performance of the Contract.

27. Sections 2155.006 and 2261.053 of the Texas Government Code prohibit state agencies from accepting a solicitation response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of 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 Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Subrecipient certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.*

28. The person executing this Contract certifies that he/she is duly authorized to execute this Contract on his/her own behalf or on behalf of Subrecipient and legally empowered to contractually bind Subrecipient to the terms and conditions of the Contract and related documents.

29. If the Contract is for architectural or engineering services, pursuant to Section 2254.0031 of the Texas Government Code, which incorporates by reference Section 271.904(d) of the Texas Local Government Code, Subrecipient shall perform services (1) with professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license, and (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.*

30. 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. The

* This section does not apply to a contract with a "governmental entity" as defined in Texas Government Code Chapter 2251.

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acceptance of funds directly under the Contract or indirectly through a subcontract under the 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. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Subrecipient shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Contract and the requirement to cooperate is included in any subcontract it awards. The GLO may unilaterally amend the Contract to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

31. Subrecipient certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in the Contract by any state or federal agency.

32. If the Contract is for the purchase or lease of covered television equipment, as defined by Section 361.971(3) of the Texas Health and Safety Code, Subrecipient certifies its compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code, related to the Television Equipment Recycling Program.

33. Pursuant to Section 572.069 of the Texas Government Code, Subrecipient certifies it has not employed and will not employ a former state officer or employee who participated in a procurement or contract negotiations for the GLO involving Subrecipient within two (2) years after the date that the contract is signed or the procurement is terminated or withdrawn. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.

34. The GLO shall post this Contract to the GLO's website. Subrecipient understands that the GLO will comply with the Texas Public Information Act (Texas Government Code Chapter 552, the "PIA"), as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas (the "Attorney General"). Information, documentation, and other material in connection with this Contract may be subject to public disclosure pursuant to the PIA. In accordance with Section 2252.907 of the Texas Government Code, Subrecipient is required to make any information created or exchanged with the GLO or the State of Texas pursuant to the Contract, and not otherwise excepted from disclosure under the PIA, available to the GLO in portable document file (".pdf") format or any other format agreed upon between the Parties that is accessible by the public at no additional charge to the GLO or the State of Texas. By failing to mark any information that Subrecipient believes to be excepted from disclosure as "confidential" or a "trade secret," Subrecipient waives any and all claims it may make against the GLO for releasing such information without prior notice to Subrecipient. The Attorney General will ultimately determine whether any information may be withheld from release under the PIA. Subrecipient shall notify the GLO's Office of General Counsel within twenty-four (24) hours of receipt of any third-party written requests for information and forward a copy of said written requests to PIALegal@glo.texas.gov. If a request for information was not written, Subrecipient shall forward the third party's contact information to the above-designated e-mail address.

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35. The GLO does not tolerate any type of fraud. GLO policy promotes consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Subrecipient must report any possible fraud, waste, or abuse that occurs in connection with the Contract to the GLO in the manner prescribed by the GLO's website, https://www.glo.texas.gov.
36. If Subrecipient, in its performance of the Contract, has access to a state computer system or database, Subrecipient must complete a cybersecurity training program certified under Texas Government Code Section 2063.104, as selected by the GLO. Subrecipient must complete the cybersecurity training program during the initial term of the Contract and during any renewal period. Subrecipient must verify in writing to the GLO its completion of the cybersecurity training program.
37. Under Section 2155.0061, Texas Government Code, Subrecipient certifies that the entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.*
38. Subrecipient 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, to gain access to, or to receive service from Subrecipient's business. Subrecipient acknowledges that such a vaccine or recovery requirement would make Subrecipient ineligible for a state-funded contract.
39. Pursuant to Government Code Section 2275.0102, Subrecipient certifies that neither it nor its parent company, nor any affiliate of Subrecipient or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2275.0103, or (2) headquartered in any of those countries.*
40. If Subrecipient is required to make a verification pursuant to Section 2276.002 of the Texas Government Code, Subrecipient verifies that Subrecipient does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Subrecipient does not make that verification, Subrecipient must notify the GLO and state why the verification is not required.*
41. If Subrecipient is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Subrecipient verifies that it (1) does not have a practice, policy, guidance, or directive that discriminates against a "firearm entity" or "firearm trade association" as those terms are defined in Texas Government Code section 2274.001 and (2) will not discriminate during the term of the Contract against a firearm entity or firearm trade association. If Subrecipient does not make that verification, Subrecipient must notify the GLO and state why the verification is not required.*
42. If Subrecipient is a "professional sports team" as defined by Texas Occupations Code Section 2004.002, Subrecipient will play the United States national anthem at the beginning of each team sporting event held at Subrecipient's home venue or other venue controlled by Subrecipient for the event. Failure to comply with this obligation constitutes a default of this Contract, and immediately subjects Subrecipient to the penalties for default, such as repayment of money received or ineligibility for additional money. In addition, Subrecipient

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may be debarred from contracting with the State. The GLO or the Attorney General may strictly enforce this provision.*

43. To the extent Section 552.371 of the Texas Government Code applies to Subrecipient and the Contract, in accordance with Section 552.372 of the Texas Government Code, Subrecipient must (a) preserve all contracting information related to the Contract in accordance with the records retention requirements applicable to the GLO for the duration of the Contract, (b) no later than the tenth business day after the date of the GLO's request, provide to the GLO any contracting information related to the Contract that is in Subrecipient's custody or possession, and (c) on termination or expiration of the Contract, either (i) provide to the GLO at no cost all contracting information related to the Contract that is in Subrecipient's custody or possession or (ii) preserve the contracting information related to the Contract in accordance with the records retention requirements applicable to the GLO. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code, may apply to the Contract and Subrecipient agrees that the Contract may be terminated if Subrecipient knowingly or intentionally fails to comply with a requirement of that subchapter.*

44. If the Contract is for consulting services governed by Chapter 2254 of the Texas Government Code, Subrecipient, upon completion of the Contract, must give the GLO a compilation, in a digital medium agreed to by the Parties, of all documents, films, recordings, or reports Subrecipient compiled in connection with its performance under the Contract.*

45. Subrecipient represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.*

46. Subrecipient represents and warrants that neither it; any of its holding companies, subsidiaries, or subcontractors; nor any holding companies or subsidiaries of its subcontractors is: (1) listed in Section 889 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232); (2) listed in Section 1260H of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283); or (3) owned by the government of, or controlled by any governing or regulatory body located in, a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. Section 791.4, and that it shall promptly notify the GLO if circumstances relevant to this provision change during the Contract term. Subrecipient shall ensure that this provision concerning the representation and warranty is included in any subcontract it awards.

47. If subject to 2 C.F.R. 200.216, Subrecipient shall not obligate or expend funding provided under this Contract to: (a) procure or obtain; (b) extend or renew a contract to procure or obtain; or (c) enter into a contract to procure or obtain covered telecommunications equipment or services, as described in Public Law 115-232, Section 889, including systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

48. To the extent Texas Government Code Chapter 2252, Subchapter G applies to the Contract, any iron or steel product Subrecipient uses in its performance of the Contract that is produced through a manufacturing process, as defined in Section 2252.201(2) of the Texas Government Code, must be produced in the United States.

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49. If subject to 2 C.F.R. 200.217, Subrecipient shall not discharge, demote, or otherwise discriminate against an employee as a reprisal for lawfully disclosing information that the employee reasonably believes is evidence of gross mismanagement, waste, abuse of authority, a danger to public health or safety, or a violation of law related to a Federal contract or grant. Subrecipient shall inform its employees in writing of their whistleblower rights and protections under 41 U.S.C. 4712.

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NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

If applicable to the Project, Subrecipient must be in compliance with the following laws, rules, and regulations, as may be amended or superseded over time, and any other state, federal, or local laws, rules, and regulations as may become applicable throughout the term of the Contract, and Subrecipient acknowledges that this list may not include all such applicable laws, rules, and regulations.

Subrecipient is deemed to have read and understands the requirements of each of the following, if applicable to the Project under this Contract:

GENERALLY

Acts and regulations specified in this Contract;

The Housing and Community Development Act of 1974 (42 U.S.C. § 5301, *et seq.*);

The United States Housing Act of 1937, as amended, particularly 42 U.S.C. § 1437f(o)(13), and related provisions governing Public Housing Authority project-based assistance, and implementing regulations at 24 C.F.R. Part 983;

Cash Management Improvement Act regulations (31 C.F.R. Part 205);

Community Development Block Grant regulations (24 C.F.R. Part 570);

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);

GLO Implementation Manual; and

State Action Plan(s).

CIVIL RIGHTS

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d, *et seq.*) and 24 C.F.R. Part l, Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development - Effectuation of Title VI of the Civil Rights Act of 1964;

Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e, *et seq.*);

Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act of 1968), as amended (42 U.S.C. § 3601, *et seq.*);

Federal Executive Order 11063, as amended by Federal Executive Order 12259, and 24 C.F.R. Part 107, Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063, particularly 24 C.F.R. § 107.60 (providing that failure or refusal to comply with the requirements of Executive Order 11063 or 24 C.F.R. Part 107 shall be a proper basis for the imposition of sanctions specified therein);

The Age Discrimination Act of 1975 (42 U.S.C. § 6101, *et seq.*);

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794);

24 C.F.R. Part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development; and

The Architectural Barriers Act of 1968, as amended (42 U.S.C. § 4151, *et seq.*).

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LABOR STANDARDS

The Davis-Bacon Act, as amended (originally, 40 U.S.C. § 276a-276a-5 and re-codified at 40 U.S.C. §§ 3141-3148), and 29 C.F.R. Part 5;

The Copeland "Anti-Kickback" Act (originally, 18 U.S.C. § 874 and re-codified at 40 U.S.C. § 3145) and 29 C.F.R. Part 3;

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. § 3701, *et seq.*); and

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) (29 C.F.R. Part 5).

EMPLOYMENT OPPORTUNITIES

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. § 1701u) and 24 C.F.R. Part 75;

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. § 4212); and

Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1688).

GRANT AND AUDIT STANDARDS

Single Audit Act Amendments of 1996, as amended (31 U.S.C. § 7501 *et seq.*);

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200); and

Uniform Grant and Contract Management Act (Texas Government Code Chapter 783) and the Texas Grant Management Standards issued by the Comptroller of Public Accounts.

LEAD-BASED PAINT

Section 302 of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. § 4831(b)).

HISTORIC PROPERTIES

The National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470, *et seq.*), particularly sections 106 and 110 (16 U.S.C. §§ 470, 470h-2);

Federal Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 C.F.R., 1971-1975 Comp., p. 559, particularly section 2(c);

Federal historic preservation regulations as follows: 36 C.F.R. Part 800, Protection of Historic Properties, with respect to HUD programs; and

The Reservoir Salvage Act of 1960, as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. § 469, *et seq.)*, particularly section 3 (16 U.S.C. § 469a-1).

ENVIRONMENTAL LAW AND AUTHORITIES

Environmental Review Procedures for Recipients Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58, as amended); and

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National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321-4347).

FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION

Executive Order 11988, Floodplain Management, as amended by Executive Order 13690, February 4, 2015 (3 C.F.R., 2016 Comp., p. 268), as implemented in HUD regulations at 24 C.F.R. Part 55, particularly section 2(e) of Executive Order 11988, as amended; and

Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 C.F.R., 1977 Comp., p. 121, as interpreted in HUD regulations at 24 C.F.R. Part 55, particularly sections 2 and 5 of the Order.

COASTAL ZONE MANAGEMENT

The Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451, *et seq.*), particularly sections 307(c) and (d) (16 U.S.C. § 1456(c) and (d)).

SOLE SOURCE AQUIFERS

The Safe Drinking Water Act of 1974, as amended (42 U.S.C. §§ 201, 300(f), *et seq.*, and 21 U.S.C. § 349), particularly section 1424(e) (42 U.S.C. § 300h-3(e)); and

Sole Source Aquifers (40 C.F.R. Part 149).

ENDANGERED SPECIES

The Endangered Species Act of 1973, as amended (16 U.S.C. § 1531, *et seq.*), particularly section 7 (16 U.S.C. § 1536).

WILD AND SCENIC RIVERS

The Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. § 1271, *et seq.*), particularly sections 7(b) and (c) (16 U.S.C. § 1278(b) and (c)).

AIR QUALITY

The Clean Air Act, as amended (42 U.S.C. § 7401, *et seq.*), particularly sections 176(c) and (d) (42 U.S.C. § 7506(c), (d)).

Environmental Protection Agency regulations pertaining to implementation plans (40 C.F.R. Parts 6, 51, and 93).

FARMLAND PROTECTION

Farmland Protection Policy Act of 1981 (7 U.S.C. § 4201, *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. §§ 4201(b) and 4202); and

Farmland Protection Policy (7 C.F.R. Part 658).

HUD ENVIRONMENTAL STANDARDS

Applicable criteria and standards specified in HUD environmental regulations (24 C.F.R. Part 51) and as provided by 24 C.F.R. § 58.5(i)(2).

SUSPENSION AND DEBARMENT

Use of debarred, suspended, or ineligible contractors or subrecipients (24 C.F.R. § 570.609);

General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and

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Nonprocurement Suspension and Debarment (2 C.F.R. Part 2424).

ACQUISITION / RELOCATION

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601, *et seq.*), 24 C.F.R. Part 42, and 24 C.F.R. § 570.606.

FAITH-BASED ACTIVITIES

Federal Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations, (67 FR 77141), as amended by Executive Order 13559, Fundamental Principles and Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations, (75 FR 71319), and HUD regulations at 24 C.F.R. 570.200(j).

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GLO Information Security Appendix

1. Definitions

"Breach of Security" means any unauthorized access of computerized data that compromises the security, confidentiality, or integrity of GLO Data that is in the possession and/or control of Subrecipient (or any entity with which Subrecipient shares GLO Data as authorized herein) including data that is encrypted if the person accessing the data has the key required to decrypt the data, or a loss of control, compromise, unauthorized disclosure or access, failure to physically secure GLO Data or when unauthorized users access PII or SPI for an unauthorized purpose. The term encompasses both suspected and confirmed incidents involving GLO Data which raise a reasonable risk of harm to the GLO or an individual. A Breach of Security occurs regardless of whether caused by a negligent or intentional act or omission on part of Subrecipient and/or aforementioned entities.

"GLO Data" means any data or information, which includes PII and/or SPI as defined below, collected, maintained, and/or created by the GLO, for the purpose of providing disaster assistance to an individual, that Subrecipient obtains, accesses (via records, systems, or otherwise), receives (from the GLO or on behalf of the GLO), or uses in the performance of the Contract or any documents related thereto. GLO Data does not include other information that is lawfully made available to Subrecipient through other sources.

"Personal Identifying Information" or "PII" means information that alone, or in conjunction with other information, identifies an individual as defined at Tex. Bus. & Com Code Section 521.002(a)(1).

"Sensitive Personal Information" or "SPI" means the personal information identifying an individual as defined at Tex. Bus. & Com. Code Section 521.002(a)(2).

All defined terms found in the Contract shall have the same force and effect, regardless of capitalization.

2. Security and Privacy Compliance

2.1. Subrecipient shall keep all GLO Data received under the Contract and any documents related thereto strictly confidential.

2.2. Subrecipient shall comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations.

2.3. Subrecipient shall implement administrative, physical, and technical safeguards to protect GLO Data that are no less rigorous than accepted industry practices including, without limitation, the guidelines in the National Institute of Standards and Technology ("NIST") Cybersecurity Framework Version 1.1. All such safeguards shall comply with applicable data protection and privacy laws. Subrecipient shall provide such certification or attestation in regard to its data security practices as may be required by the GLO upon request by the GLO.

2.4. Subrecipient will legally bind any contractor(s) and subcontractor(s) to the same requirements stated herein and obligations stipulated in the Contract and documents related thereto. Subrecipient shall ensure that the requirements stated herein are imposed on any contractor/subcontractor of Subrecipient's subcontractor(s).

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2.5. With the exception of contractors and subcontractors as they are addressed in Section 2.4, Subrecipient will not share GLO Data with any third parties, except as necessary for Subrecipient's performance under the Contract and upon the express written consent of the GLO's Information Security Officer or his/her authorized designee.

2.6. Subrecipient will ensure that initial privacy and security training, and annual training, thereafter, is completed by its employees or contractor/subcontractors that have access to GLO Data or who create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle PII and/or SPI on behalf of the GLO. Subrecipient shall maintain and, upon request, provide documentation of training completion.

2.7 Any GLO Data maintained or stored by Subrecipient or any contractor/subcontractor must be stored on servers or other hardware located within the physical borders of the United States and shall not be accessed outside of the United States except as authorized in writing and utilizing methods approved by the GLO's Information Security Officer or his/her authorized designee.

2.8 Subrecipient shall require that all individuals allowed to access GLO Data pursuant to this Contract sign a confidentiality and non-disclosure agreement ("NDA") before being given access to GLO Data. At a minimum, the NDA shall inform all individuals of the confidential nature of the GLO Data, the security and non-disclosure requirements of this Contract, and the potential criminal penalties and civil remedies specified in federal and state laws that may result from the unauthorized disclosure of GLO Data. The NDA shall require all individuals to acknowledge that the GLO or the United States government, including the U.S. Department of Housing and Urban Development ("HUD"), will seek any remedy available, including all administrative, disciplinary, civil, or criminal action(s) or penalties, as appropriate, for any unauthorized disclosure of GLO Data. Subrecipient shall provide the GLO copies of any and all NDAs upon request or demand by the GLO.

2.9 Subrecipient shall use GLO Data for the sole purpose of administering the Contract.

3. Data Ownership

3.1. In no event shall Subrecipient obtain or develop ownership rights to any GLO Data shared under the Contract, unless specifically acknowledged and agreed to by the GLO.

3.2. If, at any time during the term of the Contract or upon termination of the Contract, whichever occurs first, any part of the GLO Data, in any form, provided to Subrecipient ceases to be necessary for Subrecipient's performance under the Contract, Subrecipient shall within fourteen (14) days thereafter (a) securely return such GLO Data to the GLO and/or (b) at the GLO's written request, destroy, uninstall, and/or remove all copies of data in Subrecipient's possession or control and inform the GLO in writing of the completion of the task and method(s) utilized. If the return of GLO Data is infeasible, as mutually determined by the GLO and Subrecipient, the obligations set forth in this Attachment, with respect to GLO Data, shall survive termination of the Contract and Subrecipient shall prohibit any further use and disclosure of GLO Data.

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4. Data Mining

4.1. Subrecipient shall not use GLO Data for unrelated commercial purposes, advertising or advertising-related services, or for any other purpose not explicitly authorized by the GLO in this Contract.

4.2. Subrecipient shall take all reasonable physical, technical, administrative, and procedural measures to ensure that no unauthorized use or access of GLO Data occurs.

5. Breach of Security

5.1. Subrecipient shall provide the GLO with the name and contact information for an employee of Subrecipient which shall serve as the GLO's primary security contact.

5.2. Upon Subrecipient's discovery of a Breach of Security or suspected Breach of Security, Subrecipient shall notify the GLO promptly, but no later than 24 hours after discovery of the Breach of Security or suspected Breach of Security. Within 72 hours, Subrecipient shall provide to the GLO, at minimum, a written preliminary report regarding the Breach or suspected Breach with root cause analysis including a log detailing the data affected.

5.3. Subrecipient shall submit the initial notification and preliminary report to the GLO Information Security Officer at informationsecurity@glo.texas.gov.

5.4. Subrecipient shall take all reasonable steps to immediately remedy a Breach of Security and prevent any further Breach of Security.

5.5. Subrecipient shall not inform any third party of any Breach of Security or suspected Breach of Security without first obtaining GLO's prior written consent unless such action is required by law or is limited to third party personnel that have a need to know for the sole purpose of containing or remediating the Breach of Security or suspected Breach of Security. However, while a third party may be informed of the Breach or suspected Breach for the sole purpose of containing or remediating it, no GLO Data shall be shared with such third party unless express written permission is obtained from the GLO in accordance with Section 2.5. Subrecipient will legally bind such third party to the same requirements stated herein and obligations stipulated in the Contract and documents related thereto as soon as practicable upon securing such third party to contain or remediate the Breach of Security or suspected Breach of Security.

5.6. Notwithstanding the remedies provided in the Contract, if a Breach of Security includes SPI, Subrecipient shall notify affected individuals of such Breach in accordance with the requirements of Tex. Bus. and Comm. Code Section 521.053 or other applicable law and shall inform the GLO of such notifications. Subrecipient shall provide affected individuals complimentary access to one (1) year of credit monitoring services.

6. Data Use and Security Agreement Requirements

6.1. Certain GLO Data may be subject to agreements executed between the GLO and other state or federal agencies or entities, including, but not limited to, the U.S. Department of Homeland Security, the Federal Emergency Management Agency, and HUD, that impose conditions and obligations on the usage, sharing, storage, and security of the GLO Data. If, in the performance of the Contract, Subrecipient requires access to GLO

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Data protected under such an agreement, then Subrecipient shall be required to review and agree to comply with all terms, conditions, and obligations of the agreement before the GLO Data is shared with Subrecipient. As applicable, Subrecipient shall ensure any NDA required under Section 2.8, above, complies with all additional requirements imposed by the agreement.

6.2. The terms and conditions imposed under a data use and security agreement shall be in addition to all other terms and conditions contained in this Information Security Appendix, which remain applicable. In the event of a conflict between terms and conditions of the agreement and this Information Security Appendix, the more stringent term and/or condition shall apply.

7. Right to Audit

7.1. Upon the GLO's request and to confirm Subrecipient's compliance with this Attachment, Subrecipient grants the GLO, or a GLO-contracted vendor, permission to perform an assessment, audit, examination, investigation, or review of all controls in Subrecipient's, or Subrecipient's contractor/subcontractor's, physical and/or technical environment in relation to GLO Data. Subrecipient shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, and application software that stores, processes, or transports GLO Data. In lieu of a GLO-conducted assessment, audit, examination, investigation, or review, Subrecipient may supply, upon GLO approval, the following reports: SSAE18, ISO/ICE 27001 Certification, FedRAMP Certification, PCI Compliance Report, TXRAMP Certification, or similar attestations or third-party certifications. Subrecipient shall ensure that this clause concerning the GLO's authority to assess, audit, examine, investigate, or review is included in any contract/subcontract that Subrecipient awards.

7.2. At the GLO's request, Subrecipient shall promptly and accurately complete a written information security questionnaire provided by the GLO regarding Subrecipient's business practices and information technology environment in relation to GLO Data and the GLO shall consider such information to be confidential to the extent allowed by law.

Docusign Envelope ID: 33222E64-E9E6-871E-8137-B0304D7F8FC1

CONTRACT REPORTING TEMPLATE

Subrecipients are to use this template to summarize all procured vendor contracts, including those procured by Subrecipient or its subawardees. Definitions of each field can be found below. Monthly, Subrecipient shall update and upload this template in the TIGR system or provide to the GLO in a format specified by the GLO Grant Manager.

Data Fields:

Subrecipient	Enter Subrecipient name.
Contract Number	Enter GLO Contract number.
Date Updated	Enter date template last updated.
A. Vendor Name	Enter name of contracted vendor.
B. UEID Number	Enter Uniform Entity Identifier (UEID) number of the vendor. Note: Entering the UEI into this template does not fulfill the requirement for grantees to enter UEI number into the DRGR Action Plan at the activity level. Refer to the Notice published July 11, 2014 and additional published guidance on this separate requirement.
C. Procured by	Enter name of entity that procured vendor contract - HUD grantee (state or local government), partner agency, a subrecipient of a state or local government, or a recipient of a state government.
D. Vendor Contract Execution Date	Enter date the vendor contract was executed.
E. Vendor Contract End Date	Enter date the vendor contract will expire.
F. Total Vendor Contract Amount	Enter total amount of executed vendor contract.
G. Amount of Funds	Enter amount of funds from the Subaward used to fund the vendor contract.
H. Brief Description of Vendor Contract	Enter a brief, one sentence description of the purpose of the vendor contract.

Docusign Envelope ID: 33222E64-E9E6-871E-8137-B0304D7F8FC1

CONTRACT REPORTING TEMPLATE

Subrecipient:	
GLO Contract Number:	
Date Updated:	

A. Vendor Name	B. Unique Entity Identifier Number (UEID)	C. Procured By	D. Vendor Contract Execution Date	E. Vendor Contract End Date	F. Total Vendor Contract Amount	G. Amount of Subaward Funds	H. Brief Description of Vendor Contract
Example: South Texas Landscaping, INC	XXXXXXXXXXX	State of Texas	6/15/2013	6/15/2014	$3,500,000	$3,000,000	Long term recovery from wildfires of 2011 - Drainage Projects

Certificate Of Completion

Envelope Id: 33222E64-E9E6-871E-8137-B0304D7F8FC1
Status: Completed
Subject: $250K Contract: 23-160-212-F794 - City of Nacogdoches (Texas GLO)
Source Envelope:
Document Pages: 86
Signatures: 4
Certificate Pages: 6
Initials: 6
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Donna Torres
1700 Congress Ave
Austin, TX 78701
donna.torres@glo.texas.gov
IP Address: 2603:8082:3c00:

Record Tracking

Status: Original
6/30/2026 1:35:50 PM
Holder: Donna Torres
donna.torres@glo.texas.gov
Location: DocuSign

Signer Events	Signature	Timestamp
Nathan Leake Nathan.leake@glo.texas.gov Staff Attorney Texas General Land Office Security Level: Email, Account Authentication (None)	DS NL Signature Adoption: Pre-selected Style Using IP Address: 136.226.12.187	Sent: 6/30/2026 3:17:08 PM Viewed: 7/1/2026 7:24:50 AM Signed: 7/1/2026 8:22:19 AM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Shelly Pringle shelly.pringle@recovery.texas.gov Security Level: Email, Account Authentication (None)	Initial SP Signature Adoption: Pre-selected Style Using IP Address: 136.226.14.101	Sent: 7/1/2026 8:22:26 AM Resent: 7/6/2026 7:31:57 AM Viewed: 7/6/2026 8:12:36 AM Signed: 7/6/2026 8:13:50 AM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Heather Lagrone heather.lagrone.glo@recovery.texas.gov Sr Dep director Texas General Land Office Security Level: Email, Account Authentication (None)	DS HL Signature Adoption: Pre-selected Style Using IP Address: 136.226.12.86	Sent: 7/6/2026 8:13:56 AM Viewed: 7/6/2026 3:56:47 PM Signed: 7/6/2026 3:57:02 PM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Marc Barenblat marc.barenblat@glo.texas.gov Deputy General Counsel Texas General Land Office Security Level: Email, Account Authentication (None)	DS MB Signature Adoption: Pre-selected Style Using IP Address: 136.226.20.202	Sent: 7/6/2026 3:57:07 PM Viewed: 7/6/2026 4:07:17 PM Signed: 7/6/2026 4:16:15 PM
Electronic Record and Signature Disclosure: Not Offered via Docusign		

Signer Events	Signature	Timestamp
Jeff Gordon jeff.gordon@glo.texas.gov General Counsel Texas General Land Office Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 136.226.13.80	Sent: 7/6/2026 4:16:20 PM Viewed: 7/6/2026 4:22:12 PM Signed: 7/6/2026 4:22:21 PM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Adrian Piloto adrian.piloto@glo.texas.gov Senior Deputy Director Texas General Land Office Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 2600:1700:291:37a0:69c0:d09c:c9a9:6ca2	Sent: 7/6/2026 4:22:26 PM Resent: 7/7/2026 9:49:35 AM Viewed: 7/7/2026 9:57:02 AM Signed: 7/7/2026 9:57:36 AM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Richard Beverlin beverlinr@nactx.us City Manager Security Level: Email, Account Authentication (None)	 Signature Adoption: Drawn on Device Using IP Address: 2600:387:f:25a::6 Signed using mobile	Sent: 7/7/2026 9:57:44 AM Viewed: 7/7/2026 11:09:57 AM Signed: 7/7/2026 11:11:54 AM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Mike Klepfer Mike.Klepfer@glo.texas.gov Mike Klepfer Texas General Land Office Security Level: Email, Account Authentication (None)	**Completed** Using IP Address: 136.226.19.82	Sent: 7/7/2026 11:12:02 AM Resent: 7/8/2026 9:47:04 AM Resent: 7/10/2026 7:50:47 AM Viewed: 7/13/2026 7:47:45 AM Signed: 7/13/2026 7:50:57 AM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Jennifer G Jones jennifer.jones@glo.texas.gov Chief Clerk Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 136.226.13.82	Sent: 7/13/2026 7:51:03 AM Viewed: 7/13/2026 8:16:32 AM Signed: 7/13/2026 8:16:44 AM
Electronic Record and Signature Disclosure: Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
BSO Team bsorequests@recovery.texas.gov Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 6/30/2026 1:53:19 PM
Drafting Requests draftingrequests@GLO.TEXAS.GOV Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 6/30/2026 1:53:21 PM
Kelly McBride kelly.mcbride@glo.texas.gov Deputy Director of CMD Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 6/30/2026 1:53:21 PM
Lance White lance.white@glo.texas.gov Manager, Contracts Management Department Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 6/30/2026 1:53:22 PM
Joseph Cardona joseph.cardona@glo.texas.gov Team Lead/Contract Manager Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 6/30/2026 1:53:22 PM Resent: 6/30/2026 3:17:07 PM
Donna Ockletree Donna.Ockletree@glo.texas.gov Contract Specialist Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 6/30/2026 1:53:23 PM
Curtis Yankie Curtis.yankie@recovery.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/1/2026 8:22:24 AM

Carbon Copy Events	Status	Timestamp
Jet Hays jet.hays.glo@recovery.texas.gov Deputy Director, Integration Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/1/2026 8:22:23 AM
Kalyn Scott kalyn.scott.glo@recovery.texas.gov Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/1/2026 8:22:24 AM
RCP Team rcp.glo@recovery.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/1/2026 8:22:24 AM
Matthew Anderson matthew.anderson@glo.texas.gov Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/1/2026 8:22:26 AM
Accounting Team DR.SystemAccess@glo.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/1/2026 8:22:26 AM
Kevin Sardinha sardinhak@nactx.us Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/7/2026 9:57:45 AM
Michael Neu neum@nactx.us Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/7/2026 9:57:43 AM Viewed: 7/10/2026 4:44:23 PM
Vonda White Vonda.White@glo.texas.gov Procurement Director Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/7/2026 11:12:00 AM

Carbon Copy Events	Status	Timestamp
Mahsa Azadi Mahsa.Azadi@glo.texas.gov Manager of Federal Procurement,CTCD,CTCM Texas General Land Office Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/7/2026 11:12:01 AM
Garrett Purcell Garrett.Purcell@glo.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/13/2026 8:16:52 AM
HUB HUB@glo.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/13/2026 8:16:52 AM
Ryne Zmolik ryne.zmolik.glo@recovery.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/13/2026 8:16:54 AM
Michelle Esper-Martin michelle.espermartin.glo@recovery.texas.gov Management Analyst Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/13/2026 8:16:55 AM
Jeana Bores jeana.bores.glo@recovery.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/13/2026 8:16:57 AM
Torrey Brown torrey.brown.glo@recovery.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 7/13/2026 8:17:00 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/30/2026 1:53:23 PM
Envelope Updated	Security Checked	6/30/2026 3:17:06 PM
Envelope Updated	Security Checked	6/30/2026 3:17:06 PM
Envelope Updated	Security Checked	6/30/2026 3:17:06 PM

Envelope Summary Events	Status	Timestamps
Envelope Updated	Security Checked	6/30/2026 3:17:07 PM
Envelope Updated	Security Checked	7/8/2026 9:47:03 AM
Envelope Updated	Security Checked	7/8/2026 9:47:03 AM
Certified Delivered	Security Checked	7/13/2026 8:16:32 AM
Signing Complete	Security Checked	7/13/2026 8:16:44 AM
Completed	Security Checked	7/13/2026 8:17:00 AM

Payment Events	Status	Timestamps

PRESENTER: Case Opperman, Director of Public Works

ITEM/SUBJECT: Consider approval of an agreement by and between the City of Nacogdoches and Charles Pool, Jr. for reimbursement of a potable water line installation to serve two (2) parcels of land approximately 2.08 acres ± in size, more particularly described by Nacogdoches Central Appraisal District Parcels 81424 and 217034, and generally located near the intersection of North Street and Ernest McLain Road, in a not-to-exceed amount of $79,250.00. (Director of Public Works/City Engineer)

SUMMARY/BACKGROUND: In accordance with Chapter 106, Article VIII of the Nacogdoches Code of Ordinances, a Developer may request reimbursement for the design and construction of up to 500 feet of a water or sanitary sewer main line, or some combination thereof, that can be extended for public use. Charles Pool, Jr. has proposed to install approximately 400 linear feet of new 6" potable water main from an existing main south of the subject properties in Earnest McLain Drive, to serve two (2) commercial parcels on the west side of North Street (US 59 Bus.).

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

Charles Pool, Jr. is requesting approval of a Developer Agreement, a document that has been drafted in general form by the City. This Agreement outlines the procedures and requirements for the utility extension work and defines the maximum costs that could be requested for reimbursement. The developer is requesting approval of a maximum reimbursement of $79,250.00 for this water extension. Funding is available for this project in the current CIP budget.

FINANCIAL:
Item is budgeted:
Account No.: 30.36 680.97
Account Name: *Water Production - CIP*
Amount: $ 79,250.00

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

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

ATTACHMENTS: 1. Developer Agreement

CONTRACT FOR UTILITY INSTALLATION

STATE OF TEXAS

COUNTY OF NACOGDOCHES

This contract and agreement is made and entered into this 21st day of July, 2026, by and between the City of Nacogdoches and the party designated herein as "DEVELOPER".

Effective Date:

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

"Developer": **Charles Pool, Jr.**

Address: PO BOX 631443
Nacogdoches, TX 75963-1443

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

Facilities

1. Project Location within the City of Nacogdoches:

   7000 Block North Street, US B59 N, Nacogdoches, TX
   (NWC US B59 and Ernest McLain Drive)

2. Engineer's construction drawing of utility extension and project area was not available at time of this contract and agreement

3. Schematic Exhibit of utility extension project area attached and incorporated as Exhibit "A" and revisions thereto

4. Cost estimate sealed by a Professional Engineer licensed by Texas attached and incorporated as Exhibit "B" and revisions thereto

5. Tentative schedule for bidding and construction:
Design …… Late Summer 2026
Constriction …… Late Fall 2026

5. New water system facilities will be in both existing street rights-of-way and existing easements along US B59 for construction, maintenance, repair, replacement, removal, access, laying parallel lines, use, and the like.

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

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

1. TERMS AND CONDITIONS

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

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

2. CONNECTIONS TO THE UTILITIES

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

3. REIMBURSEMENT FOR FACILITIES

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

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

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

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

4. EFFECTIVE DATE OF CONTRACT

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

5. TERMINATION

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

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

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

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

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

6. OWNERSHIP AND LIABIITY

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

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

7. FORCE MAJEURE

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

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

8. NOTICES

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

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

9. INSPECTION AND AUDIT

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

10. MISCELLANEOUS

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

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

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

11. WAIVER, REMEDY AND SEVERABILITY

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

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

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

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

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

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

Signed the _____ day of _____, 2026.

City of Nacogdoches

ATTEST:

_____ By: _____

City Secretary Mayor

(Seal)

Charles Pool, Jr.
Developer

By: _____
Charles Pool

THE STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 2026, by _____.

_____
NOTARY PUBLIC, STATE OF TEXAS



TWO FIFTEEN CONSULTING
ENGINEERS + SURVEYORS
412 North St.
Nacogdoches, TX 75961
p: 936-569-0505
TBPE F-17461
TBPLS 10194339

Two Fifteen Consulting, LLC retains all right, title and interest in, and to, all information contained in this document, including, but not limited to, all intellectual property developed by, or on behalf of Two Fifteen Consulting, LLC Neither this drawing/specification, nor any information contained herein, shall be reproduced, used or relied upon for the preparation of specification or apparatus, or for any other purpose except as expressly authorized in writing by Two Fifteen Consulting, LLC

C. POOL, JR | NACOGDOCHES COUNTY, TEXAS

WATER LINE EXTENSION

US 59 AT ERNEST McLAIN ROAD

EXHIBIT A

N W E S

0 50 100 Feet

DWN BY: xxx | DATE: July 9, 2026

File Name & Layout Name: 25035_EXHIBIT_B.dwg/ 8.5x11_Portrait

EXHIBIT B

UTILITY EXTENSION FOR Lot 1 and Lot 2 of North Point Subdivision

Preliminary Cost Estimate

ITEM	QUANTITY	UNIT	DESCRIPTION	COST	TOTAL
			DOMESTIC WATER		
1	400	LF	6" AWWA C900 DR18 PVC Water Line, including tracer wire, trench excavation and backfill, all materials & labor; complete, in place	$ 65.00	$ 26,000.00
2	40	LF	Dry Bore and 12" casing with supports and end seals, includes 40 LF 6" AWWA C900 Certa-lok RJ pipe, all materials & labor, complete in place	$ 325.00	$ 13,000.00
3	1	EA	6"x4" Tapping Sleeve & Valve including all materials & labor; complete, in place	$ 4,000.00	$ 4,000.00
4	1	EA	6"x4" MJ reducer including all materials & labor, complete in place	$ 500.00	$ 500.00
5	2	EA	6" MJ Bend with concrete thrust block, sincluding all materials & labor, complete in place	$ 1,500.00	$ 3,000.00
6	1	EA	Fire Hydrant Assembly including all materials & labor, complete in place	$ 5,500.00	$ 5,500.00
7	1	EA	3/4" Water Service Tap, including all materials & labor, complete in place	$ 1,250.00	$ 1,250.00
8	1	LS	Trench Safety Plan for cuts or pits in excess of 5 feet in depth	$ 1,500.00	$ 1,500.00
9	1	LS	ROW Preparation, tree and stump removal, brush clearing, and site restoration, seed and fertilize, etc., including all materials & labors; complete, in place	$ 2,500.00	$ 2,500.00
			Contingency @ 15%		$ 9,000.00
			Engineering and Topographic Surveying		$ 9,500.00
			Bid Documents Preparation and Bid & Construction Administration		$ 3,500.00
			TOTAL		$ 79,250.00
			Portion Reimbursable by CITY *(up to first 500' for subdivisions of two or more lots)*		**$ 79,250.00**

Quantities shown are estimates and may not reflect all items required for construction



7/9/2026

PRESENTER: Jason Vickery, Assistant City Engineer

ITEM/SUBJECT: Consider approval of a contract by and between the City of Nacogdoches and Tetra Tech for Professional Engineering Design Services for the Water and Wastewater SCADA System Improvements (CIP projects WA-25-602 and WW-24-601) in the amount of $586,828.00. (Asst. Director of PW/Asst. City Engineer)

SUMMARY/BACKGROUND: City Council recently approved Tetra Tech for Professional Engineering Design Services for the Water and Wastewater SCADA System Improvements (WA-25-602 and WW-24-601) based on qualifications. As a reminder, this will be a multi-year project effort that will include design and construction bid services. Staff has coordinated the project scope with Tetra Tech and has received their proposal for services based on needs identified for the project in the total amount of $586,828.00. While some aspects of this work are set in scope, the extent of services related to construction bid services are estimated. As such, the fees will be partially lump sum and partially on a time-and-materials (hourly) basis.

Staff recommends approval of this professional engineering services design contract in the amount of $586,828.00. Budget is available for this contract from the FY25-26 Water and Wastewater CIP.

FINANCIAL:
Item is budgeted:
Account No.: 30.36.680.97 and 30.39.680.97
Account Name: *Water CIP and Wastewater CIP*
Amount: $586,828.00

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) 559-2518

ATTACHMENTS: 1. Contract

CITY OF NACOGDOCHES
ARCHITECTURAL & ENGINEERING
PROFESSIONAL SERVICES CONTRACT

This Contract is between the **City of Nacogdoches**, a Texas home-rule municipal corporation, (the "City") and **Tetra Tech, Inc.** (the "Consultant"), whereby the Consultant agrees to provide the City with certain professional services as described herein and the City agrees to pay the Consultant for those services.

ARTICLE I
Scope of Services

1.01 In consideration of the compensation stated in paragraph 2.01 below, the Consultant agrees to provide the City with the professional services as described in **Exhibit A,** the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: **Water and Wastewater SCADA Improvements Project (the "Project").**

ARTICLE II
Payment

2.01 In consideration of the Consultant's provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Consultant according to the terms set forth in **Exhibit B**. Except in the event of a duly authorized change order, approved by the City as provided in this Contract, the total cost of all professional services provided under this Contract may not exceed **Five Hundred Eighty-Six Thousand, Eight Hundred Twenty-Eight and 00/100 Dollars ($586,828.00).**

ARTICLE III
Time of Performance and Construction Cost

3.01 The Consultant shall complete the professional services within the times set forth in **Exhibit B**. Consultant expressly agrees that such times are as expeditious as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

3.02 The Consultant shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified. Promptly after the execution of this Contract, the Consultant shall prepare and submit for the City to approve in writing, a detailed schedule for the performance of the Consultant's services to meet the City's project milestone dates which are included in this Contract. The Consultant's schedule shall include allowances for periods of time required for the City's review and for approval of submissions by authorities having jurisdiction over the Project.

3.03 The Consultant's services consist of all of the services required to be performed by Consultant, Consultant's employees and Consultant's sub-consultants under the terms of this Contract. Such services include normal civil, structural, mechanical and electrical engineering services, ~~plumbing, food service, acoustical and landscape services,~~ and any other design services that are normally or customarily furnished and reasonably necessary for the Project. The Consultant shall contract and employ at its expense sub-consultants necessary for the design of the Project, and such sub-consultants shall be licensed as required by the State of Texas and approved in writing by the City.

3.04 The Consultant shall designate a principal of the firm reasonably satisfactory to the City who shall, for so long as acceptable to the City, be in charge of Consultant's services to be performed hereunder through to completion, and who shall be available for general consultation throughout the Project. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement.

3.05 Consultant shall be responsible for the coordination of all drawings and design documents relating to Consultant's design and used on the Project, regardless of whether such drawings and documents are prepared by Consultant. Consultant shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through Consultant and for its compliance with all applicable codes, ordinances, regulations, laws and statutes.

3.06 Consultant's evaluations of the City's project budget and the preliminary estimates of construction cost and detailed estimates of construction cost represent the Consultant's best judgment as a design professional familiar with the construction industry.

ARTICLE IV
Conceptual Design

4.01 Consultant shall meet with the City for the purpose of determining the nature of the Project. The Consultant shall inquire in writing as to the information it believes the City may have in its possession that is necessary for the Consultant's performance. The City shall provide the information within its possession that it can make available to the Consultant. The City shall designate a representative to act as the contact person on behalf of the City.

4.02 The Consultant shall determine the Project needs, including, but not limited to, tests, analyses, reports, site evaluations, surveys, comparisons with other municipal projects, review of budgetary constraints and other preliminary investigations necessary for the Project. Consultant shall verify the observable existing conditions of the Project and verify any existing as-built drawings. Consultant shall confirm that the Project can be designed and constructed within the time limits outlined in this Contract. Consultant shall prepare a detailed design phase schedule which includes all review and approval periods during the project phases from Conceptual Design to Construction, design development and construction document phases. Consultant shall confirm that the Project can be designed and constructed for the dollar amount of the Project budget, if applicable. Consultant shall generally review the City's available budget for the Project and provide an early opinion of the adequacy of funds for the intended scope of work.

4.03 The Consultant shall prepare a Conceptual Design that shall include preliminary schematic layouts, alternative ideas, surveys, sketches and exhibits demonstrating the considerations involved in the Project. The Conceptual Design shall contemplate compliance with all applicable laws, statutes, ordinances, codes and regulations. Upon the City's request, the Consultant shall meet with City staff and/or City Council to make a presentation of its report.

ARTICLE V
Preliminary Design

5.01 The City shall direct the Consultant to commence work on the Preliminary Design by sending to the Consultant a letter of authorization to begin work on the Preliminary Design pursuant to this Contract. Upon receipt of the letter of authorization to commence Preliminary Design, the Consultant shall meet with the City for the purpose of determining the extent of any revisions to the Conceptual Design.

5.02 The Consultant shall prepare the Preliminary Design of the Project, including, but not limited to, the preliminary drawings and specifications and other documents to fix and describe the size and character of the Project as to civil, architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. The Consultant shall submit to the City a detailed estimate of the construction costs of the Project, based on current area, volume, or other unit costs. This estimate shall also indicate costs for allowances, contingencies, fees, permits, and all other costs involved in constructing the Project and the time required for construction of the Project from commencement to final completion.

5.03 Upon completion of the Preliminary Design of the Project, the Consultant shall so notify the City. Upon request the Consultant shall provide a Preliminary Engineering Report and meet with the City staff and/or City Council to make a presentation of its Preliminary Design of the Project. The Consultant shall provide an explanation of the Preliminary Design and cost estimate and shall verify that, to the best of Consultant's belief, the Project requirements and construction can be completed within the Project budget and schedule.

ARTICLE VI
Final Design

6.01 The City shall direct the Consultant to commence work on the Final Design of the Project by sending to the Consultant a letter of authorization to begin work on the Final Design phase of the Project. Upon receipt of the Letter of Authorization to proceed with Final Design of the Project, the Consultant shall immediately prepare the Final Design, including, but not limited to, the bid documents, contract, drawings, and specifications, to fix and describe the size and character of the Project as to civil, structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate. The Final Design of the Project shall comply with all applicable laws, statutes, ordinances, codes and regulations.

6.02 Notwithstanding the City's approval of the Final Design, the Consultant represents that the Final Design has been prepared in accordance with the applicable professional standard of care and is intended to fulfill the purposes of the Project, subject to the assumptions, information, and conditions upon which the design is based. Additionally, Consultant will provide technical criteria, written descriptions and design data for the City's use in filing applications for permits from other governmental authorities or entities. Consultant shall assist the City in the preparation of permits and consultations with other entities having jurisdiction over the Project.

6.03 The Consultant shall prepare and separately seal the special provisions, the technical specifications, and bid proposal form(s) in conformance with the City's ***current*** pre-approved, "Standard Form of Construction Agreement" for the construction contract between the City and the construction contractor. The Consultant hereby agrees that no changes, modifications, supplementations, alterations, or deletions will be made to the City's standard form without the prior written approval of the City.

6.04 The Consultant shall provide the City with complete construction design plans and contract documents sufficient to be advertised for bids by the City. The contract documents shall include the design and specifications and other changes that are required to fulfill the purpose of the Project. Upon completion of the Final Design of the Project, with the submission of the complete contract documents, and upon request of the City, the Consultant shall meet with City staff and/or the City Council to present the Final Design of the Project. The Consultant shall provide an explanation of the Final Design and cost estimate.

ARTICLE VII
Bid Preparations & Evaluation

7.01 The Consultant shall assist the City in advertising for and obtaining bids or negotiating proposals for the construction of the Project. Upon request, the Consultant shall meet with City staff and/or the City Council to present, and make recommendations on, the bids submitted for the construction of the Project.

7.02 The Consultant shall review the construction contractors' bids, including subcontractors, suppliers, and other persons required for completion of the Project. The Consultant shall evaluate each bid and provide these evaluations to the City along with a recommendation on each bid. The Consultant shall also review the qualifications and references of the lowest responsible bidder. A written evaluation of the bids shall be provided to the City by Consultant and shall include any bidding irregularities subject to waiver. If the lowest bid for the construction of the Project exceeds the final cost estimate set forth in the Final Design of the Project, then the Consultant shall, upon the City's request, meet with the City to evaluate the bids and recommend appropriate modifications to the Project. Any revisions to the construction documents requested by the City that are not required to correct errors or omissions that fail to meet the applicable professional standard of care shall constitute Additional Services and shall be compensated accordingly. However, any such revisions and associated compensation are subject to the change order requirements set forth in Article IX below.

7.03 Where substitutions are requested by a construction contractor, the Consultant shall review the substitution requested and shall recommend approval or disapproval of such substitutions.

~~ARTICLE VIII~~
~~Construction Administration~~

~~8.01 The Consultant shall be a representative of, and shall advise and consult with, the City (1) during construction, and (2) at the City's direction from time to time during the correction or warranty period described in the construction contract. The Consultant shall have authority to act on behalf of the City only to the extent provided in this Contract unless modified by written instrument.~~

~~8.02 The Consultant shall make visits to the site, with a frequency appropriate to the scope of the Project, to inspect the progress and quality of the executed work of the construction contractor and its subcontractors and to determine if such work is proceeding in accordance with the contract documents. Consultant shall periodically review the as-built drawings for accuracy and completeness, and shall report its findings to the City.~~

~~8.03 Resident Project Representative (RPR): The Consultant shall provide the services of an RPR to support more frequent and extensive observations of the contractor's work. The presence of the RPR will not diminish the responsibilities of the Consultant's design professionals to provide site visits to monitor the progress of the project. Duties and responsibilities of the RPR include:~~

~~a. The RPR will generally deal directly with the contractor and report to the Consultant, who in turn will report to the City. The RPR works under the direction of the Consultant. The RPR may communicate directly with the City, but only with the knowledge of the Consultant.~~

~~b. The RPR will not normally direct the work of the contractor but shall observe its compliance with the plans and specifications and report such directly to the Consultant. The RPR can communicate any concerns directly to the contractor, but all observed conditions will always be given to the Consultant as well.~~

c. If the RPR observes unsafe conditions, or other potentially hazardous conditions that might risk life and safety to anyone, he/she will immediately report such to the contractor, Consultant and City. In such circumstances, the RPR will have the authority to stop the work of the contractor until the issue can be resolved.

d. The RPR shall, on behalf of the Consultant, make and keep as-built drawings in the field to record any variances from the original designs shown in plans and specifications.

e. The RPR shall keep and maintain inspection reports for each day he/she is present on the project site. These reports shall be made available to the City at the end of the project. The daily reports shall include times of observations, activities observed, materials used or delivered to the job, problems encountered and solutions or adjustments made in the field.

f. The RPR shall review pay estimates from the contractor, on behalf of the Consultant, to verify the quantity and quality of work requested for payment. At no time will the RPR approve pay estimates, contract addendums, modifications, or change orders involving changes in the contract price.

g. The RPR shall be present to observe and witness all testing of on-site equipment and installed materials under the direction of the Consultant.

8.04 The Consultant shall keep the City informed of the progress and quality of the work through periodic project meetings and written monthly status reports. The Consultant shall employ the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license in discovering and promptly reporting to the City any defects or deficiencies in such work and shall disapprove or reject any work failing to conform to the contract documents.

8.05 The Consultant shall review and approve shop drawings and samples, the results of tests and inspections, and other data that each construction contractor or subcontractor is required to provide. The Consultant's review and approval shall include a determination of whether the work complies with all applicable laws, statutes, ordinances and codes and a determination of whether the work, when completed, will be in compliance with the requirements of the contract documents.

8.06 The Consultant shall determine the acceptability of substitute materials and equipment that may be proposed by construction contractors or subcontractors. The Consultant shall also receive and review maintenance and operating instruction manuals, schedules, guarantees, and certificates of inspection, which are to be assembled by the construction contractor in accordance with the contract documents.

8.07 The Consultant shall issue all instructions of the City to the construction contractor as well as interpretations and clarifications of the contract documents pertaining to the performance of the work. Consultant shall interpret the contract documents and judge the performance thereunder by the contractor constructing the Project, and Consultant shall, within a reasonable time, render such interpretations and clarifications as it may deem necessary for the proper execution and progress of the work. Consultant shall receive no additional compensation for providing clarification of the drawings and specifications.

8.08 The Consultant shall review the amounts owing to the construction contractor and recommend to the City, in writing, payments to the construction contractor of such amounts. The Consultant's recommendation of payment, being based upon the Consultant's on-site inspections, observations, and its experience and qualifications as a design professional, shall constitute a recommendation by the Consultant to the City that the quality of such work is in accordance with the contract documents and that the work has progressed to the point reflected in Consultant's recommendation for payment.

~~8.09 Upon notification from the construction contractor that the Project is substantially complete, the~~ Consultant ~~shall conduct an inspection of the site to determine if the Project is substantially complete. The Consultant shall prepare a checklist of items that shall be completed prior to final acceptance. Upon notification by the construction contractor that the checklist items designated by the Consultant for completion have been completed, the Consultant shall inspect the Project to verify final completion.~~

~~8.10 The Consultant shall not be responsible for the work of the construction contractor or any of its subcontractors, except that the Consultant shall be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the contract documents if such failures result from the Consultant's negligent acts or omissions. This provision shall not alter the Consultant's duties to the City arising from the performance of the Consultant's obligations under this Contract.~~

~~8.11 The Consultant shall conduct at least one on-site inspection during the warranty period and shall report to the City as to the continued acceptability of the work.~~

~~8.12 The Consultant shall recommend and prepare change orders, work directives and clarification notices on behalf of the City but shall not execute and issue such documents or otherwise alter the financial scope of the Project without an advance, written authorization from the City.~~

~~8.13 The Consultant shall perform all of its duties under this Article VIII so as to not cause any delay in the progress of construction of the Project.~~

~~8.14 The Consultant shall assist the construction contractor and City in obtaining a Certificate of Occupancy by accompanying governing officials during inspections of the Project if requested to do so by the City.~~

ARTICLE IX
Change Orders & Documents & Materials

9.01 No changes shall be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid to Consultant except upon the prior written order from authorized personnel of the City. The Consultant shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project, except upon the prior written approval from authorized personnel of the City.

9.02 a. When the original contract amount plus all change orders is less than $50,000, the City Manager or his delegate may approve the written change order provided the change order does not increase the total amount set forth in the contract to more than $50,000. For such contracts, when a change order results in a total contract amount that exceeds $50,000, the City Council must approve such change order prior to commencement of the services or work.

b. When the original contract amount plus all change orders is equal to or greater than $50,000, the City Manager or his delegate may approve the written change order. For such contracts, when a change order exceeds $50,000, the City Council must approve such change order prior to commencement of the services or work.

c. **Any request by the Consultant for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Consultant providing such services or the right to payment for such additional services shall be waived.** If there is a dispute between the Consultant and the City respecting any service provided or to be provided hereunder by the Consultant, including a dispute as to whether such service is additional to

the Scope of Services included in this Contract, the Consultant agrees to continue providing on a timely basis all services to be provided by the Consultant hereunder, including any service as to which there is a dispute.

The Consultant shall furnish the City O**ne (1)** full set of electronic (pdf) plans and specifications. It is hereby agreed that additional copies shall be provided to the City at the City's expense. The Consultant shall provide the City **One** (**1**) set of ~~reproducible, mylar~~ record drawings that clearly show all the changes made during the construction process, based upon the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. The Consultant shall provide copies of documents, computer files if available, surveys, notes, and tracings used or prepared by the Consultant. The foregoing documentation, the Consultant's work product, and other information in the Consultant's possession concerning the Project shall be the property of the City from the time of preparation. The Consultant shall furnish one set of digital files representing the final record drawings.

ARTICLE X
Warranty, Indemnification & Release

10.01 Pursuant to Section 271.904(d) of the Texas Local Government Code, the Consultant shall perform the services with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary skill and care of a competent engineer or architect. The Consultant warrants that the information provided by the Consultant, the design, the preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of all other services under this Contract are performed with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar circumstances and professional license. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Consultant, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Consultant, its employees, associates, agents, or subcontractors.

10.02 The Consultant shall promptly correct any defective designs or specifications furnished by the Consultant at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Consultant's services hereunder or of the Project itself shall in no way alter the Consultant's obligations or the City's rights hereunder.

10.03 In all activities or services performed hereunder, the Consultant is an independent contractor and not an agent or employee of the City. The Consultant and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Consultant shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Consultant shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Consultant shall have ultimate control over the execution of the services it is to provide under this Contract. The Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Consultant or any of the Consultant's subcontractors.

10.04 The Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, , as well as its personal property,

and no other persons, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Consultant, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.

10.05 INDEMNITY. THE CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES AND/OR DESIGNEES (SEPARATELY AND COLLECTIVELY REFERRED TO IN THIS PARAGRAPH AS "INDEMNITEE"), FROM ANY AND ALL LIABILITY, SETTLEMENTS, LOSS, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEY FEES) TO THE EXTENT CAUSED BY ANY NEGLIGENT ACTS, ERRORS, OMISSIONS, ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILFULL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY OF THE CONSULTANT OR ITS AGENTS, EMPLOYEES, SUB-CONTRACTORS, ORDER FULFILLERS, OR CONSULTANTS UNDER CONTRACT TO CONSULTANT, OR ANOTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT.

10.06 CONSULTANT REPRESENTS AND WARRANTS THAT, TO CONSULTANT'S KNOWLEDGE AS OF THE EFFECTIVE DATE, THE DELIVERABLES AND ANY CONSULTANT IP PROVIDED UNDER THIS AGREEMENT DO NOT INFRINGE ANY VALID, ENFORCEABLE THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS, INCLUDING PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET RIGHTS. THIS WARRANTY DOES NOT APPLY TO INFRINGEMENT ARISING FROM (I) MATERIALS PROVIDED BY CITY, (II) MODIFICATIONS NOT MADE BY CONSULTANT, OR (III) USE IN COMBINATION WITH ITEMS NOT SUPPLIED OR APPROVED BY CONSULTANT. CONSULTANT SHALL, FOR THE PERIOD OF THE AGREEMENT, INDEMNIFY AND HOLD HARMLESS CITY FROM AND AGAINST ANY LOSSES TO THE EXTENT CAUSED BY A THIRD-PARTY CLAIM THAT THE DELIVERABLES OR CONSULTANT IP INFRINGE ANY VALID, ENFORCEABLE THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

10.07 CONSULTANT AND THE CITY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM UNDER 10.05 OR 10.06. CONSULTANT SHALL BE LIABLE TO PAY COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES, BUT ONLY TO THE EXTENT FINALLY DETERMINED TO HAVE BEEN CAUSED BY THE NEGLIGENT ACTS, ERRORS, OR OMISSIONS OF THE CONSULTANT OR THOSE FOR WHOM THE CONSULTANT IS LEGALLY RESPONSIBLE.

10.08 Release. The Consultant releases, relinquishes, and discharges the City, its officers, employees, and volunteers from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Consultant or its employees and any loss of or damage to any property of the Consultant or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Consultant's work to be performed hereunder. Both the City and the Consultant expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Consultant or its employees, but not otherwise, this release shall apply regardless of whether such

loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Consultant, or any third party.

10.09 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification, release or other obligations under Paragraphs 10.05, 10.06, 10.07 and 10.08 such legal limitations are made a part of the obligations and shall operate to amend same to the minimum extent necessary to bring the provision(s) into conformity with the requirements of such limitations, and as so modified, the obligations set forth therein shall continue in full force and effect.

ARTICLE XI
Insurance

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

ARTICLE XII
Use of Drawings, Specifications and Other Documents

12.01 The drawings, specifications and other documents prepared by the Consultant and Consultant's sub-consultants for this Project shall become the property of the City whether the Project is completed or not. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Consultant's drawings, specifications and other documents.

12.02 The documents prepared by Consultant may be used as a prototype for other facilities by the City. If the City elects to retain the Consultant to perform services related to the reuse or adaptation of the prototype, the parties shall negotiate in good faith the scope of services and compensation for such services. If the City elects to employ a different architect or engineer to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype, that architect or engineer will be entitled to use Consultant's sub-consultants on the same basis that Consultant would have been entitled to use them for the work on the reuse of the prototype, and such architect or engineer will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the construction documents, approved shop drawings and calculations, and change order drawings in performing its work. The City assumes all responsibility for the reuse, adaptation, or modification of the documents by others, and Consultant shall have no liability arising from such reuse, adaptation, or modification. The Consultant will not be responsible for the services of a subsequent architect or engineer. The Consultant shall commit its sub-consultants to the terms of this subparagraph. The provisions of this section shall survive termination of this Contract.

12.03 In the event of termination of this Contract for any reason, the City shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions solely to complete the Project provided the City has paid Consultant for all Services performed through the date of termination. The City agrees that any use, reuse, modification, or completion of the documents by the City or others without the Consultant's continued involvement shall be at the City's sole risk, and to the extent permitted by law, the City releases and shall defend, indemnify, and hold harmless the Consultant from any claims, damages, losses, or expenses arising out of such use, reuse, modification, or completion, except to the extent caused by the Consultant's negligent acts, errors, or omissions.

12.04 Consultant retains ownership of its pre-existing and independently developed methodologies, standard details, design concepts, know-how, and other intellectual property incorporated into the Project documents and may use such materials on other projects, provided that Consultant does not represent the Project documents as having been prepared for another project or disclose the City's confidential or project-specific information. The City-furnished forms, conditions, and other written documents shall not be used on other projects by the Consultant.

ARTICLE XIII
Termination

13.01 The City may terminate this Contract at any time upon **thirty (30)** calendar days' written notice. Upon the Consultant's receipt of such notice, the Consultant shall cease work immediately. To the extent of funds appropriated or otherwise legally available for such purposes, the Consultant shall be compensated only for the services satisfactorily performed prior to the termination date.

13.02 If, through any cause, either party materially fails to fulfill its obligations under this Contract or materially breaches any provision of this Contract, the non-breaching party may provide written notice specifying the nature of the breach. The breaching party shall have thirty (30) calendar days after receipt of such notice to cure the breach, or, if the breach is not reasonably capable of being cured within such period, to commence and diligently pursue the cure. If the breach is not cured within the applicable cure period, the non-breaching party may terminate this Contract upon five (5) calendar days' written notice. The Consultant will be compensated for the services satisfactorily performed prior to the termination date.

13.03 No term or provision of this Contract shall be construed to relieve the Consultant of liability to the City for damages sustained by the City because of any breach of contract and/or negligence by the Consultant. The City may withhold payments to the Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined and paid.

ARTICLE XIV
Miscellaneous Terms

14.01 This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Nacogdoches County, Texas.

14.02 The City, or if State funds are used to pay any part of this contract, the State Auditor, may conduct an audit or investigation of any entity receiving funds directly under this contract or indirectly through a subcontract under the contract. Acceptance of funds under the contract or through a subcontract under the contract acts as acceptance of the authority of the City or the State Auditor to conduct an audit or investigation. Consultant agrees to cooperate and must provide the City and/or State Auditor with access to any information the City and/or State Auditor considers relevant to the investigation or audit. The Consultant agrees to refund to the City any overpayments disclosed by any such audit.

14.03 The Consultant shall retain all such records for a period of four (4) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Consultant are resolved, whichever is longer.

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

14.05 Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties

from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

City of Nacogdoches
Attn: City Manager
202 East Pilar Street
P.O. Box 635030
Nacogdoches, Texas 75961

Consultant:
Tetra Tech, Inc.
Attn: Philip Liu
1500 City West Boulevard
Suite 1000
Houston, Texas 77042

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

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

14.08 This Contract and all rights and obligations contained herein may not be assigned by the Consultant without the prior written approval of the City.

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

14.10 The Consultant, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Nacogdoches, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Consultant must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

14.11 **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.

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 .

(d) **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.

(e) **Convictions**. Under Sections 2155.006, 2155.0061 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.

(f) **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.

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

(b) To the extent this Contract has a value of $100,000 or more and 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.*).

14.12 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract. If there is a conflict between a provision in any documents provided by Consultant made a part of this Contract and any other provision in this Contract, the latter controls.

14.13 This Contract will be effective when signed by the last party whose signing makes the Contract fully executed. The parties may execute this Contract in duplicate originals, each of equal dignity.

14.14 **Notice of Indemnification. City and Consultant hereby acknowledge and agree that this Contract contains certain indemnification obligations and covenants.**

14.15 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the CITY nor Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect, or consequential damages arising out of or connected in any way to the project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other incidental, indirect, or consequential damages that either party may have incurred from any cause or action including negligence, strict liability, breach of contract, and breach of strict or implied warranty. Both the CITY and Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project or with this Agreement.

14.16 The CITY and Consultant agree that they shall diligently pursue resolution of all disagreements within 45 days of either party's written notice using a mutually acceptable form of mediated dispute resolution prior to exercising their rights under law. Consultant shall continue to perform services for the Project and the CITY shall pay for such services during the dispute resolution process unless the CITY issues a written notice to suspend work. Causes of action between the parties to this Agreement shall be deemed to have accrued and the applicable statutes of repose and/or limitation shall commence not later than the date of substantial completion.

14.17 The parties shall not be liable for any damages caused by any delay that is beyond their reasonable control, including but not limited to unavoidable delays that may result from any acts of God, strikes, lockouts, wars, acts of terrorism, riots, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control or contemplation of either party.

14.18 In recognition of the relative risks and benefits of the project to both the CITY and Consultant, the risks have been allocated such that the CITY agrees, to the fullest extent permitted by law, to limit the liability of Consultant and its subconsultants to the CITY and to all construction contractors and subcontractors on the project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of Consultant and its subconsultants to all those named shall not exceed $50,000 or the amount of Consultant's total fee paid by the CITY for services under this Agreement, whichever is the greater. Such claims and causes include, but are not limited to negligence, professional errors or omissions, strict liability, breach of contract or warranty.

14.19 Each party shall comply with all applicable laws and regulations relating to the processing, protection, or privacy of personal data, including where applicable, the guidance and codes of practice issued by regulatory bodies in any relevant jurisdiction. Each party agrees that it shall keep such personal data in a secure technological environment.

14.20 The CITY may suspend services performed by Consultant with cause upon fourteen (14) days written notice. Consultant shall submit an invoice for services performed up to the effective date of the work suspension and for reasonable demobilization expenses and the CITY shall pay Consultant all outstanding invoices within fourteen (14) days. If the work suspension exceeds thirty (30) days from the effective work suspension date, Consultant shall be entitled to renegotiate the Project schedule and the compensation terms for the Project.

TETRA TECH, INC
1500 City West Boulevard
Houston, Texas 77042

By: _____

Printed Name: _____

Title: _____

Date: _____

Firm Registration No.: _____

CITY OF NACOGDOCHES
P. O. Box 635030
Nacogdoches, Texas 75963-5030

By: _____

Printed Name: _____

Title: City Manager

Date: _____

APPROVED AS TO CONTENT:

_____
Director of Public Works

APPROVED AS TO FORM:

_____
City Attorney

Exhibit A
SCOPE OF SERVICES

1.0 INTRODUCTION

This Proposal is to provide engineering design services for a comprehensive upgrade of the SCADA system for the City of Nacogdoches' (City) 24 water treatment system sites and 13 wastewater treatment and collection facilities sites. This project aims to enhance the efficiency, reliability, and functionality of the SCADA systems for these 37 water and wastewater treatment sites, including the Surface Water Treatment Plant, ground and elevated storage tanks, pump stations, groundwater well sites, Wastewater Treatment Facility, lift station sites, and associated network communications.

Tetra Tech spent four days meeting with the City and visiting the sites to prepare this proposal to best meet the City's goals of this project. The scope of work contained herein is based on these meetings and site visits to best understand the existing conditions and nature of the work required.

The current SCADA system features a central HMI from Data Flow Systems with a PLC/RTU hardware infrastructure that includes controllers by both Data Flow Systems and Allen-Bradley. Other areas of the existing SCADA system also utilize Allen-Bradley based FactoryTalk View interfaces. Operations and maintenance challenges are driving this upgrade as the City addresses equipment end-of-life concerns, compatibility issues between control system components, and unreliable wireless communications.

This task combines three key initiatives:

(1) Replacement of all SCADA panels and RTUs with the latest Allen-Bradley hardware;

(2) Migration of the central SCADA system HMI platform to a new system interface more widely supported than Data Flow Systems;

(3) Improve resilience of the SCADA system, including hardening of the SCADA system network, and re-designing the network communications so sites can be reliably monitored and controlled from the central SCADA operations at the Wastewater Treatment Facility.

Together, these efforts will eliminate obsolete hardware, standardize equipment, enhance resiliency, and deliver a modernized, scalable SCADA environment at City water and wastewater facilities.

1.1 PROJECT OBJECTIVES

The objectives of this engineering design project are to:

- Provide a design bid package for the City to use for implementing the SCADA system improvements.
- Eliminating End-of-Life Equipment – design replacement SCADA control panels, PLCs and OT network components to ensure long-term reliability.
- Identify and design the central SCADA HMI interface around a new widely supported platform, such as VTScada, Ignition, or FactoryTalk View.
- Enhance Power Redundancy – Design consistent redundancy strategies across all panel including industrial grade UPSs to protect against unexpected shutdowns with robust backup systems.
- Optimize SCADA network communications – Design improvements to the network design, including the wireless communications, to provide reliable data communications between sites.
- Ensure Reliable Deployment – Develop a design that meets industry standards.

2.0 SCADA IMPROVEMENTS DESIGN SCOPE

2.1 WATER/WASTEWATER SITES

The existing water and wastewater treatment systems for the City of Nacogdoches include the following active sites: one (1) surface water treatment facility, six (6) water pump stations, nine (9) groundwater well sites, seven (7) elevated storage tanks, one (1) radio tower site, one (1) wastewater treatment facility, and twelve (12) lift station sites. These sites are listed in the table below.

Water Treatment System Sites

No.	Site Name	Type
1	Surface Water Treatment Plant	Surface Water Treatment Facility
2	Southwest Pump Station	Water Pump Station
3	Southside Pump Station	Water Pump Station
4	Post Oak Pump Station	Water Pump Station
5	Central Heights South Pump Station	Water Pump Station
6	Loop Booster Pump Station	Water Pump Station
7	Surface Raw Water Pump Station	Water Pump Station
8	Well #6	Groundwater Well
9	Well #7	Groundwater Well
10	Well #8	Groundwater Well
11	Well #9	Groundwater Well
12	Well #11	Groundwater Well
13	Well #12	Groundwater Well
14	Well #13	Groundwater Well
15	Well #14	Groundwater Well
16	Well #16	Groundwater Well
17	Zula Elevated Storage Tank	Storage Tank
18	Martinsville Elevated Storage Tank	Storage Tank
19	Beulah Elevated Storage Tank	Storage Tank
20	Stephen F Austin Elevated Storage Tank	Storage Tank
21	Austin Elevated Storage Tank	Storage Tank
22	Moore Elevated Storage Tank	Storage Tank
23	Central Heights Elevated Storage Tank	Storage Tank
24	Airport Radio Communications Tower	Radio Tower

Wastewater Treatment System Sites

No.	Site Name	Type
1	Wastewater Treatment Plant	Wastewater Treatment Facility
2	Woden Road Lift Station	Lift Station
3	San Augustine Lift Station	Lift Station
4	White Oak Lift Station	Lift Station

5	Kingwood Lift Station	Lift Station
6	Spring Creek Lift Station	Lift Station
7	Central Heights Lift Station	Lift Station
8	E-Tech Lift Station	Lift Station
9	Animal Shelter Lift Station	Lift Station
10	Foretravel Lift Station	Lift Station
11	Old Lufkin Road Lift Station	Lift Station
12	Press Road Lift Station	Lift Station
13	Curl Street Lift Station	Lift Station

2.2 DESIGN SCOPE DESCRIPTION

The engineering design package for the SCADA system upgrades will begin with the Project Initiation, Inventory, and Assessment Phase. We will hold a kickoff meeting with the City to start the project followed by a scheduled site assessment to take place over 1-2 weeks. This site assessment of the City's 37 existing sites will be performed by our Automation Engineers and Network Infrastructure team to document all existing SCADA and network equipment and evaluate the existing system enclosures to identify locations and installation details for the new RTU/PLC panels, network panels, and SCADA infrastructure equipment. The intent is for a SCADA HMI system to be hosted in a new server network enclosure at the existing Wastewater Treatment Plant, with clients available at the Wastewater Treatment Plant and at the Surface Water Treatment Plant.

All PLCs and RTUs will be Allen-Bradley hardware and programmed with Studio5000. The HMI vendor will be selected at the beginning of the project with a representative from three (3) vendors - VTScada, Ignition, and FactoryTalk View - providing a demonstration that will lead to a decision by the City prior to development of the design package. We will coordinate with the vendors to schedule a single demonstration workshop for each vendor with the City stakeholders in attendance. Following the last demonstration workshop, we will work with the City to make the decision on a selected vendor within one (1) week.

At the conclusion of the Project Initiation, Inventory, and Assessment Phase, we will develop a Design Basis document that includes an inventory and assessment of the existing SCADA and network components at each site with current manufacturer information and operating conditions. This document will also describe the proposed SCADA and Network upgrades that will be included in this design bid package and detail design considerations such as the selected HMI vendor and site-specific procedures for maintaining operations during the SCADA upgrade implementation activities.

The design phases will follow immediately after the submittal of the Design Basis document. The design package will be developed in 3 review stages: 50%, 90%, and Final Bid Package. The 50% Design Package will represent a Conceptual Design with high level architecture diagrams, layout drawings, estimated I/O lists and wiring diagrams, and draft specifications. The goal of this design package is to begin with big-picture design concepts and get approval from the City on the direction of the design. The 90% Design Package will feature a near-complete design with all details of the SCADA system upgrade included. This review stage will allow the City to provide final minor comments before the Final Bid Package is developed. The Final Bid Package will consist of the following deliverables:

Design Drawings:

- Site Layouts – indicating locations of existing and new panels and equipment.
- Demolition Details – indicating demolition and relocation of existing panels and equipment.
- Panel Layouts and Bill of Materials - go-by drawings showing proposed panel layouts and a sample bill of materials for the construction contractor to use to develop final panel drawings for construction.
- Panel Wiring Schematics – go-by drawings showing proposed IO wiring and panel power distribution for the construction contractor to use to develop final panel drawings for construction.
- Network Architecture Diagrams – indicating proposed network and communications pathways between sites and SCADA components.
- Network Logical Diagrams – indicating proposed layering of SCADA network infrastructure
- Network Materials List – proposed hardware/software lists for the construction contractor to use to develop final bill of materials
- Installation Details – indicating details for installing panels, enclosures, antennas, and other equipment as part of the proposed SCADA upgrades.
- (As needed) Electrical Panel Schedules, Cable/Conduit Schedules, and One-Line Diagrams – only for sites needing additional electrical power design to provide adequate power for the proposed SCADA upgrades (ex: 120V power for Animal Shelter Lift Station).

Design Documents:

- IO List
- Network Device and Address List
- Design Specifications: Division 40 (Process Control Systems), Division 26 (Electrical) as needed.
  - Includes Process Control Narratives
- Opinion of Construction Cost Estimate

2.3 BIDDING PHASE (OPTIONAL)

Tetra Tech will also provide bidding phase services to the City as an optional Time and Materials scope task following submission of the design bid package. During the Bidding Advertisement of the project, Tetra Tech will help the City answer bid solicitation questions and review bid submissions. We will also be the City's Engineering representative during pre-bid events such as the pre-bid meeting and site visit, as needed.

2.4 REVIEW AND FEEDBACK PROCESS

The review and feedback process will ensure the final design reflects the priorities of all stakeholders, including operators, maintenance, engineering, and IT:

- Provide draft SCADA design drawings for review at 50% and 90% complete designs. The City will have the opportunity to review and comment on the 50% and 90% sets.
- The Final Bid Package deliverable is an engineered bid design package the City can advertise for implementation of the SCADA system upgrade. It is understood there will be no revisions to the Final Bid Package.

2.5 PROJECT MANAGEMENT

Manage the coordination and Tetra Tech team oversight, contract administration, quality, cost, deliverables, schedule, and communication between Tetra Tech staff and City staff.

Development of a Health and Safety Plan for Tetra Tech personnel performing on-site efforts is included. The following are the deliverables for this task:

- Project Kickoff Meeting up to one hour (Virtual and on site)
- Monthly project progress meetings with the City (all virtual meetings)
- Monthly invoicing with project progress report
- Coordination of design deliverables
- Coordination of City comments on design deliverables

ASSUMPTIONS

The following assumptions, exclusions, and dependencies apply to all tasks defined in this proposal. They are intended to ensure clarity of scope and alignment of expectations between the City and Tetra Tech.

- The City will provide a single point of contact, Jason Vickery.
- Tetra Tech will provide a single point of contact, Philip Liu.
- The design pricing is based on a Design–Bid–Build delivery approach, in which the completed design documents will be used by the City to solicit competitive bids from qualified contractors. Tetra Tech is fully qualified to perform the construction work and, at the City's option, is willing to enter into subsequent task orders to provide those services.
- The City will provide timely access to facilities, systems, and documentation necessary for task execution via the City's single point of contact.
- Existing SCADA servers, PLCs, RTUs, and networks are assumed to be functional and available for assessment.
- Project deliverables will be aligned with current regulatory requirements (e.g., EPA, AWIA Section 1433) and industry standards (e.g., ISA, NIST CSF 2.0). Adjustments required by future regulations (e.g., WRRO) will be treated as out-of-scope.
- The City will maintain valid licenses for all required software tools, operating systems, and SCADA applications.
- Staff availability will be sufficient to support workshops, design reviews and time to provide comments as coordinated by the City's single point of contact.
- The standards listed in this proposal and for which part of the Tetra Tech engineering content will be produced will be based on the current version available when a project kicks off.
- A single kick off meeting/workshop will be scheduled during the initiation of the design project. Attendance will be local and virtual.
- The schedule and project management fees included in this proposal assume all work including design submittals and City reviews will occur simultaneously for all projects included in the scope. Should delays occur for any tasks beyond Tetra Tech's control, additional time and project management fees may be required.

EXCLUSIONS

- Provision and physical installation, construction, or fabrication of control panels, networking equipment, or SCADA hardware are not included under this proposal.

- Programming or modification of any SCADA components is not included under this proposal.
- Integration with external enterprise systems (e.g., ERP, billing, GIS) is excluded unless explicitly included in the scope of a specific task.
- The scope of work and final deliverables does not include preparing for delivering any formal presentations.

DEPENDENCIES

- Timely review and approval by the City's single point of contact of no more than two weeks, and approval of draft deliverables by City stakeholders are required to maintain project schedule.
- Unless otherwise stated in project and task descriptions, submission of material for City review will include a maximum of 2 review cycles: review of draft and comments, review of final and comments.

PROJECT ACCEPTANCE CRITERIA

The following criteria apply to all tasks and deliverables within this proposal:

1. Drawings and Documentation Deliverables
   - Deliverables will be provided in agreed formats (Word, Excel, PDF, DXF or Visio) with version control.
   - All documentation will clearly state objectives, methodology, and recommendations aligned with industry standards.
   - Drafts will be submitted for review, and final deliverables will incorporate City feedback.

2. Stakeholder Review and Approval
   - At least one review cycle with City stakeholders will be coordinated by the City's single point of contact and conducted for each deliverable.
   - Final deliverables require sign-off coordinated by the City's single point of contact with designated City leadership or project sponsors.

3. Industry Standards Alignment
   - Deliverables will align with applicable standards (e.g., ISA 101 for HMI, ISA 18.2/EEMUA 191 for alarms, NIST CSF 2.0, NIST SP 800-61 Rev2/3, NIST SP 800-53 Rev5, or cybersecurity).

4. Usability
   - The deliverables will be designed to enable the City to self-sustain improvements after project completion.

Exhibit B
Payment Terms and Schedule

PAYMENT TERMS

Compensation for services shall be as outlined below:

Lump Sum Services

Phase I – Initiation, Inventory, & Assessment	$ 87,469.00
Phase 2 – 50% Design	$ 198,031.00
Phase 3 – 90% Design	$ 171,917.00
Phase 4 – Final Bid Package	$ 104,411.00
Subtotal	$ 561,828.00

Time and Materials Services (hourly, rate schedule below)

Bidding Phase Services	$ 25,000.00 (Not to Exceed)
TOTAL COMPENSATION	$586,828.00

PROJECT ROLE/POSITION	HOURLY RATE
Program/Project Manager	$275
Senior Controls Engineer	$240
Control Engineer III	$185
Control Engineer I	$95
Network Engineer III	$195
Network Engineer I	$105
Electrical Design Engineer III	$255
Administrative Assistant	$80

Unless amended by a duly authorized written change order, the total payment for all invoices on this job, including both salary and non-salary expenses, shall not exceed the amount set forth in paragraph 2.01 of this Contract **($586,828.00**).

The Consultant must submit ***monthly*** invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such invoices within 30 days of the invoice date unless the City, in good faith, disputes the accuracy of the amount(s) set forth in any invoice. In the event of a disputed invoice, the City shall pay all portions of the invoice not in dispute and withhold from payment only that portion that is in dispute.

SCHEDULE

The engineering design of the bid package will be executed in four phases:

Project Initiation, Inventory, and Assessment (Weeks 1-4)

- Project Kickoff Meeting.
- Site Assessments to inventory the existing SCADA system.
- Review as-built electrical and control drawings.
- Identify field I/O points and control loops.
- Provide three (3) total vendor-led HMI workshops for the City to select a new HMI/SCADA platform from a pre-selected list: VTScada, Ignition, FactoryTalk View.
- Participation in up to four (4) 1-hour status update meetings with the City, not including the Kickoff Meeting and HMI Workshops.
- Deliverables:
  - Design Basis report including existing conditions summary and design criteria, with identification of the new HMI platform.

50% Design (Weeks 5–12)

- Develop draft design drawings, documents, and specifications with coordination with the City to confirm design direction. This includes all design deliverables listed under Design Drawings and Design Documents in section 2.2.
- Participation in up to six (6) 1-hour status update meetings with the City, not including review meetings after 50% design submission.
- Design review following submission of the 50% design is estimated at 2 weeks from receipt of the design package. A design review workshop will be scheduled during this time to communicate design intent and address any comments or questions by the City.
- Deliverable:
  - 50% Design Package

90% Design (Weeks 13–21)

- Develop the updated 90% design drawings and specifications to address comments from the City and advance the design deliverables.
- Participation in up to eight (8) 1-hour status update meetings with the City, not including review meetings after 90% design submission.
- Design review following submission of the 90% design is estimated at 2 weeks from receipt of the design package. A design review workshop will be scheduled during this time to address comments or questions by the City.
- Deliverable:
  - 90% Design Package

Final Bid Package Development and Delivery (Weeks 22-26)

- Coordinate with the City to finalize the bid design package and bid specifications.
- Participation in up to four (4) 1-hour status update meetings with the City.
- Deliverables:
  - Final Bid Design Package

Bidding Phase Option (Weeks 26-31)

- Optional Scope Task Item.
- Participation in one (1) Pre-Bid Meeting and one (1) Site Visit as the City's Design Engineer.
- Provide responses to up to ten (10) technical RFI questions.
- Perform bid selection review and prepare a recommendation of award.
- This task will be complete upon award of the bid to a selected Contractor.

Exhibit C
Insurance Requirements

During the term of this Contract all Consultants' insurance policies shall meet the following requirements:

I. Standard Insurance Policies Required:

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

II. For each of these policies, the Consultant's insurance coverage shall be primary insurance with respect to the City, its officials, agents, employees and volunteers. Any self-insurance or insurance policies maintained by the City, its officials, agents, employees or volunteers, shall be considered in excess of the Consultant's insurance and shall not contribute to it. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Contract, attached hereto as **Exhibit D,** and approved by the City before any letter of authorization to commence planning will issue or any work on the Project commences.

III. General Requirements Applicable to All Policies

A. Only insurance carriers licensed and authorized to do business in the State of Texas will be accepted.
B. Deductibles shall be listed on the Certificate of Insurance.
C. "Claims made" policies will not be accepted, except for Professional Liability insurance.
D. Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of Nacogdoches.
E. The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent on the most current State of Texas Department of Insurance-approved forms.
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.

IV. Commercial (General) Liability requirements:

A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.
B. Minimum Limit of $1,000,000 per occurrence for bodily injury and property damage with a $2,000,000 annual aggregate.
C. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
D. The coverage shall not exclude premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures

exist, Explosion Collapse and Underground coverage.

E. The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

V. Business Automobile Liability requirements:

A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current. A. M. Best Key Rating Guide.
B. Minimum Combined Single Limit of $1,000,000 per occurrence for bodily injury and property damage.
C. The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
D. The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.

VI. The worker's compensation insurance requirements:

1. Employer's Liability shall be no less than the required statutory minimum limits for each accident, each disease and cover all employees of Consultant, the Consultant, and all employees of any and all subconsultants or subcontractors of Consultant providing services on the Project.

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.

VII. Professional Liability requirements:

A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.
B. Minimum of $1,000,000 per claim and $2,000,000 aggregate, with a maximum deductible of $100,000.00. Financial statements shall be furnished to the City of Nacogdoches when requested.
C. Policy must include availability of a two-year extended reporting period.
D. Retroactive date must be shown on certificate.

Exhibit D
Certificates of Insurance

City Council Meeting

Date: July 21, 2026

Agenda Item: 6.C.

PRESENTER: Jason Vickery, Assistant City Engineer

ITEM/SUBJECT: Consider approval of a contract by and between the City of Nacogdoches and SCS Engineers for Professional Services associated with Landfill Liner Construction Quality Assurance for the liner construction (CIP Project SW-25-101) for Block O, Cells 3 and 4 at the Nacogdoches Landfill in the amount of $360,818.00. (Asst. Dir. of Public Works/Asst. City Engineer)

SUMMARY/BACKGROUND: City Council recently approved SCS Engineers for Professional Services associated with Landfill Liner Construction Quality Assurance for the liner construction for Block O, Cells 3 and 4 at the Nacogdoches Landfill. The professional services required will include, but are not limited to construction quality assurance and construction phase engineering services for composite lined landfill cells as required by the City of Nacogdoches landfill permit MSW 720 and Texas Commission on Environmental Quality (TCEQ) municipal solid waste regulations.

Staff has coordinated the project scope with SCS Engineers and has received their proposal for services based on needs identified for the project in the total amount of $360,818.00. Staff recommends approval of this time and materials-based professional services contract in the amount of $360,818.00. Budget is available for this contract from the FY25-26 Sanitation Disposal CIP.

FINANCIAL:
Item is budgeted:
Account No.: 31.41.680.97
Account Name: *Sanitation Disposal CIP*
Amount: 360,818.00

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

CITY CONTACT: Jason Vickery, PE
Asst. Dir. Of Public Works/Asst. City Engineer
vickeryj@nactx.us
936-559-2518

ATTACHMENTS: 1. Contract

CITY OF NACOGDOCHES
ARCHITECTURAL & ENGINEERING
PROFESSIONAL SERVICES CONTRACT

This Contract is between the **City of Nacogdoches**, a Texas home-rule municipal corporation, (the "City") and **SCS Engineers** (the "Consultant"), whereby the Consultant agrees to provide the City with certain professional services as described herein and the City agrees to pay the Consultant for those services.

ARTICLE I
Scope of Services

1.01 In consideration of the compensation stated in paragraph 2.01 below, the Consultant agrees to provide the City with the professional services as described in **Exhibit A,** the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: **Construction Quality Assurance and Construction Phase Engineering Services for Block O Cells 3 and 4 Construction at the City of Nacogdoches Landfill (the "Project").**

ARTICLE II
Payment

2.01 In consideration of the Consultant's provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Consultant according to the terms set forth in **Exhibit B**. Except in the event of a duly authorized change order, approved by the City as provided in this Contract, the total cost of all professional services provided under this Contract may not exceed **Three Hundred Sixty Thousand, Eight Hundred Eighteen and 00/100 Dollars ($360,818.00).**

ARTICLE III
Time of Performance and Construction Cost

3.01 The Consultant shall complete the professional services within the times set forth in **Exhibit B**. Consultant expressly agrees that such times are as expeditious as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

3.02 **Time is of the essence of this Contract.** The Consultant shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified. Promptly after the execution of this Contract, the Consultant shall prepare and submit for the City to approve in writing, a detailed schedule for the performance of the Consultant's services to meet the City's project milestone dates which are included in this Contract. The Consultant's schedule shall include allowances for periods of time required for the City's review and for approval of submissions by authorities having jurisdiction over the Project. The schedule will also specify payment milestones associated with design tasks.

3.03 The Consultant's services consist of all of the services required to be performed by Consultant, Consultant's employees and Consultant's sub-consultants under the terms of this Contract. Such services are set forth in Exhibit A. The Consultant shall contract and employ at its expense sub-consultants necessary for the design of the Project, and such sub-consultants shall be licensed as required by the State of Texas and approved in writing by the City.

3.04 The Consultant shall designate a principal of the firm reasonably satisfactory to the City who shall, for so long as acceptable to the City, be in charge of Consultant's services to be performed hereunder through to completion, and who shall be available for general consultation throughout the Project. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement.

3.05 Consultant shall be responsible for the coordination of all drawings and design documents relating to Consultant's design and used on the Project, regardless of whether such drawings and documents are prepared by Consultant. Consultant shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through Consultant and for its compliance with all applicable codes, ordinances, regulations, laws and statutes.

3.06 Consultant's evaluations of the City's project budget and the preliminary estimates of construction cost and detailed estimates of construction cost represent the Consultant's best judgment as a design professional familiar with the construction industry. It is recognized, however, that Consultant has no control over actual site conditions, cost of labor, materials or equipment, a contractor's methods of determining bid prices, competitive bidding or market conditions. Accordingly, Consultant cannot and does not represent or guarantee that bids or ultimate project costs will not vary from any statement of probable costs.

~~ARTICLE IV~~
~~Conceptual Design~~

~~4.01 Consultant shall meet with the City for the purpose of determining the nature of the Project. The Consultant shall inquire in writing as to the information it believes the City may have in its possession that is necessary for the Consultant's performance. The City shall provide~~

the information within its possession that it can make available to the Consultant. The City shall designate a representative to act as the contact person on behalf of the City.

4.02 The Consultant shall conduct the services put forth in Exhibit A. Consultant shall confirm that the Project can be designed and constructed within the time limits outlined in this Contract. Consultant shall prepare a detailed design phase schedule which includes all review and approval periods during the project phases from Conceptual Design to Construction, design development and construction document phases. Consultant shall confirm that the Project can be designed and constructed for the dollar amount of the Project budget, if applicable. Consultant shall generally review the City's available budget for the Project and provide an early opinion of the adequacy of funds for the intended scope of work.

4.03 The Consultant shall prepare a Conceptual Design based on the TCEQ permit (MSW-720) in accordance with Texas Administrative Code Chapter 305 and 330 rules.

ARTICLE V
Preliminary Design

5.01 The City shall direct the Consultant to commence work on the Preliminary Design by sending to the Consultant a letter of authorization to begin work on the Preliminary Design pursuant to this Contract. Upon receipt of the letter of authorization to commence Preliminary Design, the Consultant shall meet with the City for the purpose of determining the extent of any revisions to the Conceptual Design.

5.02 The Consultant shall prepare the Preliminary Design of the Project, including, but not limited to, the preliminary drawings and specifications and other documents to fix and describe the size and character of the Project as to civil, architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. The Consultant shall submit to the City a detailed estimate of the construction costs of the Project, based on current area, volume, or other unit costs as put forth in Exhibit A. This estimate shall also indicate costs for allowances, contingencies, fees, permits, and all other costs involved in constructing the Project and the time required for construction of the Project from commencement to final completion.

5.03 Upon completion of the Preliminary Design of the Project, the Consultant shall so notify the City. Upon request the Consultant shall provide a Preliminary Engineering Report and meet with the City staff and/or City Council to make a presentation of its Preliminary Design of the Project. The Consultant shall provide an explanation of the Preliminary Design and cost estimate and shall verify that, to the best of Consultant's belief, the Project requirements and construction can be completed within the Project budget and schedule.

~~ARTICLE VI~~
~~Final Design~~

~~6.01 The City shall direct the Consultant to commence work on the Final Design of the Project by sending to the Consultant a letter of authorization to begin work on the Final Design phase of the Project. Upon receipt of the Letter of Authorization to proceed with Final Design of the Project, the Consultant shall immediately prepare the Final Design, including, but not limited to, the bid documents, contract, drawings, and specifications, to fix and describe the size and character of the Project as to civil, structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate. The Final Design of the Project shall comply with all applicable laws, statutes, ordinances, codes and regulations.~~

~~6.02 Notwithstanding the City's approval of the Final Design, the Consultant warrants that the Final Design will be sufficient and adequate to fulfill the purposes of the Project. Additionally, Consultant will provide technical criteria, written descriptions and design data for the City's use in filing applications for permits from other governmental authorities or entities. Consultant shall assist the City in the preparation of permits and consultations with other entities having jurisdiction over the Project.~~

~~6.03 The Consultant shall prepare and separately seal the special provisions, the technical specifications, and bid proposal form(s) in conformance with the City's *current* pre-approved, "Standard Form of Construction Agreement" for the construction contract between the City and the construction contractor. The Consultant hereby agrees that no changes, modifications, supplementations, alterations, or deletions will be made to the City's standard form without the prior written approval of the City.~~

~~6.04 The Consultant shall provide the City with complete construction design plans and contract documents sufficient to be advertised for bids by the City. The contract documents shall include the design and specifications and other changes that are required to fulfill the purpose of the Project. Upon completion of the Final Design of the Project, with the submission of the complete contract documents, and upon request of the City, the Consultant shall meet with City staff and/or the City Council to present the Final Design of the Project. The Consultant shall provide an explanation of the Final Design and cost estimate.~~

~~ARTICLE VII~~
~~Bid Preparations & Evaluation~~

~~7.01 The Consultant shall assist the City in advertising for and obtaining bids or negotiating proposals for the construction of the Project. Upon request, the Consultant shall meet with City staff and/or the City Council to present, and make recommendations on, the bids submitted for the construction of the Project.~~

~~7.02 The Consultant shall review the construction contractors' bids, including subcontractors, suppliers, and other persons required for completion of the Project. The Consultant shall~~

~~evaluate each bid and provide these evaluations to the City along with a recommendation on each bid. The Consultant shall also review the qualifications and references of the lowest responsible bidder. A written evaluation of the bids shall be provided to the City by Consultant and shall include any bidding irregularities subject to waiver. If the lowest bid for the construction of the Project exceeds the final cost estimate set forth in the Final Design of the Project, then the Consultant, at its sole cost and expense, shall revise the construction documents so that the total construction costs of the Project will not exceed the final cost estimate contained in the Final Design of the Project.~~

~~7.03 Where substitutions are requested by a construction contractor, the Consultant shall review the substitution requested and shall recommend approval or disapproval of such substitutions.~~

ARTICLE VIII
Construction Administration

8.01 The Consultant shall be a representative of, and shall advise and consult with, the City (1) during construction, and (2) at the City's direction from time to time during the correction or warranty period described in the construction contract. The Consultant shall have authority to act on behalf of the City only to the extent provided in this Contract unless modified by written instrument.

8.02 The Consultant shall make visits to the site, with a frequency appropriate to the scope of the Project, to inspect the progress and quality of the executed work of the construction contractor and its subcontractors and to determine if such work is proceeding in accordance with the contract documents. Consultant shall periodically review the as-built drawings for accuracy and completeness, and shall report its findings to the City.

8.03 Resident Project Representative (RPR): The Consultant shall provide the services of an RPR to support more frequent and extensive observations of the contractor's work. The presence of the RPR will not diminish the responsibilities of the Consultant's design professionals to provide site visits to monitor the progress of the project. Duties and responsibilities of the RPR include:

a. The RPR will generally deal directly with the contractor and report to the Consultant, who in turn will report to the City. The RPR works under the direction of the Consultant. The RPR may communicate directly with the City, but only with the knowledge of the Consultant.

b. The RPR will not normally direct the work of the contractor but shall observe its compliance with the plans and specifications and report such directly to the Consultant. The RPR can communicate any concerns directly to the contractor, but all observed conditions will always be given to the Consultant as well.

c. If the RPR observes unsafe conditions, or other potentially hazardous conditions that might risk life and safety to anyone, he/she will immediately report such to the

contractor, Consultant and City. In such circumstances, the RPR will have the authority to stop the work of the contractor until the issue can be resolved.

d. The RPR shall, on behalf of the Consultant, make and keep as-built drawings in the field to record any variances from the original designs shown in plans and specifications.

e. The RPR shall keep and maintain inspection reports for each day he/she is present on the project site. These reports shall be made available to the City at the end of the project. The daily reports shall include times of observations, activities observed, materials used or delivered to the job, problems encountered and solutions or adjustments made in the field.

f. The RPR shall review pay estimates from the contractor, on behalf of the Consultant, to verify the quantity and quality of work requested for payment. At no time will the RPR approve pay estimates, contract addendums, modifications, or change orders involving changes in the contract price.

g. The RPR shall be present to observe and witness all testing of on-site equipment and installed materials under the direction of the Consultant.

8.04 The Consultant shall keep the City informed of the progress and quality of the work through periodic project meetings and written monthly status reports. The Consultant shall employ the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license in discovering and promptly reporting to the City any defects or deficiencies in such work and shall disapprove or reject any work failing to conform to the contract documents.

8.05 The Consultant shall review and approve shop drawings and samples, the results of tests and inspections, and other data that each construction contractor or subcontractor is required to provide. The Consultant's review and approval shall include a determination of whether the work complies with all applicable laws, statutes, ordinances and codes and a determination of whether the work, when completed, will be in compliance with the requirements of the contract documents.

8.06 The Consultant shall determine the acceptability of substitute materials and equipment that may be proposed by construction contractors or subcontractors. The Consultant shall also receive and review maintenance and operating instruction manuals, schedules, guarantees, and certificates of inspection, which are to be assembled by the construction contractor in accordance with the contract documents.

8.07 The Consultant shall issue all instructions of the City to the construction contractor as well as interpretations and clarifications of the contract documents pertaining to the performance of the work. Consultant shall interpret the contract documents and judge the performance thereunder by the contractor constructing the Project, and Consultant shall,

within a reasonable time, render such interpretations and clarifications as it may deem necessary for the proper execution and progress of the work. Consultant shall receive no additional compensation for providing clarification of the drawings and specifications.

8.08 The Consultant shall review the amounts owing to the construction contractor and recommend to the City, in writing, payments to the construction contractor of such amounts. The Consultant's recommendation of payment, being based upon the Consultant's on-site inspections, observations, and its experience and qualifications as a design professional, shall constitute a recommendation by the Consultant to the City that the quality of such work is in accordance with the contract documents and that the work has progressed to the point reflected in Consultant's recommendation for payment.

8.09 Upon notification from the construction contractor that the Project is substantially complete, the Consultant shall conduct an inspection of the site to determine if the Project is substantially complete. The Consultant shall prepare a checklist of items that shall be completed prior to final acceptance. Upon notification by the construction contractor that the checklist items designated by the Consultant for completion have been completed, the Consultant shall inspect the Project to verify final completion.

8.10 The Consultant shall not be responsible for the work of the construction contractor or any of its subcontractors, except that the Consultant shall be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the contract documents if such failures result from the Consultant's negligent acts or omissions. This provision shall not alter the Consultant's duties to the City arising from the performance of the Consultant's obligations under this Contract.

8.11 The Consultant shall conduct at least one on-site inspection during the warranty period and shall report to the City as to the continued acceptability of the work.

8.12 The Consultant shall recommend and prepare change orders, work directives and clarification notices on behalf of the City but shall not execute and issue such documents or otherwise alter the financial scope of the Project without an advance, written authorization from the City.

8.13 The Consultant shall perform all of its duties under this Article VIII so as to not cause any delay in the progress of construction of the Project.

8.14 The Consultant shall assist the construction contractor and City in obtaining a Certificate of Occupancy by accompanying governing officials during inspections of the Project if requested to do so by the City.

ARTICLE IX
Change Orders & Documents & Materials

9.01 No changes shall be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid to Consultant except upon the

prior written order from authorized personnel of the City. The Consultant shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project, except upon the prior written approval from authorized personnel of the City.

9.02 a. When the original contract amount plus all change orders is less than $50,000, the City Manager or his delegate may approve the written change order provided the change order does not increase the total amount set forth in the contract to more than $50,000. For such contracts, when a change order results in a total contract amount that exceeds $50,000, the City Council must approve such change order prior to commencement of the services or work.

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

c. **Any request by the Consultant for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Consultant providing such services ~~or the right to payment for such additional services shall be waived.~~** If there is a dispute between the Consultant and the City respecting any service provided or to be provided hereunder by the Consultant, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Consultant agrees to continue providing on a timely basis all services to be provided by the Consultant hereunder, including any service as to which there is a dispute.

9.03 The Consultant shall furnish the City (**1**) sets of plans and specifications. It is hereby agreed that additional copies shall be provided to the City at the City's expense. ~~The Consultant shall provide the City _____ (__) sets of reproducible, mylar record drawings that clearly show all the changes made during the construction process, based upon the marked up prints, drawings, and other data furnished by the construction contractor to the Consultant.~~ The Consultant shall provide copies of documents, computer files if available, surveys, notes, and tracings used or prepared by the Consultant. The foregoing documentation, the Consultant's work product, and other information in the Consultant's possession concerning the Project shall be the property of the City from the time of preparation. The Consultant shall furnish one set of digital files representing the final record drawings.

ARTICLE X
Representations, Indemnification & Release

10.01 Pursuant to Section 271.904(d) of the Texas Local Government Code, the Consultant shall perform the services with the professional skill and care ordinarily provided by competent

engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary skill and care of a competent engineer or architect. The information provided by the Consultant, the design, the preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of all other services under this Contract are performed with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar circumstances and professional license. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Consultant, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Consultant, its employees, associates, agents, or subcontractors.

10.02 The Consultant shall promptly correct any designs or specifications furnished by the Consultant which do not meet the standard of care set forth in paragraph 10.01 above at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Consultant's services hereunder or of the Project itself shall in no way alter the Consultant's obligations or the City's rights hereunder.

10.03 In all activities or services performed hereunder, the Consultant is an independent contractor and not an agent or employee of the City. The Consultant and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Consultant shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Consultant shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Consultant shall have ultimate control over the execution of the services it is to provide under this Contract. The Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Consultant or any of the Consultant's subcontractors.

10.04 The Consultant must at all times exercise reasonable precautions on behalf of, and be responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as its personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Consultant, its officers, employees, agents, subcontractors.

10.05 INDEMNITY. THE CONSULTANT SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES, ~~REPRESENTATIVES, CONTRACTORS, ASSIGNEES AND/OR DESIGNEES~~ (SEPARATELY AND COLLECTIVELY REFERRED TO IN THIS PARAGRAPH AS "INDEMNITEE"), FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY

FEES, AND EXPENSES CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILFULL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY AND OTHERWISE RELATED TO CONSULTANT'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE CONSULTANT OR ITS AGENTS, EMPLOYEES, SUB-CONTRACTORS, ORDER FULFILLERS, OR CONSULTANTS UNDER CONTRACT TO CONSULTANT, OR ANOTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT.

10.06 CONSULTANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF CONSULTANT PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR THE CITY'S AND /OR CONSULTANT'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE CITY BY CONSULTANT ~~OR OTHERWISE TO WHICH THE CITY HAS ACCESS AS A RESULT OF CONSULTANT'S PERFORMANCE UNDER THE CONTRACT.~~

10.07 CONSULTANT AND THE CITY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM UNDER 10.05 OR 10.06. CONSULTANT SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE OF ANY LAWSUIT SHALL BE COORDINATED BY THE CONSULTANT WITH THE CITY ATTORNEY WHEN THE CITY IS NAMED DEFENDANT IN ANY LAWSUIT AND CONSULTANT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE CITY ATTORNEY. IF THE CITY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONSULTANT OR IF THE CITY IS REQUIRED BY LAW TO SELECT SEPARATE COUNSEL, THE CITY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND THE CONSULTANT WILL PAY ALL REASONABLE COSTS OF THE CITY'S COUNSEL.

10.08 ~~Release. The Consultant releases, relinquishes, and discharges the City, its officers, agents, employees, and volunteers from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Consultant or its employees and any loss of or damage to any property of the Consultant or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Consultant's work to be performed hereunder. Both the City and the Consultant expressly intend that this release shall~~

~~**apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Consultant or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Consultant, or any third party.**~~

10.09 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification, release or other obligations under Paragraphs 10.05, 10.06, 10.07 and 10.08 such legal limitations are made a part of the obligations and shall operate to amend same to the minimum extent necessary to bring the provision(s) into conformity with the requirements of such limitations, and as so modified, the obligations set forth therein shall continue in full force and effect.

ARTICLE XI
Insurance

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

ARTICLE XII
Use of Drawings, Specifications and Other Documents

12.01 The drawings, specifications and other documents prepared by the Consultant and Consultant's sub-consultants for this Project shall become the property of the City whether the Project is completed or not. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Consultant's drawings, specifications and other documents.

12.02 The documents prepared by Consultant may be used as a prototype for other facilities by the City. The City may elect to use the Consultant to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype. If so, the Consultant is obligated to perform the work for an additional compensation that will fairly compensate the Consultant and its sub-consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Contract. If the City elects to employ a different architect or engineer to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype, that architect or engineer will be entitled to use Consultant's sub-consultants on the same basis that Consultant would have been entitled to use them for the work on the reuse of the prototype, and such architect or engineer will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the construction documents, approved shop drawings and calculations, and change order

drawings in performing its work. The Consultant will not be responsible for errors and omissions of a subsequent architect or engineer. The Consultant shall commit its sub-consultants to the terms of this subparagraph. The provisions of this section shall survive termination of this Contract.

12.03 In the event of termination of this Contract for any reason, the City shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.

12.04 Only the details of the drawings relating to this Project may be used by the Consultant on other projects, but they shall not be used as a whole without written authorization by the City. The City-furnished forms, conditions, and other written documents shall not be used on other projects by the Consultant.

ARTICLE XIII
Termination

13.01 The City may terminate this Contract at any time upon **thirty (30)** calendar days' written notice. Upon the Consultant's receipt of such notice, the Consultant shall cease work immediately. To the extent of funds appropriated or otherwise legally available for such purposes, the Consultant shall be compensated only for the services satisfactorily performed prior to the termination date.

13.02 If, through any cause, the Consultant fails to fulfill its material obligations under this Contract, or if the Consultant violates any of the material agreements of this Contract, the City has the right to terminate this Contract by giving the Consultant **five (5)** calendar days written notice to the Consultant. The Consultant will be compensated for the services satisfactorily performed prior to the termination date.

13.03 No term or provision of this Contract shall be construed to relieve the Consultant of liability to the City for damages sustained by the City because of any breach of contract and/or negligence by the Consultant. The City may withhold payments to the Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined and paid.

ARTICLE XIV
Miscellaneous Terms

14.01 This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Nacogdoches County, Texas.

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

the City or the State Auditor to conduct an audit or investigation. Consultant agrees to cooperate and must provide the City and/or State Auditor with access to any information the City and/or State Auditor considers relevant to the investigation or audit. The Consultant agrees to refund to the City any overpayments disclosed by any such audit.

14.03 The Consultant shall retain all such records for a period of four (4) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Consultant are resolved, whichever is longer.

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

14.05 Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

City of Nacogdoches
Attn: City Manager
202 East Pilar Street
P.O. Box 635030
Nacogdoches, Texas 75961

Consultant:
SCS Engineers
Attn: J. Roy Murray, PE
12651 Briar Forest Drive, Suite 205
Houston, Texas 77077

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

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

14.08 This Contract and all rights and obligations contained herein may not be assigned by the Consultant without the prior written approval of the City.

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

14.10 The Consultant, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Nacogdoches, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Consultant must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

14.11 **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) **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 .

(e) **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.

(f) **Convictions**. Under Sections 2155.006, 2155.0061 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.

(g) **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.

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

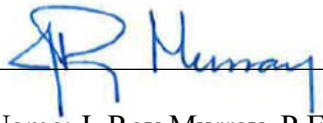
(b) To the extent this Contract has a value of $100,000 or more and Contractor is an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent 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.*).

14.12 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract. If there is a conflict between a provision in any documents provided by Consultant made a part of this Contract and any other provision in this Contract, the latter controls.

14.13 This Contract will be effective when signed by the last party whose signing makes the Contract fully executed. The parties may execute this Contract in duplicate originals, each of equal dignity.

14.14 **Notice of Indemnification. City and Consultant hereby acknowledge and agree that this Contract contains certain indemnification obligations and covenants.**

SCS ENGINEERS
12651 Briar Forest Drive, Suite 205
Houston, Texas 77077

By: 

Printed Name: J. Roy Murray, P.E.

Title: Vice President

Date: July 14, 2026

Firm Registration No.: F-3407

CITY OF NACOGDOCHES
P.O. Box 635030
Nacogdoches, Texas 75963-5030

By: _____

Printed Name: _____

Title: City Manager

Date: _____

APPROVED AS TO CONTENT:

_____
Director of Public Works

APPROVED AS TO FORM:

_____
City Attorney

Exhibit A
Scope of Services

SCS Engineers (SCS) shall perform construction quality assurance (CQA) and construction-phase engineering services for the City of Nacogdoches (City). SCS will perform the CQA activities required by the site permit, SLQCP and technical specifications in the bid documents prepared by SCS for the construction of Block O, Cells 3 and 4 of the City of Nacogdoches Landfill (Landfill).

SCOPE OF SERVICES

The scope of services, as outlined by SCS, is subdivided into seven tasks:

Task 1 - Expenses
Task 2 - Field Services
Task 3 - Lab Testing
Task 4 - Documentation Report
Task 5 - Project Management/ Certifying Engineer
Task 6 - Construction Phase Engineering Services
Task 7 - Allowance for Unanticipated Events

Task 1 - Expenses

This task includes a breakdown of the expenses anticipated for the project.

Description	Duration	Cost per Unit	Units	Total Fee
Field Travel/ Vehicle	28*	$420.00	Weeks	$11,760.00
Lodging/Per Diem	28*	$1,225.00	Weeks	$34,300.00
PM/CE Travel	20	$360.00	Trips	$7,200.00
Troxler Rental	4	$150.00	Weeks	$600.00
FedEx/shipping	20	$225.00	Weeks	$4,500.00
Report copies, binders, etc.	1 Lump Sum	$2,000.00	1 Report	$2,000.00
Tel, Photos, supplies, etc.	24	$150.00	Weeks	$3,600.00
CQA Surveyor	1	$29,900.00	LS	$29,900.00
			TASK 1 TOTAL	**$93,860.00**

* Includes field travel/vehicle for both persons on site.

Task 2 - Field Services

This task involves the field quality assurance services required to install the complete lining system for the project.

The CQA Monitors will be responsible for conducting all CQA field testing and sampling, preparing daily construction reports, recording and distributing project meeting minutes, forwarding field documentation to the SCS office for computer data entry and keeping the City, CQA Manager and CE informed as to the status of the project.

The following table indicates the man hours required for this task.

Position	Hours	Hourly Rate	Fee
CQA Lead Monitor	1320	$82.00	$108,240.00
CQA Technician	264	$78.00	$20,592.00
		TASK 2 TOTAL	**$128,832.00**

Task 3 - Lab Testing

This task involves laboratory testing for the project. Included in this task is all the geotechnical and geosynthetic testing required. All geotechnical testing will be performed by CQA Testing Laboratory, Inc. located in Livingston, LA. All geosynthetic destruct testing will be performed by TRI/Environmental, Inc. located in Austin, TX and Anaheim, CA. Email test results will be required from the lab upon completion of any testing. Email will be sent to the CQA Manager who in turn will provide the CE copies as needed. Final test results required for the documentation report will be sent directly to the CQA Manager.

Geotechnical Testing

Clay Borrow Materials	Frequency	Unit Rate	Tests Required	Fee
Unified Soil Classification ASTM D2487	1 per soil type, minimum 1 per borrow source	$200.00	1	$ 200.00
Moisture/Density Relationship ASTM D698 or D1557	1 per soil type, minimum 1 per borrow source	$325.00	1	$ 325.00
Sieve Analysis (Gradation) ASTM D422 or D1140	1 per soil type, minimum 1 per borrow source	$90.00	1	$ 90.00
Atterberg Limits ASTM D4318	1 per soil type, minimum 1 per borrow source	$100.00	1	$ 100.00
Coefficient of Permeability ASTM D5084 or COE EM1110-2 1906	1 per Moisture-Density relationship	$500.00	0	$0.00

Subgrade General Fill	Frequency	Unit Rate	Tests Required	Fee
Moisture/Density Relationship ASTM D698	1 per soil type, minimum 1 per borrow source	$325.00	1	$ 325.00
eachate Stone	**Frequency**	**Unit Rate**	**Tests Required**	**Fee**
Gradation/ Particle Size ASTM C136	1 per 3,000 cy	$115.00	3	$ 345.00
Calcium Carbonate ASTM D3042	1 per material	$470.00	1	$ 470.00
			GEOTECHNICAL TESTING TOTAL	**$1,855.00**

Geosynthetic Testing

Geosynthetic Clay Liner (653,400 SF)

Interface Friction Testing	Frequency	Unit Rate	Tests Required	
Smooth GM/GCL	1/interface	$1,200.00	1	$1,200.00
Textured GM/GCL	1/interface	$1,200.00	1	$1,200.00
Subgrade/ GCL	1/interface	$1,200.00	1	$1,200.00

Conformance/ Construction	Frequency	Unit Rate	Tests Required	Fee
Clay Mass/Unit Area ASTM D 5993	1/100,000 SF	$75.00	7	$525.00
Permeability GRI GCL-2 or ASTMD 5084	1/100,000 SF	$395.00	7	$2,765.00

Geomembrane (653,400 sf)

Conformance/ Construction	Frequency	Unit Rate	Tests Required	Fee
Thickness ASTM D5199 (smooth HDPE) or D5994 (textured HDPE)	1/100,000 SF or major fraction thereof and every resin lot	$40.00	7	$280.00
Specific Gravity/ Density ASTM D1505 / D792	1/100,000 SF or major fraction thereof and every resin lot	$60.00	7	$420.00

Carbon Black Content ASTM D4218	1/100,000 SF or major fraction thereof and every resin lot	$65.00	7	$455.00
Carbon Black Dispersion ASTM D5596	1/100,000 SF or major fraction thereof and every resin lot	$75.00	7	$525.00
Tensile Properties ASTM D6693 Type IV	1/100,000 SF or major fraction thereof and every resin lot	$95.00	7	$665.00
Destruct Samples Shear and Peel ASTM D 4437	1/ 500 lf of completed seam	$65.00	70	$4,550.00
In-plant Sampling	1/100,000 sf for GCL & HDPE	$119	14	$1,666.00
Conformance Shipping	1/100,000 sf for GCL & HDPE	$2,630	LS	$2,630.00
			GEOMEMBRANE TESTING TOTAL	**$18,081.00**
			TASK 3 TOTAL	**$19,936.00**

Task 4 - Documentation Report

This task involves the preparation of one Liner Evaluation Report (LER) for the project that will include the Geosynthetic Clay Liner Evaluation Report (GCLER) and the Geomembrane Liner Evaluation Report (GLER). The report is a culmination of all the field and laboratory aspects of the project and will include the following information:

- Scope of work
- A narrative describing construction, test methods and results
- Field reports, field and laboratory test results
- Material conformance data
- Pertinent information regarding design changes/permit modifications
- Personnel resumes of key individuals involved with the project
- Survey drawings and documentation
- Certification of final construction as being consistent with the approved construction plans and specifications

The LER report will be submitted to TCEQ and City within 30 days following receipt of the top of protective cover thickness verification drawing from the surveyor.

A total of seven report originals will be reproduced, with two being retained by SCS, one for the City and three for the TCEQ.

The following table indicates the man hours required for this task.

Position	Hours	Hourly Rate	Fee
Certifying Engineer	40	$185.00	$7,400.00
CQA Manager	60	$205.00	$12,300.00
CAD Designer	10	$150.00	$1,500.00
Word Processing	40	$95.00	$3,800.00
		TASK 4 TOTAL	**$25,000.00**

Task 5 - CQA Project Management/ Certifying Engineer

This task includes project management and the work performed by the certifying engineer on the project. The CQA Manager will be responsible for the overall operation of the project. This will include selecting project staff, ensuring that the field operation for CQA is set up properly, ensuring all field and laboratory documentation is complete and accurate, and routinely monitoring the project budget and schedule. SCS will keep the City informed with the progress of the work. SCS field staff will advise the SCS CQA Manager promptly regarding any problems or conflicts which may arise during the project, and, in turn, SCS will advise the City.

The CE will be responsible for monitoring the contractor's compliance with the technical specifications. This individual will make sufficient visits to the site to be familiar with the work and to review the documentation process. The certifying engineer will, upon completion of the project, certify that the work meets the technical specifications of the project. The CE also will attend important meetings and assist in preparation of the documentation report. This person will have a minimum of five years of direct geotechnical, geosynthetic and other related CQA experience and be a registered engineer in the State of Texas.

The following table indicates the man hours required for this task.

Position	Hours	Hourly Rate	Fee
Certifying Engineer	160	$185.00	$29,600.00
CQA Manager	54	$205.00	$11,070.00
		TASK 5 TOTAL	**$40,670.00**

Task 6 - Construction Phase Engineering Services

During construction, SCS will perform the following services:

- Routine monitoring of the contractor's performance through communication with SCS' CQA field staff and review of contractor's submittals required in the specifications.
- Review of contractor's invoices.
- Participate in routine progress meetings and develop meeting minutes for distribution to project team.

- Provide technical support to the City during construction
- Provide interpretation of the drawings and specifications where necessary.
- Process contractor's requests for change orders, if any.

Position	Hours	Hourly Rate	Fee
Certifying Engineer	96	$185.00	$17,760.00
CQA Manager	72	$205.00	$14,760.00
		TASK 6 TOTAL	**$32,520.00**

Task 7 - Allowance for Unanticipated Events

The preceding Scope of Services has been developed based on our understanding of the project. The following is a list of additional services (not included in our fee estimate) for the City's current and future consideration:

- Additional field time and expenses due to schedule increase from contractor, weather, etc.
- Response to TCEQ comments regarding the LER report.
- Mapping and Surveying. It is assumed that currently available benchmarks and other surveyed features will be adequate for the development of the survey maps necessary for the LER. It is assumed that existing metes and bounds property information for the site will be adequate for this project.
- Permitting. No permitting is considered necessary for this project. The permit includes a Soils and Liner Quality Control Plan. If permitting becomes necessary for some unforeseen reason, we will prepare a cost estimate for a new task for City approval.

ASSUMPTIONS

The following is a list of assumptions used by SCS in the preparation of this proposal:

- The proposed construction is for a cell approximately 15.0 acres in size.The geosynthetic liner system, including Geosynthetic Clay Liner (GCL), geomembrane and geocomposite will be supplied and installed by an approved geosynthetic installer who will contract directly with the Contractor selected by the City. The crew will be of standard crew size.

- SCS will procure the services of a registered land surveyor to layout the cell, document the top of approved subgrade, and top of protective layer. In addition, the surveyor will locate geosynthetic destruct tests and repair locations, HDPE seams and panels. Seven sets of record drawings will be furnished for the documentation report. A subgrade certification, geomembrane layout and protective cover thickness drawings will be sent to SCS with ample time to review and approve prior to the submittal of the report. The surveyor's work will be coordinated by SCS during excavation, installation of geosynthetics, placement of protectivecover and installation of the leachate collection system.

- SCS proposes full time field observation for an assumed construction time frame of twenty-four weeks for cell excavation, underdrain construction, subgrade preparation and installation of the Geosynthetic Clay Liner (GCL), geosynthetics, protective cover and leachate collection system and gravity line, including tie-in to existing leachate lines for Cells 1 and 2. This schedule is an estimate and may require a change order upon contractor selection and receipt of their proposed work schedule.

- SCS has assumed that the work week will consist of up to six days per week and 11 hours per day. Work beyond these stated durations will allow SCS to request a change order to amend the contract. One CQA Monitor will be onsite through cell excavation and under drain installation. Two technicians will be on site for the installation of geosynthetics (estimated at three weeks), then one technician will be there through protective cover and installation of the leachate collection system and gravity line to sewer.

- The City will provide access to sanitary facilities for SCS at the site.

- Any additional lab testing beyond that proposed in Task 3, in either test method or test quantity, shall require additional fees, or be paid directly by the City.

Exhibit B
Payment Terms and Schedule

Compensation for all tasks shall be performed on a time and materials not to exceed without City authorization basis as outlined below:

Task	Task Descriptions	SCS Fee
1	Expenses	$93,860
2	Field Services	$128,832
3	Lab Testing	$19,936
4	Documentation Report	$25,000
5	Project Management/ Certifying Engineer	$40,670
6	Construction Phase Engineering Services	$32,520
7	Allowance for Unanticipated Events (Requires City's Prior Approval)	$20,000
	Total	**$360,818.00**

Unless amended by a duly authorized written change order, the total payment for all invoices on this job, including both salary and non-salary expenses, shall not exceed the amount set forth in paragraph 2.01 of this Contract **($360,818.00**).

The Consultant must submit ***monthly*** invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such invoices according to its normal payment procedures.

Exhibit C
Insurance Requirements

During the term of this Contract all Consultants' insurance policies shall meet the following requirements:

I. Standard Insurance Policies Required:

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

II. For each of these policies, the Consultant's insurance coverage shall be primary insurance with respect to the City, its officials, agents, employees and volunteers. Any self-insurance or insurance policies maintained by the City, its officials, agents, employees or volunteers, shall be considered in excess of the Consultant's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Consultant to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Contract, attached hereto as **Exhibit D,** and approved by the City before any letter of authorization to commence planning will issue or any work on the Project commences.

III. General Requirements Applicable to All Policies

A. Only insurance carriers licensed and authorized to do business in the State of Texas will be accepted.
B. Deductibles shall be listed on the Certificate of Insurance.
C. "Claims made" policies will not be accepted, except for Professional Liability insurance.
D. Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of Nacogdoches.
E. The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent on the most current State of Texas Department of Insurance-approved forms.
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.

IV. Commercial (General) Liability requirements:

A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.

B. Minimum Limit of $1,000,000 per occurrence for bodily injury and property damage with a $2,000,000 annual aggregate.
C. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
D. The coverage shall not exclude premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures exist, Explosion Collapse and Underground coverage.
E. The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

V. Business Automobile Liability requirements:

A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current. A. M. Best Key Rating Guide.
B. Minimum Combined Single Limit of $1,000,000 per occurrence for bodily injury and property damage.
C. The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
D. The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.

VI. The worker's compensation insurance requirements:

1. Employer's Liability shall be no less than the required statutory minimum limits for each accident, each disease and cover all employees of Consultant, the Consultant, and all employees of any and all subconsultants or subcontractors of Consultant providing services on the Project.

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.

VII. Professional Liability requirements:

A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.
B. Minimum of $1,000,000 per claim and $2,000,000 aggregate, with a maximum deductible of $100,000.00. Financial statements shall be furnished to the City of Nacogdoches when requested.
C. Policy must include availability of a two-year extended reporting period.
D. Retroactive date must be shown on certificate.

Exhibit D
Certificates of Insurance

PRESENTER: Mike Neu, Executive Director of Development and Infrastructure

ITEM/SUBJECT: Consider approval of a franchise agreement with Live Oak Environmental LLC, doing business as Ecowaste Solutions, for the disposal of solid waste collected in Nacogdoches County at the Nacogdoches Landfill. (Executive Director of Development and Infrastructure)

SUMMARY/BACKGROUND: This item is a proposed franchise agreement for disposal of solid waste collected from a third-party service provider within Nacogdoches County but outside city limits. In Texas, municipal solid waste franchise agreements grant specific waste companies certain rights to collect trash and haul it to a designated landfill. In general, cities use these contracts to manage landfill capacity, mitigate wear-and-tear on local infrastructure, and offset maintenance costs through established fees.

This agreement is the first of its kind for the City in terms of landfill operations. Live Oak Environmental LLC, doing business as Ecowaste Solutions, recently took over solid waste collection services for Piney Woods Sanitation, which has provided rural garbage collection in the Nacogdoches County area for several years. The prior company's history of disposing of waste at the City landfill prompted the City to consider establishing a non-exclusive franchise to better account for the acceptance of solid waste from third-party service providers collecting and hauling beyond Nacogdoches city limits.

The specific terms of this agreement outline a maximum acceptance of 1,800 tons (or 5,400 cubic yards), as well as an annual franchise fee of two percent (2%) of applicable gross revenues. The agreement also affirms the prohibition of residential trash (also referred to as Municipal Solid Waste) collection inside the city, which is managed exclusively by the City of Nacogdoches as defined under Code of Ordinances Chapter 82.

FINANCIAL:
Franchise fee is estimated to generate about $1,600 in additional Sanitation Fund revenue.

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

CITY CONTACT: Mike Neu,
Executive Director of Development and Infrastructure

ATTACHMENTS:
1. Franchise Agreement
2. Ecowaste Solutions summary

SOLID WASTE FRANCHISE AGREEMENT

This **Solid Waste Franchise Agreement** (the "Agreement") is entered into this ___ day of **_____**, 2026, (the "Effective Date") by and between the **City of Nacogdoches**, a Texas home-rule municipality (the "City"), and **Live Oak Environmental, LLC dba Ecowaste Solutions** (the "Franchisee"), both of which are sometimes referred to herein as "party" or "parties".

I.
RECITALS

WHEREAS, pursuant to Article II, Section 18 of the Charter for the City of Nacogdoches, Texas the right of control, ownership, and use of "streets, rights-of-way, avenues, alleys and any and all public grounds belonging to or under the control of the City";

WHEREAS, the City of Nacogdoches is authorized by Article II, Section 14 of the City Charter to levy and collect franchise fees in accordance with the laws of the state of Texas; and

WHEREAS, in addition to the authority granted by the City Charter, this franchise agreement is a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to, Texas Local Government Code Chapters 51 and 52, and the Texas Health and Safety Code Chapter 363; and

WHEREAS, the City desires to exercise the authority provided to it by ordinance, charter and state law to grant a franchise for the transportation and disposal of Solid Waste as further defined herein, within the corporate limits of the City and under the terms of this Agreement as set out below; and

WHEREAS, Franchisee desires to obtain a franchise to provide for the transportation and disposal of Solid Waste within the City of Nacogdoches, and agrees to comply with the terms and conditions of this Agreement; and

WHEREAS, the City Council of the City of Nacogdoches is of the opinion that the granting of the franchise on the terms and conditions set forth in this Agreement are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

II.
RECITALS INCORPORATED

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration, and promises that bind the parties.

III.
DEFINITIONS

For the purpose of this Agreement the following terms, phrases, words and their derivations shall have the meaning given in this Agreement. When not inconsistent with the context, the use of any gender shall be applicable to all genders whenever the tense requires. Words not defined shall be given their common and ordinary meaning.

a. *Authorized Area* means the corporate limits of the City of Nacogdoches, including any territory annexed into the City limits after the Effective Date of this Agreement.

b. *Franchise* means the grant of the non-exclusive permission and privilege to use public rights-of-way under this Agreement, and all of the incidental rights and obligations as described by this Agreement.

c. *Franchisee* shall mean Live Oak Environmental, LLC dba Ecowaste Solutions, which shall be the grantee of rights under this Agreement, or the successor, transferee, or assignee of this Agreement, including the officers, employees, agents, contractors, and subcontractors.

d. *Solid Waste Service* shall mean the transportation of Solid Waste, as that term is defined herein, in, over, and across the Authorized Area and the disposal of Solid Waste at the City's Solid Waste Facility.

e. *Solid Waste* shall mean that term as defined in Texas Health & Safety Code §363.004, or as may subsequently be amended from time to time, and as administered in the jurisdictional limits of the City of Nacogdoches under Chapter 82 of the Code of Ordinances, as may also be amended from time to time.

f. *Unacceptable Waste* shall mean any solid, liquid, or contained gaseous material that a municipal solid waste landfill is prohibited from receiving or disposing of under Texas law, including but not limited to prohibited wastes listed in 30 Texas Administrative Code §330.15(e). The City's Solid Waste Facility operator retains the right, in its sole discretion, to refuse acceptance of any load or portion of a load that it determines to be unacceptable, presents a risk to human health, safety, or the environment, or is inconsistent with the City's Solid Waste Facility permit, operating plan, capacity management, or applicable federal, state, or local regulations.

IV.
GRANT OF FRANCHISE

4.1 **Grant of Solid Waste Service Franchise**. Subject to all the terms and conditions contained in this Agreement, the City Charter, the Code of Ordinances, and applicable federal or state law, the City hereby grants the Franchisee non-exclusive franchise, license and privilege for the purpose of operating and maintaining a Solid Waste Service in, over, and across the Authorized Area. The Franchisee accepts the grant set forth herein and agrees to operate and maintain the

Solid Waste Service in the Authorized Area in accordance with the terms and provisions of this Agreement. **This Franchise shall not allow, by any means, the collection of garbage, refuse, or other waste materials in the Authorized Area.**

4.2 **Use of Solid Waste Facility**. Franchisee is hereby granted the ability to dispose of Solid Waste at the City's Solid Waste Facility in accordance with Chapter 82 of the Code of Ordinances. This grant of authority does not extend to the disposal of Solid Waste, or other types of waste, collected outside of Nacogdoches County, Texas. Any attempt by Franchisee to deposit or dispose of Solid Waste or other waste collected outside of Nacogdoches County, Texas in the City's Solid Waste Facility shall constitute an Event of Default of this Agreement as specified under Article VIII below.

4.3 **Maximum Acceptance**. The City's Solid Waste Facility will accept no more than 1,800 tons, or 5,400 cubic yards, of Solid Waste each year from Franchisee, beginning on the effective date of this Agreement. Any attempt by Franchisee to deposit or dispose of Solid Waste in the City's Solid Waste Facility in excess of the Maximum Acceptance shall constitute an Event of Default of this Agreement as specified under Article VIII below.

4.4 **Right of Refusal**. In accordance with Texas Administrative Code Title 30, Chapter 330, the City's Solid Waste Facility reserves the right, in its sole discretion, to refuse acceptance of any load or portion of a load that it determines to be unacceptable, presents a risk to human health, safety, or the environment, or is inconsistent with the City's Solid Waste Facility permit, operating plan, capacity management, or applicable federal, state, or local regulations.

4.5 **Sanitation Department**. The Franchisee acknowledges that by this Agreement it obtains no rights to use or further use of the City's Solid Waste Facility or public rights-of-way other than as expressly granted in this Agreement. The City's Sanitation Department maintains an exclusive right to perform any and all collection and transportation of garbage, refuse, or other waste materials for and on behalf of the residents of the City of Nacogdoches located within its jurisdictional limits, as specified under Section 82-4 of the Code of Ordinances.

4.6 **Non-Exclusive**. Nothing herein contained shall be construed as granting an exclusive use or right to the Franchisee to access to and use of the City's Solid Waste Facility and/or the public rights-of-way for the transportation of Solid Waste, and the City may, in its sole discretion, grant additional franchises, permits, or privileges to any other applicant.

4.7 **No Priority**. This Agreement does not establish any priority for the use of the public rights-of-way by the Franchisee or by any present or future recipients of franchise agreements, franchisees, permit holders, or other users of the public rights-of-way. The Franchisee shall respect the rights and property of the City and other authorized users of the City's Solid Waste Facility and public rights-of-way.

4.8 **Emergencies**. The City may temporarily suspend the operation of the Solid Waste Service of Franchisee or close or otherwise restrict its use of public rights-of-way in the event of a public emergency as determined in the City's sole discretion. In such event neither the City nor any agent, contractor, or employee of the City shall be liable to the Franchisee or its customers or

third parties for any damages caused them or the Solid Waste Collection System. Where possible, prior notice shall be given to the Franchisee.

4.9 **Compliance with Law and Standards of Operation**. Franchisee shall be subject to and comply with all applicable local, state, and federal laws, including the rules and regulations of any and all agencies thereof, whether presently in force or whether enacted or adopted at any time in the future. This Agreement does not relieve the Franchisee of, and the Franchisee shall comply with, any obligation to obtain any other permits, licenses, and approvals from any other governmental entity which are necessary for the operation and maintenance of its Solid Waste Service.

4.10 **Vehicle and Equipment Standards**. Franchisee shall maintain and operate its Solid Waste Service equipment in good order to render efficient service subject to the terms of this Franchise. All vehicles and equipment used for the transportation of Solid Waste shall be constructed, operated, and maintained to prevent loss of liquid or solid waste material during transportation and to minimize health and safety hazards to the City's Sanitation Department and the public. Such vehicles and equipment used shall be maintained in a clean, sanitary condition, and free from odors. All vehicles and equipment shall comply with federal, state, and local regulations.

4.11 **Taxes, Fees and Other Assessments**. Nothing in this Agreement shall be construed to limit the authority of the City to impose a tax, fee, or other assessment of any kind on any person, entity or individual. The Franchisee shall pay all fees necessary to obtain and maintain all applicable federal, state, and local licenses, permits, and authorizations required for the operation of its Solid Waste Service.

V.
INDEMNITY AND INSURANCE

5.1 **INDEMNIFICATION OF CITY**. **FRANCHISEE SHALL, AT ITS SOLE COST AND EXPENSE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY AND ITS RESPECTIVE OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS, ASSIGNS, ATTORNEYS, CONTRACTORS AND SUBCONTRACTORS (HEREINAFTER REFERRED TO COLLECTIVELY AS "INDEMNITEES"), FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS, AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, OR FOR HARM SUFFERED OR ALLEGED TO HAVE BEEN SUFFERED BY ANY PERSON OR PERSONS (INCLUDING THIRD PARTIES, WHETHER INDIVIDUALS OR ENTITIES), THAT MAY ARISE OUT OF OR BE OCCASIONED BY (i) FRANCHISEE'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS FRANCHISE AGREEMENT, (ii) BY ANY ACT OR OMISSION CONSTITUTING NEGELIGENCE, GROSS NEGLIGENCE OR OTHER FAULT OF FRANCHISEE, ITS OFFICERS, DIRECTORS, PARTNERS, OWNERS OR OTHER PRINCIPALS, AGENTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS, OR FOR WHICH THE FRANCHISEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS (ALL**

COLLECTIVELY "FRANCHISEE PERSONS"), OR (iii) FOR WHICH THE FRANCHISEE OR FRANCHISEE PERSONS MAY BE STRICTLY LIABLE, IN THE OPERATION OR MAINTENANCE OF THE SOLID WASTE SERVICE, OR IN THE DISPOSAL, HANDLING, OR TRANSFER OF ANY SOLID WASTE COLLECTED THROUGH THE SOLID WASTE SERVICE; AND ANY AND ALL LIABILITY, OBLIGATION, DAMAGES, FINES, FEES, PENALTIES OR OTHER ASSESSMENTS, CLAIMS, SUITS, JUDGMENTS, ACTIONS, LIENS, AND LOSSES THAT MAY BE IMPOSED UPON, ASSERTED AGAINST, OR INCURRED OR SUFFERED BY ANY INDEMNITEES ARISING FROM OR RELATED TO ANY VIOLATION BY FRANCHISEE OR ANY FRANCHISEE PERSON OF ANY LOCAL, STATE OR FEDERAL LAW OR REGULATION GOVERNING THE SOLID WASTE SERVICE, OR RELATED TO THE DISPOSAL, TRANSFER, OR HANDLING BY THE FRANCHISEE OR ANY FRANCHISEE PERSON, OF SOLID WASTE COLLECTED THROUGH THE SOLID WASTE SERVICE, REGARDLESS OF WHETHER OR NOT THE NEGLIGENCE, FAULT, OR OTHER WRONGFUL CONDUCT OF THE INDEMNITEES CONTRIBUTED TO ANY VIOLATION, INCLUDING ANY AND ALL COSTS, ATTORNEY'S FEES, AND EXPENSES AWARDED IN SUCH JUDGMENT AGAINST THE CITY OR ANY OTHER INDEMNITEE RELATED TO ANY SUCH CLAIM.

THIS SUBSECTION DOES NOT, AND SHALL NOT, BE CONSTRUED TO WAIVE ANY GOVERNMENTAL IMMUNITY FROM SUIT OR LIABILITY AVAILABLE TO THE CITY OR ANY INDEMNITEE UNDER TEXAS OR FEDERAL LAW, INCLUDING ANY INDIVIDUAL ABSOLUTE OR QUALIFIED IMMUNITY. THE PROVISIONS OF THIS SUBSECTION ARE SOLELY FOR THE BENEFIT OF THE CITY AND THE OTHER INDEMNITEES AND THE FRANCHISEE, AND ARE NOT INTENDED TO, AND SHALL NOT BE CONSTRUED TO, CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

5.2 **Survival**. The indemnity obligations described in this section shall survive the termination of this agreement for any action, claim, lawsuit, proceeding, or judgment arising from events occurring during the term of this agreement and/or the franchise granted hereunder.

5.3 **Insurance**. Not later than the Effective Date, the Franchisee shall procure, pay for, and maintain insurance coverage in at least the minimum amounts and coverages described in Exhibit "A", attached to and made a part of this Agreement. The insurance shall be written by a company(ies) approved by the State of Texas and acceptable to the City. The insurance shall be evidenced by delivery to the City of certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates, and compliance with all applicable required provisions. The City shall be named a beneficiary and co-insured of such policy(ies). Upon request, the City shall be entitled to review copies of the policies and all endorsements at a site determined mutually by the City and the Franchisee. The City may prevent the Franchisee from operating a Solid Waste Service under this Franchise until satisfactory evidence of insurance coverage required under this subsection is presented to the City.

5.4 **Liability of Franchisee**. Approval, disapproval, or failure to act by the City regarding any insurance supplied or not supplied by the Franchisee shall not relieve the Franchisee of full responsibility or liability for indemnity, damages, and accidents as set forth in the Agreement. The bankruptcy, insolvency, receivership or denial of liability by any insurer of Franchisee shall not excuse the Franchisee from the responsibility for indemnity, liability of, or damages payable by the Franchisee as provided in this Agreement.

VI.
FEES

6.1 **Franchise Fee**. The streets, rights-of-way, public easements, and facilities to be used by the Franchisee in the operation of its business within the boundaries of the City as such boundaries now exist and exist from time to time during the term of this Franchise, are valuable public properties acquired and maintained by the City at great expense to its taxpayers, and the City will incur costs to regulate and administer this Franchise. As such, and in consideration of same, Franchisee shall pay a franchise fee of two percent (2%) of applicable gross revenues, which includes pickup costs, rental of dumpsters/roll-off containers, and fuel surcharges for services provided in Nacogdoches County, Texas, each year of the Term of this Agreement to help defray the cost of the wear and tear on the City's Solid Waste Facility, public rights-of-way, and other infrastructure due to transportation, and disposal of Solid Waste as provided herein.

6.2 **Disposal Fees**. In addition to the franchise fee, Franchisee shall pay disposal fees for each load of Solid Waste brought to the City's Solid Waste Facility at the rate applicable for a non-resident user of the facility, at the amount set forth in the Master Fees Schedule, Appendix A to the City of Nacogdoches' Code of Ordinances.

VII.
TERM AND TERMINATION

7.1 **Term**. This Agreement shall be effective as of the Effective Date and, unless it is terminated earlier pursuant to its terms, shall continue in effect for a period of one (1) year, with the option for a one (1) year extensions as mutually agreed to by the City and the Franchisee. Franchisee shall give ninety (90) days written notice to the City prior to the expiration of the current term to request an extension. The City in its sole discretion may decide to approve or decline the extension, or request an amendment of this Agreement prior to such extension.

7.2 **Termination**. This Agreement may be terminated by either party, for cause or convenience, by providing thirty (30) days' written notice to the non-terminating party. Notwithstanding the foregoing, the City may terminate this Agreement if the City determines in its sole discretion that termination is in the public interest. If the City chooses to act pursuant to this authority it shall notify the Franchisee of its decision within three (3) business days of the termination of this Agreement.

7.3 **Rights Upon Termination**. Subject to applicable law, or as specifically provided herein, this Agreement and all rights, permissions, and privileges of the parties defined in this Agreement shall automatically cease upon the termination of this Agreement, unless such rights

are extended by mutual agreement of the parties, except that such termination shall not affect any rights or liabilities accrued prior to such termination, including, but not limited to, the indemnity obligations stated above.

VIII.
DEFAULT

8.1 **Events of Default**. The occurrence of any one or more of the following events at any time during the term of this Agreement shall constitute an Event of Default by the Franchisee under this Agreement:

8.1.1 The failure or refusal by the Franchisee to pay consideration when due as prescribed by this Agreement;

8.1.2 Franchisee's material violation of or failure to comply with any provision or condition of Chapter 82 of the Code of Ordinances relating to Solid Waste hauling, disposal, or any other applicable provision or condition specified therein;

8.1.3 The suspension or revocation of the Franchisee's permit for hauling;

8.1.4 Franchisee's material violation of or failure to comply with any of the other terms, covenants, representations, or warranties contained in this Agreement, or the Franchisee's failure or refusal to perform any obligation contained in this Agreement;

8.1.5 The dissolution of the Franchisee as a legal entity;

8.1.6 The entry of any judgment against the Franchisee by which another party becomes entitled to possession of any of the Franchisee's Solid Waste Service's assets, unless prior consent of the City Council is obtained;

8.1.7 Franchisee's insolvency, appointment of receiver for any part of Franchisee's business and/or property, any assignment for the benefit of creditors of Franchisee, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Franchisee;

8.1.8 The Franchisee knowingly or intentionally makes a false statement or a misrepresentation as to a material matter in the application for or in the negotiation of this Agreement;

8.1.9 Any director, officer, employee, or agent of the Franchisee is convicted of the offense of bribery or fraud connected with or resulting from the granting, term extension, or renewal of this Agreement; or

8.1.10 The Franchisee's failure or refusal to comply with a violation of any applicable local, state, or federal law or regulation.

8.2 **Default Procedures**. Upon the occurrence of an Event of Default, the Franchisee shall have thirty (30) days from written notice of the occurrence of the Event of Default to cure the Default before the City may exercise any of the Remedies provided for in Article IX below, unless the City Manager or City Council authorizes a longer cure period upon a showing of good cause to extend the cure period**.** If an Event of Default is not cured within the time period allowed for curing the Event of Default, as provided above, the Event of Default becomes, without additional notice, an Uncured Event of Default, which shall entitle the City to exercise the Remedies provided for in Article IX.

IX.
REMEDIES

9.1 **Default Remedies**. Upon the occurrence of any Uncured Event of Default as described in Article VIII, the City shall be entitled in its sole discretion to exercise any or all of the following remedies, which shall be cumulative:

9.1.1 Commence an action at law against the Franchisee for monetary damages;

9.1.2 Commence an action in equity seeking injunctive relief or the specific performance of any of the provisions of this Agreement which, as a matter of equity, are specifically enforceable, or other equitable relief; and/or

9.1.3 Revoke the Franchise granted under this Agreement.

9.2 **Revocation Procedure**. Upon the occurrence of an Uncured Event of Default, the Council shall have the right to revoke the Agreement. Upon revocation, the rights, permissions, and privileges comprising the Franchise granted under this Agreement shall be automatically terminated and deemed null and void and shall have no further force or effect, and the provisions that are contractual in nature which are also included as a part of this Agreement are hereby automatically terminated, other than provisions that expressly are continued after termination or which impose obligations or rights of a kind that are intended and appropriate to be continued beyond termination, such as but not limited to Franchisee's obligations to indemnify. Upon revocation, the City shall retain any portion of the consideration and other fees or payments paid to it, or which are due and payable to it, to the date of the revocation.

9.3 **Remedies Cumulative**. Subject to applicable law, the rights and remedies of the City set forth in this Article IX shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. The exercise by the City of any one or more remedies under this Agreement shall not preclude the exercise by the City, at the same or different times, of any other remedies for the same material Uncured Event of Default.

X.
RECORDKEEPING AND AUDIT

10.1 **Complete and Accurate Books Required**. Franchisee shall keep complete and accurate books of account and records of its Solid Waste Service business and operations in the Authorized Area under and in connection with this Agreement in accordance with generally accepted accounting principles and generally accepted government auditing standards. Franchisee shall maintain separate records if other services are provided outside the scope of this franchise.

10.2 **City Review of Documentation**. The City may review the Franchisee's books, accounts, documents, and other records of the Franchisee within the scope of this Agreement during normal business hours on a non-disruptive basis and with such advance notice as is reasonably necessary to monitor compliance with the terms of this Agreement. Books, accounts, documents, and other records that are kept on an electronic basis shall also be made available on the same basis as the paper books, accounts, documents, and other records. To the extent permitted by law, the City agrees to treat any information disclosed by the Franchisee under this Section as confidential, if the Franchisee provides prior written notice that the information is confidential. The City shall have the right to order an independent audit of said books when, in the opinion of the City, the condition of said books justifies such actions.

10.3 **Additional Reports**. Franchisee shall, when required by the City Council, report to the City any reasonably requested information relating to the Franchisee or as necessary for the administration of this Agreement. The City shall have the right to establish formats for all reports, and determine the time for reports and the frequency with which any reports are to be made.

XI.
MISCELLANEOUS

11.1 **Entire Agreement**. This Agreement (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement and the rights, privileges, and permissions between the City and the Franchisee, superseding all oral or written previous negotiations or agreements between the City and the Franchisee relating to matters set forth in this Agreement. This Agreement may be amended, revised, or modified only by a written instrument executed by each party.

11.2 **Notices**. Any notices sent under this Agreement shall be deemed served when delivered via certified mail, return receipt requested, to the addresses designated herein or as may be designated in writing by the parties:

Franchisee: Live Oak Environmental, LLC dba Ecowaste Solutions
8951 Cypress Waters Blvd., Suite 190
Coppell, Texas 75019
Attn: Denise Baker

City: City of Nacogdoches, Texas
202 E. Pilar Street
Nacogdoches, Texas 75961
Attn: City Manager

Either the City or the Franchisee may change its address for the receipt of notices at any time by giving timely notice of the change to the other party. Any such notice must be signed by an authorized representative.

11.3 **Applicable Law and Venue**. This Agreement shall be construed under and in accordance with the laws of the State of Texas and the obligations of the parties created hereunder are performable by the parties in the City of Nacogdoches, Texas. Venue for any litigation arising under this Agreement shall be in a court of appropriate jurisdiction in Nacogdoches County, Texas.

11.4 **No Inducement**. Franchisee, by accepting this Agreement, acknowledges that it has not been induced to accept this Agreement by any promise, oral or written, by or on behalf of the City or by any third person regarding any term or condition not expressed in this Agreement. The Franchisee further pledges that no promise or inducement, oral or written, has been made to any City employee or official regarding the grant, receipt, or award of this Agreement.

11.5 **Acknowledgement**. Franchisee acknowledges by acceptance of this Agreement that it has carefully read the terms and conditions of this Agreement and accepts the obligations imposed by the terms and conditions herein.

11.6 **Waiver**. No failure by the City to insist upon the strict performance of any covenant, provision, term, or condition of this Agreement, or to exercise any right, term, or remedy upon a breach thereof shall constitute a waiver of any such breach of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, provision, term, or condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

11.7 **Licenses**. The Franchisee shall, at its expense, obtain and maintain any additional governmental regulatory licenses necessary to operate the Solid Waste Service in accordance with this Agreement.

11.8 **Severability**. If any provision of this Agreement, or the application thereof to any person, entity, or circumstance, for any reason and to any extent, is deemed to be invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make such provision valid and enforceable and neither the remainder hereof nor the application of such provision to other persons, entities, or circumstances, or other instruments shall be affected thereby, but rather, the same shall be enforced to the greatest extent permitted by law.

11.9 **Retained Powers**. In addition to all rights provided in this Agreement, the City reserves all rights and powers conferred by federal law, the Texas Constitution, Texas statutes and decisions, the City Charter, City Code of Ordinances, and any applicable agreements which City is allowed to exercise.

11.10 **Time is of the Essence**. Whenever this Agreement shall set forth any time for an act to be performed by or on behalf of the Franchisee, such time shall be deemed of the essence

and any failure of the Franchisee to perform within time allotted shall always be sufficient grounds for the City to invoke an appropriate remedy, including possible revocation of the Agreement.

11.11 **Force Majeure**. The time within which Franchisee shall be required to perform any act under this Agreement shall be extended by a period of time equal to the number of days due to a force majeure. The term "force majeure" shall mean delays due to Acts of God, inability to obtain governmental approvals, governmental restrictions, war, act of terrorism, civil disturbances, fire, unavoidable casualty, or other similar causes beyond the control of Franchisee. Notwithstanding anything contained anywhere else in this Agreement, Franchisee shall not be excused from performance of any of its obligations under this Agreement by the negligence or malfeasance of its directors, officers, or employees, or by mere economic hardship.

11.12 **Police Powers**. In accepting this Agreement, the Franchisee acknowledges that its rights under this Agreement are subject to the police power of the City to adopt and enforce general agreements necessary to the health, safety, and welfare of the public. Except as otherwise agreed to by the parties or exempted by a City ordinance, Franchisee shall comply with all applicable general laws and agreements enacted by the City pursuant to such powers. Any conflict between the provisions of this Agreement and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter.

11.13 **Binding Agreement**. This Agreement and all of the provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

11.14 **Headings**. The headings, captions, and arrangements contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof. If the context required, words used in the singular shall be read as including the plural and vice versa, and pronouns of any gender shall include all genders. The words "herein", "hereof", "hereunder" and other similar compounds of the word "here" when used in this Agreement shall refer to the entire Agreement and not to any particular provision, paragraph, subparagraph, section or article.

11.15 **Assignment**. Franchisee shall not otherwise directly or indirectly transfer or assign, in whole or in part, this Agreement or the operation, management, or maintenance of the Solid Waste Service without the prior written consent of Council.

11.16 **Authority**. By execution hereof, the undersigned warrant and represent that they have the requisite authority to execute this Agreement and the related documents and that the representations made herein, and in the related documents, are true and accurate in all respects.

11.17 **Form 1295 Certificate**. Franchisee agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, the Franchisee agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the City, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.

11.18 **Undocumented Workers**. Franchisee certifies that it 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, Franchisee is convicted of a violation under 8 U.S.C. § 1324a(f), Franchisee shall repay the amount of any public subsidy provided under this Agreement to Franchisee plus six percent (6.0%), not later than the 120th day after the date the City notifies Franchisee of the violation.

11.19 **Non-Boycott of Israel**. In accordance with Chapter 2270 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.

11.20 **Prohibition on Contracts with Certain Companies**. In accordance with Texas Government Code §2252.152, the Parties covenant and agree that Franchisee is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Texas Government Code §2252.153.

11.21 **Discrimination Against Firearm Entity**. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the Franchisee employs at least ten (10) fulltime employees and this Agreement has a value of at least $100,000 that is paid wholly or partly from public funds of the City, the Franchisee represents that:

a. Franchisee does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and

b. Franchisee will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.

[Remainder of page left intentionally blank; signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the day and year first above written.

CITY:
City of Nacogdoches, Texas

By: _____

Name: _____

Title: _____

Date: _____

FRANCHISEE:
Live Oak Environmental, LLC
dba Ecowaste Solutions

By: Dustin Reynolds

Name: Dustin Reynolds

Title: CEO

Date: 7/07/2026

EXHIBITS:
Exhibit A – Insurance Coverage

EXHIBIT A
INSURANCE COVERAGE

COMPREHENSIVE GENERAL LIABILITY INSURANCE:

For the duration of this Agreement and any extension hereof, Franchisee shall carry in a solvent company authorized to do business in Texas, comprehensive general liability insurance in the following amounts:

$1,000,000.00 – Per Occurrence
$1,000,000.00 – General Aggregate
$1,000,000.00 – Products/Completed Operations-Occurrence & Aggregate

With respect to the above-required insurance, the City of Nacogdoches and its officers and employees shall be named as additional insured as their interests may appear. The City shall be provided with sixty (60) calendar days advance notice, in writing, of any cancellation or material change. The City shall be provided with certificates of insurance evidencing the above required insurance prior to the commencement of this contract and thereafter with certificates evidencing renewal or replacement of said policies of insurance at least fifteen (15) calendar days prior to the expiration or cancellation of any such policies.

WORKERS' COMPENSATION

For the duration of this Agreement and any extension hereof, Franchisee shall carry Workers' Compensation and Employers' Liability Insurance in the amount required by Texas law: $500,000.00

AUTOMOBILE LIABILITY INSURANCE

Minimum $1,000,000.00 combined single limit per occurrence for bodily injury and property damage. The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section on Item 2 of the declarations page.

Live Oak Environmental LLC, doing business as Ecowaste Solutions, acquired Piney Woods Sanitation in May 2023. Ecowaste Solutions is the parent company and has since unified its operations under the Ecowaste Solutions brand while maintaining the same local employees, management, and commitment to customer service.

Our presence in Nacogdoches County dates back to 1997, when we began serving the area through the acquisition of several small waste collection companies. Over the years, our business has grown steadily through additional acquisitions, the award of municipal contracts, and the continued trust of customers throughout the county.

Today, Ecowaste Solutions operates seven collection facilities serving communities from the Dallas–Fort Worth area to West Orange, Texas. Our Huntington operating center serves as the primary collection facility for waste transported to the Nacogdoches Landfill. Ecowaste Solutions currently provides solid waste collection services to approximately 3,500 to 4,000 residential and commercial customers throughout Nacogdoches County.

At the present time we dump between 300 and 400 tons of waste per month in the Nacogdoches Landfill.

We are also the contracted solid waste provider for the City of Cushing. While we do not currently provide service within the City of Nacogdoches, we serve customers in virtually every direction surrounding the city, giving us an extensive and long-established presence throughout the county.

PRESENTER: Case Opperman, Director of Public Works

ITEM/SUBJECT: Consider approval of Resolution 1419-07-26 authorizing the filing of a Water Supply and Infrastructure Grant application to request financial assistance from the Texas Water Development Board. (Director of Public Works/City Engineer)

SUMMARY/BACKGROUND: House Bill 500, passed during the 89th Legislative Session, appropriated $1.038 billion in funds for water supply and infrastructure projects to the Texas Water Development Board (TWDB). This is a one-time opportunity for a limited number of Texas communities to receive grant funding to implement water supply and infrastructure projects. TWDB will also provide this funding in the form of a 100 percent grant with no matching requirement from eligible municipal water supply corporations. Since the primary focus is water supply, wastewater and drainage/flood projects are excluded from consideration.

If authorized to apply for this one-time TWDB grant, the City intends to request the maximum amount allowed, which is $21 million for the City's service area population size (pop. 10,001 to 150,000). The grant would fund water system projects identified in the City's Capital Improvements Plan (CIP) including, but not limited to, one or more major transmission line replacements and many water line replacements throughout the water system which have experienced multiple failures in the past and which need replacement.

All Water Supply Infrastructure Grant recipients with funds closed to escrow by May 1, 2027, will have until August 31, 2031, to expend escrow funds. Construction contracts also must not have an end date past January 31, 2031. Applications are due on or before July 30, 2026, with commitments made sometime in Fall 2026.

FINANCIAL:
No financial impact associated with this item.

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

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

ATTACHMENTS: 1. Resolution

RESOLUTION NO. 1419-07-26

A RESOLUTION OF THE CITY COUNCIL OF NACOGDOCHES, TEXAS, AUTHORIZING CITY REPRESENTATIVES IN MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE TEXAS WATER DEVELOPMENT BOARD WATER SUPPLY AND INFRASTRUCTURE GRANTS PROGRAM; PROVIDING FOR FINDINGS OF FACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of Nacogdoches, Texas, desires to build and maintain resilient water supply and distribution infrastructure that delivers clean drinking water, reduces losses and pollution, and prepares the city for droughts, floods, and future growth; and

WHEREAS, House Bill 500, passed during the 89th Texas Legislative Session, appropriated $1.038 billion in funds for water supply and infrastructure projects to the Texas Water Development Board (TWDB), creating a one-time opportunity for a limited number of Texas communities to receive grant funding to implement water supply and infrastructure projects; and

WHEREAS, the City Council of Nacogdoches, Texas, is committed to compliance with federal, state, and Water Supply and Infrastructure Grant program rules, to include the grant application guidelines and requirements posted on the TWDB website.

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. Application Filing and Authorized Representative. The City Council, as also shown in **"Exhibit A"**, hereby requests financial assistance from the Texas Water Development Board; authorizes the filing of an application for assistance; and makes certain findings in connection therewith.

SECTION 3. Signature Authority Delegation. The City Council directs and designates the following, as also shown in **"Exhibit B"**, to act in all matters in connection with any grant application and the City's participation in the TWDB Water Supply and Infrastructure 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 TWDB and the City; and
  - certify the Payment Request form and/or other forms required for requesting funds to cover or reimburse project costs; and
  - be assigned the role of Authorized Official in any TWDB grant management system.

- In addition to the above designated officials, should any grant be funded, the Executive Director of Development and Infrastructure, City Engineer, and Assistant Director of Finance are authorized to
  - certify the Payment Request form and/or other forms required for requesting funds to cover or reimburse project costs; and
  - prepare and submit other financial documentation; and
  - be assigned the role of Project Director or Payment Processor in any TWDB 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 21st day of July 2026.

CITY OF NACOGDOCHES

_____
Randy Johnson, Mayor

ATTEST:

_____
Karen Hadnot, City Secretary

APPROVED AS TO FORM:

_____
Mike Neu, Executive Director of
Development and Infrastructure

Exhibit A

Application Filing and Authorized Representative Resolution

A RESOLUTION by the City Council of the City of Nacogdoches requesting financial assistance from the Texas Water Development Board; authorizing the filing of an application for assistance; and making certain findings in connection therewith.

BE IT RESOLVED BY THE City Council OF THE City of Nacogdoches:

SECTION 1: That an application is hereby approved and authorized to be filed with the Texas Water Development Board seeking financial assistance in an amount not to exceed $21,000,000.00 to provide for the costs of water distribution system improvements.

SECTION 2: That City Manager be and is hereby designated the authorized representative of the City of Nacogdoches for purposes of furnishing such information and executing such documents as may be required in connection with the preparation and filing of such application for financial assistance and the rules of the Texas Water Development Board.

SECTION 3: That the following firms and individuals are hereby authorized and directed to aid and assist in the preparation and submission of such application and appear on behalf of and represent the City of Nacogdoches before any hearing held by the Texas Water Development Board on such application, to wit:

Financial Advisor: n/a
n/a

Engineer: C. Daniel "Danny" Hays, P.E.
Pape-Dawson

Bond Counsel: n/a
n/a

PASSED AND APPROVED, this the _____ day of_____, 20_____.

ATTEST: _____ By:_____

(Seal)

Exhibit B

Water Supply & Infrastructure Grant
SIGNATORY AUTHORITY DELEGATION

This form must be submitted to TWDB attached to the official action taken by the governing body of the Applicant when requesting TWDB Water Supply and Infrastructure Grant funds.

The following positions have been delegated the authority by the governing body of

City of Nacogdoches

to approve, sign, execute, or certify the following documents through the life of the

TWDB WSIG Water System Improvements project

Document Type	**Responsible Position(s) (Titles Only- not individuals' names) Authorized to Approve/ Sign/ Execute/ Certify Each Document**
Paying Agent Agreement	*Positions for all documents:* **City Manager** **Executive Director of Development** **City Engineer** **Assistant Director of Finance**
Escrow Agreement	
Funding Release Requests	
Engineering Contract(s)	
Other Professional Services Contracts	
Project Budget Changes	
Construction Contract(s)	
Construction Contracts Change Orders	
Environmental Affidavit (TWDB-0802)	
Monthly US Iron & Steel Certifications (TWDB-1105-A)	
Final US Iron & Steel Certifications (TWDB-1105-B)	
Final Construction Work Acceptance	

If any of these delegations change during the course of the project, the governing body agrees to inform TWDB in writing of the change(s) within five business days of their occurrence.

Signed by (type name and title): **Randy Johnson, Mayor**

Signature _____ Date: **Click to enter date**