



November 1, 2022

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 either by teleconference or in person in Council Chambers.

Members of the public who wish to submit comments on a listed agenda item by telephone must contact the City Secretary's office by email at vinsonj@nactx.us or by calling 936-559-2506 and providing their name, telephone number and relevant agenda item upon which they wish to speak. All requests to make comments must be received by 12:00 p.m. on November 1, 2022. For all timely requests received, staff will call the submitted phone numbers directly during the meeting when the corresponding item comes up for comment. NOTE: The incoming phone call from City staff will be an unfamiliar number.

**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 speak about items not listed on the agenda. In order to address City Council please complete the Open Forum Form and submit it to the City Secretary prior to the start of the meeting. In accordance with the Texas Open Meetings Act, City Council shall not discuss, deliberate, or make any decisions on items discussed during Open Forum. Comments are limited to 3 minutes per person. Open Forum is limited to the first 5 citizens who submit an Open Forum Form.
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 October 18, 2022 regular meeting. (City Council)
 - B. Consider approval of a final deductive change order to the construction contract of the ongoing 2022 Street Paving Project #1 reducing the contract by the amount of \$154,009.04 (Assistant Director of Public Works)
 - C. Approve and ratify a contract amendment for Mead & Hunt, Inc. increasing their fees for FY 21-22 from \$49,900 to \$75,015.44. (Public Works Director)

- D. Consider renewal of Taxicab Franchise No.7 to John D. Sessions dba Elite Cab Company for one (1) taxicabs for an additional five (5) years. (City Secretary)
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 confirmation of appointing Scott Weems as the Nacogdoches Police Chief. (City Manager)
 - B. Consider approval of a contract between the City of Nacogdoches and Mead & Hunt, Inc. for Professional Engineering Services related to the City's wastewater Pretreatment Program canceling an existing contract dated July 11, 2022. (Public Works Director)
 - C. Hold a discussion and consider approval of a resolution identifying the City of Nacogdoches' legislative priorities for the 88th Legislative Session that begins on January 10, 2023. (Economic Development Director)
 - D. Hold a discussion regarding City Council meeting dates for 2023 and consider adopting a resolution amending said dates. (City Secretary)

7. ADJOURN.



Jan Vinson, 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

I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on October 26, 2022 at 10 a.m. and remained posted until meeting convened.

Jan Vinson, City Secretary



City Council Meeting

Date: November 1, 2022

Agenda Item: 5.A.

PRESENTER: Jan Vinson, City Secretary

ITEM/SUBJECT: Consider approval of minutes for October 18, 2022 regular meeting. (City Council)

SUMMARY/BACKGROUND:

FINANCIAL:

No financial impact associated with this item

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

Not Applicable

CITY CONTACT: Jan Vinson, City Secretary
vinsonj@nactx.us
936-559-2504

ATTACHMENTS: 1. Minutes



Regular Session
Nacogdoches City Council
October 18, 2022 – 5:30 p.m.
City Council Room – City Hall
202 East Pilar Street

DRAFT

City Council present in person: Mayor Jimmy Mize, Council Members Roy Boldon, Amelia Fischer, Kathleen Belanger and Chad Huckaby.

1. Called to order at 5:33 p.m.
2. Pledge of Allegiance.
3. No one spoke during Open Forum.
4. No items removed from the 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. Minutes for October 11, 2022 regular meeting.
 - B. Consider an Interlocal Cooperation Contract between Texas State University and the City of Nacogdoches to conduct controlled buy/stings of tobacco.

Council Member Kathleen Belanger moved approval; motion duly seconded by Council Member Chad Huckaby and carried by unanimous vote.

6. REGULAR AGENDA:

- A. **Public Hearing:** Consider approval of a request for a Historic Overlay at 701 Cox Street. Case File HO2022-02.

Brian Bray, Community Services Director, stated that the single-story Victorian home at this address was built around 1890. The Historic Landmark Preservation met on October 3, 2022 and unanimously voted to recommend approval sighting that it met the criteria for designation as stated in the City of Nacogdoches Code of Ordinances Chapter 50, Section 50-130 (4) which states that a historic landmark or district may be designated if it embodies the distinctive characteristics of a type or period of architecture, or method of construction.

The Planning and Zoning Commission met on October 10, 2022 and also recommended approval of the request unanimously.

Council Member Kathleen Belanger moved approval; motion duly seconded by Council Member Chad Huckaby and carried by unanimous vote.

- B. **Public Hearing:** Consider a request to amend a Specific Use Permit for an RV Park in a B-2, General Business District, on Lot 1, Block 1, of the Westward Subdivision Phase 3, located at 5001 N.W. Stallings Drive. This request has been made by Western Pines RV Park, LLC. Case Number SUP2022-07.

Alaina Helton, City Planner, stated this request is to amend a Specific Use Permit (SUP) which was originally approved in 2019. The new owners of the RV Park are proposing to modify the current layout of the park which includes reducing the overall size from 119 RV spaces to 85 RV spaces and adding several new amenities to be constructed in phases.

Twelve notices were mailed to property owners within the 200 foot notification area and staff received one response in opposition from Dwayne Stroud.

The Planning and Zoning Commission heard this request on October 10, 2022 and unanimously recommended approval.

Minutes unofficial until approved by City Council

City Planner Alaina Helton reminded City Council that the Zoning Ordinances limit the number of consecutive days that a RV can remained parked at an RV park.

City Council discussed drainage, preliminary concept plan, final site plan, changes to the site plan and how that is approved.

Pamela Tatum, Property Manager, stated she understood Mr. Stroud's concerns and that she is doing everything she can to manage the tenants and their children. She also spoke about the drainage ditch and the design.

Joey Kwaja, Property Owner, joined the meeting virtually and discussed concerns regarding debris running into the culvert from the drainage ditch.

Public Works Director Steve Bartlett discussed silt runoff and natural drainage that would continue to run into the culvert which runs under Loop 224. Mr. Bartlett stated that the new design will not affect the natural drainage. He went on to say that the culvert does have some issues but the Texas Department of Transportation will be responsible for repairing the culvert.

Council Member Chad Huckaby moved approval; motion duly seconded by Council Member Roy Boldon and carried by unanimous vote.

- C. **Public Hearing:** Consider a request for approval of a Specific Use Permit for Manufactured Home Sales in a B-2, General Business District, on Lot 93-E, City Block 56, and Lot 4 of the South Star Plaza Subdivision, located at 3411 South Street. This request has been made by Barham Properties. Case Number SUP2022-06.

City Planner Alaina Helton stated the property will be utilized for an office and a display lot for manufactured home sales. The applicant informed staff that the majority of the homes will be custom ordered directly from the manufacturer and delivered directly to the homeowner. Ms. Helton also discussed transportation issues stating that the Texas Department of Transportation requires a specific location permit each time a home is moved. This specific location permit will indicate a date and a time of day that the home can be moved as to not impede traffic such as early in the morning or late at night.

Thirteen property owners were notified in the 200 foot notification area and received three written responses in support of the request.

The Planning and Zoning Commission unanimously approved this request at their October 10, 2022 meeting.

Eddie Johansson, owner, discussed affordable housing, new jobs, development plans, inventory and deliveries. He also discussed different options to customize the homes and financing.

Council Member Chad Huckaby moved approval; motion duly seconded by Council Member Amelia Fischer and carried by unanimous vote.

Mayor Mize moved Item 6.F after Item 6.C

- F. Consider approval of a resolution supporting the possible transfer of a portion of the water distribution system in the Central Heights Area to the Angelina Neches River Authority.

Steve Bartlett, Public Works Director, reviewed the history of this item and stated that the City of Nacogdoches will be the sole source water provider to this area. Mr. Bartlett discussed number of water connections and the amount of money the City has spent on improvement and maintenance on the Central Heights area water system.

Mr. Bartlett went on to say that Angelina Neches River Authority owns and operates other water and sewer systems in East Texas and is interested in taking over operations of this water system as well. He also discussed improvements, water rate increases and benefits to the residents of Central Heights.

Milton Morer spoke during public comment regarding water source.

City Council discussed water source, infrastructure costs to the City, water connections in Central Heights, rate fees, water capacity, water line sizes, intake lines at the lake, water conservation and construction costs.

Council Member Amelia Fischer moved approval; motion duly seconded by Council Member Roy Boldon and carried by unanimous vote.

- D. Consider approval of an ordinance amending Part II, Chapter 106, Utilities, Article II., Sewer System, Division 2. Sewer Use Regulations of the City of Nacogdoches Code of Ordinances.

Steve Bartlett, Public Works Director, stated that there are four large industries that discharge different amounts of wastewater into the plant with one facility discharging far more than the other three. Reallocating higher local limits of lead to these industries will provide a more equitable distribution and help these facilities operate in compliance without compromising the safety of the treatment plant.

Council Member Kathleen Belanger moved approval to amend the definition of tier two to include equal to or greater than 1,000,000 per day of sewage; motion duly seconded by Council Member Amelia Fischer and carried by unanimous vote.

Council Member Kathleen Belanger moved approval of Item 6.D as amended; motion duly seconded by Council Member Chad Huckaby and carried by unanimous vote.

E. Discussion regarding upcoming Capital Improvement Plan meetings scheduled for late October

City Manager Mario Canizares stated that there will be two upcoming Special City Council Meetings to discuss the Capital Improvement Plan. One meeting will be on October 27, 2022 to discuss projects that need funding and the other will be on November 10, 2022 to discuss a possible bond program in 2023.

Council Member Belanger stated that people are very concerned about the City's water and sewer, and they want a whole picture of what the City needs and what the City is pursuing.

City Manager Canizares explained that some of the water and sewer projects are funded through the Utility Fund but fire stations 2 and 5, park restrooms, park playgrounds and drainage are not funded because the Certificates of Obligation were halted by the petition. These are the projects that will be discussed during the Special Meetings.

7. Adjourned 7:18 p.m.

ATTEST:

Mayor Jimmy Mize
City Council
City of Nacogdoches

Jan Vinson, City Secretary



City Council Meeting

Date: November 1, 2022

Agenda Item: 5.B.

PRESENTER: Case Opperman, Public Works Asst Director

ITEM/SUBJECT: Consider approval of a final deductive change order to the construction contract of the ongoing 2022 Street Paving Project #1 reducing the contract by the amount of \$154,009.04 (Assistant Director of Public Works)

SUMMARY/BACKGROUND: The 2022 Street Paving Project #1 has been successfully completed by Drewery Construction Co., Inc. Upon completion, there were several construction items with unused quantity which we are now addressing with a final cleanup change order.

This change order will also adjust the contract time to the final completion date. With this change order, the total reduction of this contract will be \$154,009.04. City Council approval is needed for any increase *or* decrease in contract changes over \$50,000.

The current contract price for Drewery Construction Co., Inc. is \$1,006,856.00. With this final cleanup change order, the contract would be reduced to \$852,846.96. Staff recommends approval of Change Order 3 in the amount of \$154,009.04 for final closeout of this project.

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, Assistant Director of Public Works
oppermanc@nactx.us
936-559-2515

ATTACHMENTS: 1. Change Order

CHANGE ORDER NO. 3

City of Nacogdoches 2022 Street Paving Project #1

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
DEDUCTIONS					
1	1011.83	tons	2" overlay, Type D hot mix asphaltic concrete	\$138.00	\$139,632.54
2	3022	SY	6" Pulvermix in-place existing pavement and base	\$8.00	\$24,176.00
4	5	SY	Asphalt street patching (thin-depth)	\$37.00	\$185.00
5	23	SY	Asphalt street patching (full depth, 6")	\$85.00	\$1,955.00
7	16	CY	Undercut of unsuitable material	\$100.00	\$1,600.00
10	163	SY	Fly Ash Stabilization	\$8.50	\$1,385.50
SUBTOTAL DELETIONS					\$168,934.04
ADDITIONS					
3	2025	SY	Mill existing pavement and base	\$7.00	\$14,175.00
6	3	SY	Concrete street patching	\$250.00	\$750.00
SUBTOTAL ADDITIONS					\$14,925.00
NET CONTRACT CHANGE THIS CHANGE ORDER					(\$154,009.04)
ORIGINAL CONTRACT AMOUNT					\$918,483.00
Change Order #1					\$11,122.00
Change Order #2					\$77,251.00
NET AMOUNT CHANGE ORDER #3					(\$154,009.04)
REVISED CONTRACT AMOUNT					\$852,846.96

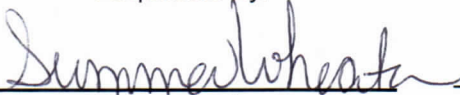
Justification: Final cleanup change order. Includes addition of 46 calendar days to contract time.

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

Requested By:

Recommended By:

Approved By:



Summer Wheaton - Vice President
Drewery Construction Co., Inc.

Case Opperman - Asst. Director of Public Works
City of Nacogdoches

Mario Canizares - City Manager
City of Nacogdoches

Date: 10/19/2022

Date:

Date:



City Council Meeting

Date: November 1, 2022

Agenda Item: 5.C.

PRESENTER: Steve Bartlett, Public Works Director

ITEM/SUBJECT: Approve and ratify a contract amendment for Mead & Hunt, Inc. increasing their fees for FY 21-22 from \$49,900 to \$75,015.44. (Public Works Director)

SUMMARY/BACKGROUND: Mead & Hunt, Inc. is an engineering firm that has been assisting the City with engineering consulting for our wastewater pretreatment program for the past couple of years. Their active contract for last fiscal year had a not-to-exceed maximum of \$49,900. Texas Commission on Environmental Quality (TCEQ) requested modifications and testing for our pretreatment monitoring, combined with several unplanned Administrative Orders issued to local industries, which required additional and unexpected work for Mead & Hunt. Invoices for this additional work surpassed the contract limit, requiring a change order to increase their contract fee to \$75,015.44. Change orders to professional services agreements require Council approval if the total value exceeds \$50,000.

Mead & Hunt has completed this additional work and a contract amendment is needed to allow us to finalize payment for the extra fees. This item will allow us to close the contract. A subsequent agenda item will request approval for a new contract.

FINANCIAL:

Item is not fully budgeted (\$25,015.44 *Budget Amendment will be required*)

Account No.: 30.39.630.71

Account Name: *Consulting Services*

Amount: \$25,015.44

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

Infrastructure

CITY CONTACT: Steve Bartlett, Director Public Works/City Engineer
bartletts@nactx.us
936-559-2522

ATTACHMENTS: 1. PowerPoint Presentation

MEAD & HUNT CONTRACT FOR ENGINEERING SERVICES *(Pretreatment Program)*

- Mead & Hunt is currently our Engineering Consultant for our Pretreatment Program
- Time and Materials contract not to exceed \$49,900
- Assistance with unforeseen regulatory requirements from TCEQ caused Mead & Hunt to provide additional work outside their scope and fee
- An additional \$25,015.44 is needed as a contract change to fund the completed work
- This contract is being replaced with a new agreement. Payment of this additional fee will close this contract.



City Council Meeting

Date: November 1, 2022

Agenda Item: 5.D.

PRESENTER: Jan Vinson, City Secretary

ITEM/SUBJECT: Consider renewal of Taxicab Franchise No.7 to John D. Sessions dba Elite Cab Company for one (1) taxicabs for an additional five (5) years. (City Secretary)

SUMMARY/BACKGROUND: The City of Nacogdoches has two cab companies operating in its city limits. John D. Sessions, owner/operator of Elite Cab has been in business in Nacogdoches since 2011 and has been in good standing with the City of Nacogdoches. Mr. Sessions is current on his taxicab inspections, fees, chauffeur's license and insurance.

Mr. Sessions is requesting that his franchise be renewed to operate one (1) taxicab in Nacogdoches. If approved this franchise will expire on November 1, 2027.

FINANCIAL:

No financial impact associated with this item

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

Not Applicable

CITY CONTACT: Jan Vinson, City Secretary
vinsonj@nactx.us
936-559-2506

ATTACHMENTS:

1. Current Taxicab Franchise Expiring October 2022
2. Taxicab Franchise Renewal Draft



**TAXICAB FRANCHISE
NO. 7**

In accordance with the decision and order of the City Council of the City of Nacogdoches, Texas and in accordance with the provisions of the Ordinances of said City:

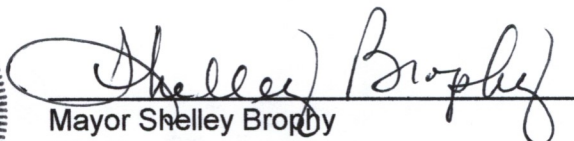
THIS CERTIFIES THAT PERMISSION IS GRANTED TO

John D. Session dba Elite Cab Company

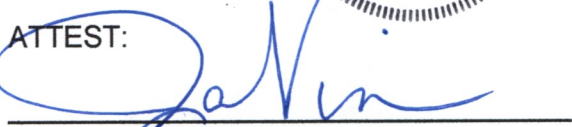
whose address is 3008 South Street, Nacogdoches Texas, to operate two (2) taxicabs over the streets and public ways within the corporate limits of said city, said Certificate and authority to remain in effect from and after the date hereof for a period ending **October 17, 2022** to the provisions, limitations, and restrictions of said Ordinance, and the rules and regulations of the City of Nacogdoches heretofore prescribed or which may be hereafter prescribed under and pursuant to the authority conferred upon it by the laws of the State of Texas and its Charter.

Approved this the 17th day of October 2017.




Mayor Shelley Brophy
City Council
City of Nacogdoches

ATTEST:


Jan Vinson, City Secretary



TAXICAB FRANCHISE NO. 7

In accordance with the decision and order of the City Council of the City of Nacogdoches, Texas and in accordance with the provisions of the Ordinances of said City:

THIS CERTIFIES THAT PERMISSION IS GRANTED TO

John D. Session dba Elite Cab Company

whose address is 1413 Virginia Avenue, Nacogdoches Texas, to operate one (1) taxicabs over the streets and public ways within the corporate limits of said city, said Certificate and authority to remain in effect from and after the date hereof for a period ending **November 1, 2027** to the provisions, limitations, and restrictions of said Ordinance, and the rules and regulations of the City of Nacogdoches heretofore prescribed or which may be hereafter prescribed under and pursuant to the authority conferred upon it by the laws of the State of Texas and its Charter.

Approved this the 1st day of November 2022.

Jimmy Mize, Mayor
City Council
City of Nacogdoches

ATTEST:

Jan Vinson, City Secretary



City Council Meeting

Date: November 1, 2022

Agenda Item: 6.A.

PRESENTER: Mario Canizares, City Manager

ITEM/SUBJECT: Consider confirmation of appointing Scott Weems as the Nacogdoches Police Chief. (City Manager)

SUMMARY/BACKGROUND: Since April 2022, Scott Weems has been serving as the Interim Police Chief. In September, it was decided that the recruitment for the permanent Chief would be conducted internally. An interview process consisted of a presentation by the two internal candidates and interviews by three panels that consisted of 20+ people. The interviews were held on Wednesday, October 19 and Scott Weems was selected as the final candidate.

Scott Weems has served the Nacogdoches Police Department for 28 + years. Scott started as a patrol officer and has risen through the ranks over the years. In 2019, he was promoted to Assistant Chief. Since December 2020, Weems has served as Interim Police Chief two different times. In early 2022, Scott was selected to attend the FBI Police Academy, which is a multi-week prestigious and rigorous leadership course held in Quantico, Virginia. There are representatives of police agencies from all over the USA and some international police agencies that are carefully selected to be part of this esteemed program.

A requirement of the City Charter is that the City Council confirms the appointment of department heads before they can begin their duties. This will take place at the November 1, City Council meeting.

FINANCIAL:

No financial impact associated with this item.

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

Not Applicable

CITY CONTACT: Mario Canizares, City Manager
canizaresm@nactx.us
936-559-2501

ATTACHMENTS:

PRESENTER: Steve Bartlett, Public Works Director

ITEM/SUBJECT: Consider approval of a contract between the City of Nacogdoches and Mead & Hunt, Inc. for Professional Engineering Services related to the City's wastewater Pretreatment Program canceling an existing contract dated July 11, 2022. (Public Works Director)

SUMMARY/BACKGROUND: This is a standard contract for engineering services related to the City's Pretreatment Program. We have lost our staff Environmental Coordinator that oversaw our pretreatment program and did all our TCEQ (Texas Commission on Environmental Quality) compliance work. This loss has prompted the need to engage Mead & Hunt to also run our program until we can find a new staff person for this position. Mead & Hunt is already providing other engineering assistance developing our new pretreatment program including industry permitting, laboratory testing, and TCEQ coordination. With this significant scope of work revision, we are closing their current contract and replacing it with a new version that includes additional fees and an expanded scope of services.

This contract is an on-call hourly contract with a not to exceed maximum fee of \$175,000. We estimate that about \$100,000 of the fee will be for the interim replacement of the staff position and about \$75,000 will be the cost to develop our new pretreatment program for TCEQ review that is underway. If we are able to hire a new Environmental Coordinator during the next fiscal year, we will decrease the tasks needed by Mead & Hunt and thus reduce the total fees paid. We previously spent over 18 months trying to fill the Environmental Coordinator position.

We are facing immediate compliance issues with the State if we do not procure assistance for our regulatory compliance and reporting with TCEQ. Mead & Hunt is an expert in this field and has a history with the City for overseeing pretreatment and wastewater protection programs.

A budget amendment from the sewer fund will be required. Adequate excess funds exist to cover this new contract amount.

FINANCIAL:

Item is not budgeted (*Budget Amendment required – see attached*)

Account No.: 30.39.630.71

Account Name: *Consulting Services*

Amount: \$175,000 (requires a budget amendment)

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

Infrastructure

CITY CONTACT: Steve Bartlett, Director Public Works/City Engineer
bartletts@nactx.us

936-550-2522

- ATTACHMENTS:**
1. Mead & Hunt 2022 Revised Contract
 2. PowerPoint Presentation

**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 **MEAD & HUNT, INC.**, a **corporation** (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. This contract will replace a previous contract for services executed July 11, 2022 with a new scope of work and budget.

**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: **assistance with the City’s Texas Pollutant Discharge Elimination System Permit and the Industrial Pretreatment Program** (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 Payment Terms**. 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 **One Hundred Seventy Five Thousand and no/100 Dollars (\$175,000)**.

**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. The Consultant shall prepare and submit for the City to approve in writing, a detailed schedule for the performance of the Consultant’s services for each individual task assignment. 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 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 (RESERVED)

ARTICLE V
Preliminary Design (RESERVED)

ARTICLE VI
Final Design (RESERVED)

ARTICLE VII
Bid Preparations & Evaluation (RESERVED)

ARTICLE VIII
Construction Administration (RESERVED)

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 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.

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 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 professionals 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.

- 10.03 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, 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, invitees, licensees, and other persons.
- 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 obligations under this Contract, or if the Consultant violates any of the 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. In the event of termination, 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:
Mead & Hunt, Inc.
6001 Interstate 20 West, Suite 219
Arlington, TX 76017
- 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.

14.08 **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 \$175,000 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.*).

14.09 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.

14.10 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.

14.11 **Notice of Indemnification. City and Consultant hereby acknowledge and agree that this Contract contains certain indemnification obligations and covenants.**

MEAD & HUNT, INC.
6001 Interstate 20 West, Suite 219
Arlington, TX 76017

CITY OF NACOGDOCHES
P. O. Box 635030
Nacogdoches, Texas 75963-5030

By: _____

Printed Name: Janet Sims

Title: Senior Project Manager

Date: _____

By: _____

Printed Name: Mario Canizares

Title: City Manager

Date: _____

APPROVED AS TO CONTENT:

Director of Public Works

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Services

Exhibit A
City of Nacogdoches
Pretreatment Program Assistance
Scope of Services

This project consists of on-call services to assist the City of Nacogdoches (City) with pretreatment program implementation and compliance issues related to the City's Texas Pollutant Discharge Elimination System Permit (TPDES) and Industrial Pretreatment Program. After receipt of authorization to proceed, Mead & Hunt shall provide services at the request of the City staff. Requested services may include the following:

- Complete Pretreatment Program Annual Report for submission to the Texas Commission on Environmental Quality (TCEQ).
- Assist with obtaining bids for, procurement and setup of pretreatment program software.
- Coordinate with city staff and laboratory for plant and industrial user sampling.
- Review industrial user applications, self-monitoring reports, and other required documentation for compliance with pretreatment standards and requirements as requested.
- Assist with resolution of the Notice of Violation for Pretreatment Compliance Investigation.
- Support City staff through on-call assistance with sampling.
- Conduct industrial waste surveys, inspections, enforcement, and other pretreatment related tasks.
- Develop industrial user master list.
- Draft Industrial Wastewater Discharge Permits for new Significant Industrial Users to comply with the pretreatment program requirements.
- Provide an on-site training workshop for industrial users. Information will be provided on the changes to the City's modified pretreatment program, best practices for compliance with Industrial Wastewater Discharge Permits, and frequent issues identified during the recent Pretreatment Compliance Investigation.
- Assist with the development and approval of site-specific water quality standard for copper.
- Continue assistance with obtaining approval of the Technically Based Local Limits (TBLL) submitted to Texas Commission on Environmental Quality (TCEQ) in September 2021.
- Update program documents to incorporate the substantial modification for the Technically Based Local Limits and other needed changes.
- Assist with preparation of final TDS/Chloride study report.
- Prepare for and attend virtual meetings with City to discuss pretreatment program needs.
- Prepare for and attend meetings in Nacogdoches.

Exhibit B

Payment Terms

Table A.1

City of Nacogdoches, Texas
Assistance with Pretreatment Program

Task 1 Assistance with Pretreatment Program

Labor Summary		Labor Category & Projected Hours					Labor Subtotal
Subtask	Description	Principal	Sr Project Manager	Project Manager	Technician	Admin	
1	Complete Annual Report	1	6	32			\$ 7,920
2	Assist with bidding and procurement of program software		8	40			\$ 9,688
2	Coordinate with laboratory for plant and IU sampling			32			\$ 6,304
3	Coordinate with staff for sampling schedule			32			\$ 6,304
4	Review reports and notifications from IUs			40			\$ 7,880
5	Track IU compliance and enforcement status			40			\$ 7,880
6	Communicate with IUs to ensure compliance			40			\$ 7,880
7	Conduct inspections at IUs			40			\$ 7,880
8	Coordinate and draft IU enforcement actions		4	24			\$ 5,632
9	Develop IU master list			40			\$ 7,880
10	Develop written policies and procedures for enforcement, sampling, IU survey, and others as needed		16	40			\$ 11,496
11	Train new personnel as needed		8	40			\$ 9,688
12	Conduct site-specific study to revise copper water quality standard		16	24			\$ 8,344
13	Complete TBL development and obtain TCEQ approval		40	80			\$ 24,800
14	Complete TDS/Chlorides study report	1	8	24			\$ 6,796
15	Prepare for and attend meetings virtually regarding pretreatment program		8	16			\$ 4,960
16	Prepare for and attend meetings in person			24			\$ 4,728
Total Hours		2	114	608	0	0	724
Labor Subtotal		\$520.00	\$25,764.00	\$119,776.00	\$0.00	\$0.00	\$146,060.00
Expense Summary							
	Estimated Direct Expenses:			<i>Notes:</i> <i>Client to pay separately for any necessary analytical costs.</i>			
	Mileage and Travel (8 trips, 12 hotels, meals)	\$	3,075				
	Printing & Reproduction (Including scans of full-sized USGS maps)	\$	125				
	Postage, Delivery, & Courier Charges	\$	85				
	Subconsultant Fees:						
	Surveyor	\$	-				
	Geotechnical	\$	-				
	Electrical	\$	-				
	Structural	\$	-				
	Copper Study - Huther and Associates,	\$	19,000				
		\$	-	Labor Fee			\$ 146,060
	Subtotal Direct Expenses	\$	22,285	Direct Expense Fee			\$ 24,514
	Service Charge for Outside Direct Expenses	\$	2,229	Total Professional Services Fee			\$ 170,574

Exhibit B

Payment Terms

Compensation is based on **actual** hours of work/time devoted to providing the described professional services. The Consultant will be paid at the rates per service or employee shown below. The City will reimburse the Consultant for **actual**, non-salary expenses at the rate of **ten** percent (**10%**) above the Consultant's actual costs, or at the rates set forth below. 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 (**\$175,000**).

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 Consultant's 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

MEAD & HUNT CONTRACT FOR ENGINEERING SERVICES *(Pretreatment Program)*

- Mead & Hunt is currently our Engineering Consultant for our Pretreatment Program
- Lost Environmental Coordinator who was our staff person over the program
- Mead & Hunt will assume duties of our Coordinator position as well as continue assisting with our new Pretreatment Assessment for TCEQ
- HR will begin search for new Environmental Coordinator. May take over a year to fill this position.

MEAD & HUNT CONTRACT FOR ENGINEERING SERVICES *(Pretreatment Program)*

- New contract fee is hourly with a \$175,000 maximum
- If a staff person is hired, the fee will reduce
- Mead & Hunt will still lead the effort to do laboratory testing, industrial inspections, and develop a new pretreatment program acceptable to TCEQ. This may take over a year to complete.

PRESENTER: Larissa Philpot, Economic Development Director

ITEM/SUBJECT: Hold a discussion and consider approval of a resolution identifying the City of Nacogdoches' legislative priorities for the 88th Legislative Session that begins on January 10, 2023. (Economic Development Director)

SUMMARY/BACKGROUND: The purpose of a legislative agenda is to provide state legislators the Nacogdoches City Council's position on issues that may be discussed during the upcoming legislative session. The agenda broadly covers issues that could affect the City's revenues, budget, and regulatory authority. Adopting a legislative agenda provides staff the background necessary to advocate in Austin on behalf of City Council.

Upon approval by Council, staff will work with the City's legislative advocates to develop materials showcasing these points and distribute said materials to legislators in Austin.

FINANCIAL:

No financial impact associated with this item

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

Infrastructure, I-69 Development, Economic Development, Value-Driven Education and Job Training

CITY CONTACT: Larissa Philpot-Brown, Economic Development Director
lphilpot@nedco.org
936-559-1255

ATTACHMENTS: 1. Legislative Agenda and Program
2. Resolution

Legislative Agenda and Program

- o Support legislation that supports or advances the principles of local control to allow for locally elected officials to make decisions that are beneficial to the interests of City residents or that is otherwise beneficial to the City's interest.
- o Oppose legislation that preempts or erodes the authority of city government or is detrimental to the City's ability to pursue citizen priorities or respond to local citizen concerns.
- o Support the City's ability to communicate with legislators and advocate on behalf of the community through membership with municipal and professional organizations and engagement of legislative advocacy consultants.
- o Oppose legislation that attempts to diminish the City's ability to govern its residents' investment in municipally-owned utilities, including the City Council's authority to set rates.
- o Oppose legislation that negatively affects the City's financial ability to act in the best interests of the Nacogdoches' residents or reduces the City's revenue streams that fund services citizens depend upon or the City's ability to achieve a AAA credit rating. This includes but is not limited to:
 - Imposing a limitation on city expenditures, a more restrictive revenue cap, a reduced rollback rate, mandatory tax rate ratification elections, or an exclusion of new property in the effective tax rate calculations; or
 - Lowering the homestead appraisal cap or expanding the appraisal cap to non-homestead properties
 - Limitations on overall city expenditures
 - Restriction of the City's ability to issue debt in order to fund public improvements through General Obligation or Certificates of Obligation bonds
- o Support legislation that provides local governments with funding for general aviation airport capital improvement projects to allow them to be as self-sustaining as possible.
- o Oppose legislation that places the financial burden of State mandates on Nacogdoches taxpayers and requires collecting revenues for the State
- o Support legislation that protects the City's current and future water supply
- o Oppose legislation that would erode the City's current economic development tools
- o Support legislation improving rural communities' ability to access federal funding for infrastructure needs.
- o Oppose legislation that would diminish the City's authority to regulate growth and development to ensure the protection of health, life, and safety through reasonable land use and zoning regulations and building codes.
- o Support legislation reinstating the City's ability to reasonably annex property within its Extraterritorial Jurisdiction.
- o Support the repeal of HB 2439 which preempted cities from regulating building materials
- o Support legislation that increases state funding for transportation projects, specifically the development of Interstate 69.
- o Support legislation that would enable the use of electronic notice for all public notices
- o Support legislation and funding for improved workforce training programs
- o Support legislation and funding to increase broadband access, specifically to assist rural communities in accessing federal funding for construction of last-mile broadband infrastructure
- o Support legislative appropriations to support intrastate wildland and all hazards emergency response through increased funding for the Texas Intrastate Fire Mutual Aid System.
- o Support legislation that removes unintended barriers to the City's efficient transfer ownership, operations, and maintenance of the Central Heights water supply system to the Angelina Neches River Authority.

**CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. 1316-11-22**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS, ADOPTING THE CITY'S LEGISLATIVE AGENDA AND PROGRAM FOR THE 88TH STATE LEGISLATIVE SESSION.

WHEREAS, the Texas State Legislature meets as a legislative body every two years and will convene the 88th Legislative Session on January 10, 2023; and

WHEREAS, the regular State Legislative Session time period lasts for 140 days and will conclude on May 29, 2023; and

WHEREAS, the Legislative Session is the time period when legislation can be proposed by State Representatives and Senators that can affect municipalities and citizens of Texas; and

WHEREAS, leading up to the Legislative Session, Mayors and City Councils across the State of Texas are carefully reviewing matters of importance to ensure that proposed legislation is not detrimental to local governance, financial interests, and decision-making and does not diminish a City Council's abilities to effectively represent the citizens that duly elected them; and

WHEREAS, the City of Nacogdoches has determined that certain legislative priorities are important for the advancement of our City during the 88th Legislative Session.

NOW, THEREFORE, be it resolved by the City Council of the City of Nacogdoches, Texas that:

1. The City of Nacogdoches' Legislative Agenda and Program for the 88th State of Texas Legislative Session, attached hereto, is hereby adopted as the official legislative priorities of the City of Nacogdoches, Texas.
2. The City adopts statements of support and authorizes the City Manager, staff, and legislative consultants to actively support legislation related to specific positions adopted by the City Council.
3. The City adopts statements of opposition and authorizes the City Manager, staff, and legislative consultants to actively oppose any legislation that contradicts or undermines the specific positions adopted by the City Council.
4. This resolution is effective immediately upon its passage.

PASSED AND APPROVED, this the 1st day of November, 2022, by a vote of ____ (ayes) to ____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

APPROVED AS TO FORM:

Jan Vinson, City Secretary

Steven Kirkland, City Attorney



City Council Meeting

Date: November 1, 2022

Agenda Item: 6.D.

PRESENTER: Jan Vinson, City Secretary

ITEM/SUBJECT: Hold a discussion regarding City Council meeting dates for 2023 and consider adopting a resolution amending said dates. (City Secretary)

SUMMARY/BACKGROUND: Nacogdoches City Council meets on the 1st and 3rd Tuesday of each month at 5:30 p.m., which is set by resolution per the Code of Ordinances. The Code of Ordinances also states that Council must meet at least one time per month.

There are two City Council meeting dates that are affected by City staff holidays or other events. Those are Independence Day on July 4th and National Night Out which falls on the first Tuesday in October. If City Council chooses to change meeting dates then a new resolution will need to be adopted.

This item will give City Council and staff an opportunity to discuss which meeting dates, if any, need to be changed to accommodate the holiday schedule.

The approved list of City Council meeting dates for 2023 will be posted on the City's website.

FINANCIAL:

No financial impact associated with this item

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

Not Applicable

CITY CONTACT: Jan Vinson, City Secretary
vinsonj@nactx.us
936-559-2506

ATTACHMENTS: 1. DRAFT Resolution Changing Meeting Dates
2. PowerPoint Presentation

RESOLUTION NO. 1315-11-22

RESOLUTION OF THE CITY OF NACOGDOCHES, TEXAS ESTABLISHING THE REGULAR MEETING DATES AND TIMES OF THE NACOGDOCHES CITY COUNCIL.

WHEREAS, Section 2-51 of the Code of Ordinances of the City of Nacogdoches, Texas states that the regular meeting dates of the City Council shall be set by resolution; and

WHEREAS, on August 7, 2007 City Council approved a resolution setting the regular meeting dates of City Council to be the first and third Tuesday of each month at 5:30 p.m.; and

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THE CITY OF NACOGDOCHES, TEXAS, THAT; due to City holiday schedule, National Night Out and an additional budget meeting required by law the following meetings will be changed and or added:

- Independence Day holiday is Tuesday, July 4, 2023
City Council Meeting will be rescheduled to Tuesday, July 11, 2023
- Budget Meeting/Tax Rate Adoption as required by law on Tuesday, September 12, 2023
- National Night Out is Tuesday, October 3, 2023
City Council Meeting will be rescheduled to Tuesday, October 10, 2023

PASSED AND APPROVED the 1st day of November, 2022.

Jimmy Mize, Mayor
City of Nacogdoches

ATTEST:

Jan Vinson, City Secretary

Approved as to form: _____
Steven Kirkland, City Attorney



City Council Meeting Dates 2023

City Council Meeting Dates

- City Council Meetings are on the 1st and 3rd Tuesday of each month
 - Set by resolution as stated in the Code of Ordinance

City Holiday Schedule

- New Year's Day Monday, January 2
 - MLK Day Monday, January 16
 - Good Friday Friday, April 7
 - Memorial Day Monday, May 29
 - Independence Day Tuesday, July 4
 - Labor Day Monday, September 4
 - Thanksgiving Day Thursday, November 23
 - Day After Thanksgiving Friday, November 24
 - Christmas Eve Monday, December 25
 - Christmas Day Tuesday, December 26
-
- National Night Out Tuesday, October 3

Additional Holidays:

- MLK Day is Monday, January 16
 - *City Council Meeting is Tuesday, January 17*
- Juneteenth is Monday, June 19
 - *City Council Meeting is Tuesday, June 20*
- Labor Day is Monday, September 4
 - *City Council Meeting is Tuesday, September 5*
- Thanksgiving Holidays are November 23-24
 - *City Council Meeting is Tuesday, November 21*
- Christmas Holidays are December 25-26
 - *City Council Meeting is Tuesday, December 19*

City Council can:

- Do nothing and meet on the 1st and 3rd Tuesday of each month
- Move identified regular City Council meetings to another week
- Cancel certain meetings given the schedule provided
- Combination of the above