



November 7, 2023

AMENDED

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 lewisl@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 Tuesday, November 7, 2023. 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 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 an Agreement by and between the City of Nacogdoches and The Nacogdoches Convention and Visitors Bureau in furtherance of the enhancement and promotion of convention, tourism and hotel industry services (City Manager).

- B. Consider approval of minutes for the October 17, 2023 regular City Council meeting (Deputy City Secretary).
 - C. Consider approval of a contract renewal between the City of Nacogdoches and Environmental Systems Research Institute (ESRI) for the City-wide site license of ArcGIS software (City Engineer).
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 a resolution casting the City of Nacogdoches' votes for the Nacogdoches Central Appraisal District Board of Directors (Interim City Manager).
 - B. Discuss work occurring in the rights of way, including fiber optic installation.
 - C. Presentation and recognition of the incoming City Manager, Rick Beverlin, and the outgoing Interim City Manager, Keith Kiplinger.
7. ADJOURN.



Rhonda Lewis
Deputy 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 amended notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on November 2, 2023 at 3:00 p.m. and remained posted until the meeting convened.

Rhonda Lewis, Deputy City Secretary



City Council Meeting

Date: November 7, 2023

Agenda Item: 5.A.

PRESENTER:

ITEM/SUBJECT: Consider an Agreement by and between the City of Nacogdoches and The Nacogdoches Convention and Visitors Bureau in furtherance of the enhancement and promotion of convention, tourism and hotel industry services (City Manager).

SUMMARY/BACKGROUND:

FINANCIAL:

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

CITY CONTACT: Rick Beverlin, City Manager
beverlinr@nactx.us
(936) 559-2501

ATTACHMENTS: 1. CVB_Employment Services Agreement_2023-24

ARTICLE IV

Compensation

The Director and Staff will be City employees and will be paid as such by the City. The City will provide salary and other benefits (health insurance, retirement, etc.) to the Director and Staff as is customary for other City employees.

CVB will pay compensation to the City, which equals the actual costs incurred by the City for salary, related expenses and benefits directly associated with the services the Director and Staff provide to CVB. The City shall deliver a monthly invoice for said compensation to CVB, which CVB agrees to pay within thirty days of receipt.

Additionally, CVB will provide Director and Staff use of its leased office space in the Charles Bright Visitor Center building located at 200 E. Main Street or at another location of comparable size at the discretion of CVB. CVB will provide compensation to the City for convention, tourism and hotel industry related travel expenses and associated dues, as well as provide computers, telephones, and all other required office equipment and supplies as needed for the Director and Staff for the performance of duties required under this Agreement.

Outside of the fixed monthly payments to the City, CVB will have no other financial obligation to Director and Staff, unless Director and/or Staff and CVB enter into an ancillary agreement which is approved by the City.

The City will maintain complete and accurate records of all payrolls, expenditures, disbursements, and other items charged to CVB for a minimum of 4 years from the date of the termination of this Agreement. All such records will be clearly identifiable, and the City will allow CVB or its designated representatives to inspect, examine, copy, and audit all such records during regular business hours with 24 hours' written notice.

ARTICLE V

Performance Evaluation

CVB is vested with the ability to advise the City on any given action to be taken in regard to the hiring, overall job performance or termination of the Director and/or Staff; however, the final authority as to employment rests with the City. It is expressly understood by and between the City and CVB that the City will retain the ultimate authority to hire and terminate the Director and/or Staff.

ARTICLE VI

Termination

Either the City or CVB may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party.

ARTICLE VIII

Relationship of Parties

The relationship of CVB and the City shall be that of independent contractors as to all services performed hereunder. The doctrine of respondent superior shall not apply as between the City and CVB, its officers, agents, servants, employees, contractors, and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between the City and CVB.

Other than the terms specifically set forth herein, nothing in this Agreement shall allow or authorize CVB to bind or obligate the City as to any expense, obligation, duty or incentive.

ARTICLE IX

Miscellaneous

Non-Waiver

It is expressly understood and agreed that, in the execution of this Agreement, no party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

Venue

Each party to this Agreement agrees if legal action is brought under this Agreement, exclusive venue shall lie in Nacogdoches County, Texas.

Governing Law

The validity of this Agreement and of any of its terms or provisions, as well as rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas.

Severability

In case any one or more of the minor provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Notice

Notices shall be written and mailed by certified mail or hand delivered to the chief executive officer of each party or such party's office.

Modification

This Agreement may be amended or modified by mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

Headings

The headings of sections or paragraphs of this Agreement are for convenience purposes only and in no way control, contradict or limit contents of such sections or paragraphs.

Assignment

CVB may not assign this Agreement without prior written consent of City.

Open Records

CVB understand this Agreement and the services provided herein may subject all or part of CVB's records to the Texas Public Information Act, but only to the extent required by law.

Authority to Execute

The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof

NACOGDOCHES CONVENTION AND VISITORS BUREAU,
a non-profit corporation

By: _____
Chay Runnels,
Chairman of the Board of Directors

Date Signed: _____

CITY OF NACOGDOCHES,
a municipal corporation

By: _____
Rick Beverlin,
City Manager

Date Signed: _____



City Council Meeting

Date: November 7, 2023

Agenda Item: 5.B.

PRESENTER:

ITEM/SUBJECT: Consider approval of minutes for the October 17, 2023 regular City Council meeting (Deputy City Secretary).

SUMMARY/BACKGROUND:

FINANCIAL:

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

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

ATTACHMENTS: 1. City Council Meeting Minutes - 10.17.23



Regular Session
Nacogdoches City Council
October 17, 2023 – 5:30 p.m.
City Council Chambers – City Hall
202 East Pilar Street

DRAFT

City Council present in person: Mayor Randy Johnson, Council Members, Chad Huckaby, Brad Maule, and Kathleen Belanger **Absent Council Member(s):** Mayor Pro Tem Roy Boldon

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

Mayor Johnson commented in Open Forum stating the process for Open Forum went through an update to streamline the flow of Council Meetings.

Mayor Johnson also recognized and thanked Interim City Manager, Keith Kiplinger, for a job well done in his position as Interim.

4. ITEMS TO BE REMOVED FROM CONSENT AGENDA.

5. CONSENT AGENDA:

- A. Consider approval of Resolution No. 1354-10-23 amending a Chapter 380 Economic Development Program agreement by and between the City of Nacogdoches and Kim Crisp regarding renovation of a building at 124 East Main Street to extend the timeline for completion of the renovation of the project to November 30, 2023 (Economic Development Director).
- B. Consider approval of minutes for the October 10, 2023 Regular City Council meeting (Deputy City Secretary).

Council Member Huckaby made a motion to approve the Consent Agenda as presented; Council Member Maule duly seconded the motion, and the motion carried by a unanimous vote of 4-0.

6. REGULAR AGENDA:

- A. Consider approval of multiple Indefinite Deliverable Indefinite Quantity contracts by and between the City of Nacogdoches and Longview Asphalt, Inc. and Texas Materials for asphalt products and limestone base material used in Public Works operations in a not-to-exceed total budgeted amount of \$250,000.00 (Assistant Director of Public Works).

Case Opperman, Assistant Director of Public Works, stated that these contracts are renewed on an annual basis; however, with a recent rise in costs of materials, current vendors are not able to renew at the same rates. Mr. Opperman stated staff requested bids for this contract on October 5th and two bidders, Longview Asphalt, Inc. and Texas Materials, were awarded the contracts.

Mayor Johnson called for a motion. Council Member Brad Maule made a motion to approve Item 6.A. as written, Council member Belanger duly seconded the motion. The motion carried unanimously by a vote of 4-0.

- B. **Public Hearing:** Consider approval of a Zone Change from PD, Planned Development District to R-1, Single Family for approximately 32 acres, being Lots 1, 2, 3, 4R, 5, and 6R-1, of the Timber Springs Subdivision and Timber Springs Replats. This request has been submitted by Lone Star Breeder Farms, Inc. Case File ZON2023-06 (Planning Technician).

Juan Pollette, Planning Technician, stated that the property was initially zoned R-1, Single Family in the mid-2000s and re-zoned to Planned Development District for a large retirement community. This plan was not developed and therefore, the property owner would like to change the zoning to the initial R-1 Single Family, to make the property more marketable. Mr. Pollette provided site photos and 200-foot notification information to Council. He also stated that the request complies with the eight (8) conditions of approval and the Planning and Zoning Commission voted unanimously to approve the zone change on October 9, 2023.

Minutes unofficial until approved by City Council

Mayor Johnson called for any public comment.

There were no comments from the public.

Mayor Johnson made a motion to approve the zone change as presented. Council Member Belanger duly seconded the motion, and the motion carried unanimously, 4-0.

- C. Consider approval of an ordinance of the City of Nacogdoches, Texas regulating the collection of sewage in the City requiring pretreatment and permits for certain discharges; amending Chapter 106 Division 2 "Sewer Use Regulations", Section 106-66 through 106-79, of the Code of Ordinances for the City of Nacogdoches, Texas, providing a continuation clause; providing a repeal clause; providing a penalty clause; and providing an effective date (City Engineer).

Steve Bartlett, City Engineer, stated that this ordinance has been presented to Council in the past and has been revised. The ordinance controls items what the industrial users can put into the waste stream that goes to the sewer plant. He stated that during the last audit, there were no violations, however, there were some recommended changes. Staff tested the sewers for metals, arsenic, lead, etc. Mr. Bartlett stated that the only changes and updates were some definitions, technical language, and limits.

Mayor Johnson asked if there were any questions from the Council Members. There were none.

Council Member Belanger made a motion to approve Item 6.C. as presented. Council Member Huckaby duly seconded the motion. The motion was approved by a unanimous vote of 4-0.

7. EXECUTIVE SESSION:

- A. Personnel Matters – Pursuant to Texas Government Code Section 551.074, deliberations regarding the appointment or employment of a public officer or employee. The subject of this executive session is the Public Works Director (Interim City Manager).

This item was postponed to a future meeting.

8. ADJOURNED: 5:40 p.m.

ATTEST:

Mayor Randy Johnson
City Council
City of Nacogdoches

Rhonda Lewis, Deputy City Secretary

PRESENTER: Steve Bartlett, Public Works Director

ITEM/SUBJECT: Consider approval of a contract renewal between the City of Nacogdoches and Environmental Systems Research Institute (ESRI) for the City-wide site license of ArcGIS software (City Engineer).

SUMMARY/BACKGROUND: ArcGIS from ESRI is proprietary software that is the backbone of our current Graphic Information System (GIS), which is used by every department across the City. It is the basis for all of our mapping data including water utilities, planning, engineering, fire, police and streets. Our ArcGIS maps and data are also available to the public through our website.

This software contract continues our annual subscription fee which has now become \$39,700 for a total 3-year-term price guarantee of \$119,100. Only \$39,700 is due under this year's contract.

Under this agreement, the ArcGIS software can be used on any computer within the City and our public website.

The previous contracts were for \$35,000 per year. This is the first price increase in six (6) years.

FINANCIAL:

Item is budgeted:

Account No.: 01.28.610.10

Account Name: *Engineering Office Equip. & IT Maintenance*

Amount: \$39,700

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

Not Applicable

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

ATTACHMENTS: 1. ESRI ELA



Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853
DUNS Number: 06-313-4175 CAGE Code: 0AMS3

Quotation # Q-507992

Date: October 19, 2023

Customer # 164464 Contract # ENTERPRISE AGREEMENT

City of Nacogdoches
Engineering Dept
202 E Pilar St
Nacogdoches, TX 75961-5508

ATTENTION: Tred Riggs
PHONE: (936) 559-2519
EMAIL: riggst@nactx.us

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 10/19/2023 To: 1/17/2024

Material	Qty	Term	Unit Price	Total
168178	1	Year 1	\$39,700.00	\$39,700.00
Populations of 25,001 to 50,000 Small Government Enterprise Agreement Annual Subscription				
168178	1	Year 2	\$39,700.00	\$39,700.00
Populations of 25,001 to 50,000 Small Government Enterprise Agreement Annual Subscription				
168178	1	Year 3	\$39,700.00	\$39,700.00
Populations of 25,001 to 50,000 Small Government Enterprise Agreement Annual Subscription				
Subtotal:				\$119,100.00
Sales Tax:				\$0.00
Estimated Shipping and Handling (2 Day Delivery):				\$0.00
Contract Price Adjust:				\$0.00
Total:				\$119,100.00

The Esri Small Government Enterprise Agreement Program is a three year agreement with three annual installments of \$39,700 that are due each year; the total fees listed of \$119,100 represents the total amount due for three installments. Though it is preferred to receive one purchase order that covers all three years, for budgeting purposes, the City can issue their purchase order for one year at a time to cover each annual installment.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact: Sean Gill	Email: s.gill@esri.com	Phone: (909) 793-2853 x8828
The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, then unless otherwise stated in this quotation, Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.		

Esri Use Only:

Cust. Name _____
 Cust. # _____
 PO # _____
 Esri Agreement # _____



SMALL ENTERPRISE AGREEMENT COUNTY AND MUNICIPALITY GOVERNMENT (E214-2)

This Agreement is by and between the organization identified in the Quotation ("**Customer**") and **Environmental Systems Research Institute, Inc. ("Esri")**.

This Agreement sets forth the terms for Customer's use of Products and incorporates by reference (i) the Quotation and (ii) the Master Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the Master Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Customer is located without reference to conflict of laws principles, and the United States of America federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

Table A
List of Products

Uncapped Quantities**Desktop Software and Extensions (Single Use)**

ArcGIS Desktop Advanced
 ArcGIS Desktop Standard
 ArcGIS Desktop Basic
 ArcGIS Desktop Extensions: ArcGIS 3D Analyst,
 ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst,
 ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS
 Schematics, ArcGIS Workflow Manager, ArcGIS Data
 Reviewer

Enterprise Software and Extensions

ArcGIS Enterprise (Advanced and Standard)
 ArcGIS Monitor
 ArcGIS Enterprise Extensions: ArcGIS 3D Analyst,
 ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst,
 ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS
 Workflow Manager, ArcGIS Data Reviewer

Enterprise Additional Capability Servers

ArcGIS Image Server

Developer Tools

ArcGIS Runtime Standard
 ArcGIS Runtime Analysis Extension

Limited Quantities

One (1) Professional subscription to ArcGIS Developer
 Two (2) ArcGIS CityEngine Single Use Licenses
 100 ArcGIS Online Viewers
 100 ArcGIS Online Creators
 17,500 ArcGIS Online Service Credits
 100 ArcGIS Enterprise Creators
 3 ArcGIS Insights in ArcGIS Enterprise
 3 ArcGIS Insights in ArcGIS Online
 10 ArcGIS Location Sharing for ArcGIS Enterprise
 10 ArcGIS Location Sharing for ArcGIS Online
 3 ArcGIS Parcel Fabric User Type Extensions (Enterprise)
 3 ArcGIS Utility Network User Type Extensions (Enterprise)
 3 ArcGIS Trace Network User Type Extensions (Enterprise)

OTHER BENEFITS

Number of Esri User Conference registrations provided annually	3
Number of Tier 1 Help Desk individuals authorized to call Esri	3
Maximum number of sets of backup media, if requested*	2
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement	

*Additional sets of backup media may be purchased for a fee

Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("**Ordering Document**"). **ADDITIONAL OR CONFLICTING TERMS IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN.** This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("**Effective Date**").

Term of Agreement: Three (3) years

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

(Customer)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

CUSTOMER CONTACT INFORMATION

Contact: _____

Telephone: _____

Address: _____

Fax: _____

City, State, Postal Code: _____

E-mail: _____

Country: _____

Quotation Number (if applicable): _____

1.0—ADDITIONAL DEFINITIONS

In addition to the definitions provided in the Master Agreement, the following definitions apply to this Agreement:

"Case" means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

"Deploy", "Deployed" and "Deployment" mean to redistribute and install the Products and related Authorization Codes within Customer's organization(s).

"Fee" means the fee set forth in the Quotation.

"Maintenance" means Tier 2 Support, Product updates, and Product patches provided to Customer during the Term of Agreement.

"Master Agreement" means the applicable master agreement for Esri Products incorporated by this reference that is (i) found at <https://www.esri.com/en-us/legal/terms/full-master-agreement> and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed Esri master agreement or license agreement that supersedes such electronically acknowledged master agreement.

"Product(s)" means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

"Quotation" means the offer letter and quotation provided separately to Customer.

"Technical Support" means the technical assistance for attempting resolution of a reported Case through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

"Tier 1 Help Desk" means Customer's point of contact(s) to provide all Tier 1 Support within Customer's organization(s).

"Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk.

"Tier 2 Support" means the Esri Technical Support provided to the Tier 1 Help Desk when a Case cannot be resolved through Tier 1 Support.

2.0—ADDITIONAL GRANT OF LICENSE

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Esri grants to Customer a personal, nonexclusive, nontransferable license solely to use, copy, and Deploy quantities of the Products listed in Table A—List of Products for the Term of Agreement (i) for the applicable Fee and (ii) in accordance with the Master Agreement.

2.2 Consultant Access. Esri grants Customer the right to permit Customer's consultants or contractors to use the Products exclusively for Customer's benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of Products by consultants or contractors not exclusively for Customer's benefit is prohibited. Customer may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor servers for the benefit of Customer.

3.0—TERM, TERMINATION, AND EXPIRATION

3.1 Term. This Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified in the Term of Agreement, unless this Agreement is terminated earlier as provided herein. Customer is only authorized to use Products during the Term of Agreement. For an Agreement with a limited term, Esri does not grant Customer an indefinite or a perpetual license to Products.

3.2 No Use upon Agreement Expiration or Termination. All Product licenses, all Maintenance, and Esri User Conference registrations terminate upon expiration or termination of this Agreement.

3.3 Termination for a Material Breach. Either party may terminate this Agreement for a material breach by the other party. The breaching party will have thirty (30) days from the date of written notice to cure any material breach.

3.4 Termination for Lack of Funds. For an Agreement with government or government-

owned entities, either party may terminate this Agreement before any subsequent year if Customer is unable to secure funding through the legislative or governing body's approval process.

3.5 Follow-on Term. If the parties enter into another agreement substantially similar to this Agreement for an additional term, the effective date of the follow-on agreement will be the day after the expiration date of this Agreement.

4.0—PRODUCT UPDATES

4.1 Future Updates. Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Customer. Customer may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Customer via written notice for incorporation into the Products schedule at no additional charge. Customer's use of new or updated Products requires Customer to adhere to applicable additional or revised terms and conditions in the Master Agreement.

4.2 Product Life Cycle. During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at <https://support.esri.com/en/other-resources/product-life-cycle>. Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Customer will not be able to Deploy retired Products.

5.0—MAINTENANCE

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at <https://www.esri.com/en-us/legal/terms/maintenance>). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other

than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

a. Tier 1 Support

1. Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer's authorized users.
2. The Tier 1 Help Desk will be fully trained in the Products.
3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
4. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.
5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer's organization.
6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.
2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.
3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to

supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.

4. Tier 2 Support will attempt to resolve the Case submitted by Tier 1 Help Desk.
5. When the Case is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

6.0—ENDORSEMENT AND PUBLICITY

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Customer's endorsement of Products. Either party may publicize the existence of this Agreement.

7.0—ADMINISTRATIVE REQUIREMENTS

7.1 OEM Licenses. Under Esri's OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this Agreement. Customer will not seek any discount from the OEM partner or Esri based on the availability of Products under this Agreement. Customer will not decouple Esri products or services from the OEM partners' application or service.

7.2 Annual Report of Deployments. At each anniversary date and ninety (90) calendar days prior to the expiration of this Agreement, Customer will provide Esri with a written report detailing all Deployments. Upon request, Customer will provide records sufficient to verify the accuracy of the annual report.

8.0—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

8.1 Orders, Delivery, and Deployment

- a. Upon the Effective Date, Esri will invoice Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Customer to download,

operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee up to thirty (30) calendar days before the annual anniversary date for each year.

- b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri reserves the right to suspend Customer's access to and use of Products if Customer fails to pay any undisputed amount owed on or before its due date. Esri may charge Customer interest at a monthly rate equal to the lesser of one percent (1.0%) per month or the maximum rate permitted by applicable law on any overdue fees plus all expenses of collection for any overdue balance that remains unpaid ten (10) days after Esri has notified Customer of the past-due balance.

- c. Esri's federal ID number is 95-2775-732.

- d. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Customer will pay any such sales or use tax associated with the receipt of tangible media.

8.2 Order Requirements. Esri does not require Customer to issue a purchase order. Customer may submit a purchase order in accordance with its own process requirements, provided that if Customer issues a purchase order, Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.

- a. All orders pertaining to this Agreement will be processed through Customer's centralized point of contact.
- b. The following information will be included in each Ordering Document:
 - (1) Customer name; Esri customer number, if known; and bill-to and ship-to addresses
 - (2) Order number
 - (3) Applicable annual payment due

9.0—MERGERS, ACQUISITIONS, OR DIVESTITURES

If Customer is a commercial entity, Customer will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Customer with or into another corporation or entity; (ii) Customer's acquisition of another entity; or (iii) a transfer or sale of all or part of Customer's organization (subsections i, ii, and iii, collectively referred to as "**Ownership Change**"). There will be no decrease in Fee as a result of any Ownership Change.

- 9.1 If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.
- 9.2 If an Ownership Change results in transfer or sale of a portion of Customer's organization, that portion of Customer's organization will transfer the Products to Customer or uninstall, remove, and destroy all copies of the Products.
- 9.3 This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.



City Council Meeting

Date: November 7, 2023

Agenda Item: 6.A.

PRESENTER: Keith Kiplinger, Interim City Manager

ITEM/SUBJECT: Consider approval of a resolution casting the City of Nacogdoches' votes for the Nacogdoches Central Appraisal District Board of Directors (Interim City Manager).

SUMMARY/BACKGROUND: The City of Nacogdoches is entitled to 680 votes for the Nacogdoches Central Appraisal District Board of Directors. Council previously nominated Council Member Brad Maule to a position on the Board.

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: Keith Kiplinger, Interim City Manager
kkiplinger@nactx.us
(936) 559-2501

ATTACHMENTS:

1. Voting Entitlement 2023
2. Ballot CAD BOD 24-25
3. CAD Board Votes 2023

VOTING ENTITLEMENT FOR 2024-25 BOARD OF DIRECTORS

Taxing Unit	2022 Levy	% of Total Levies	Times 1,000 Rounded	Times 5 Directors
Nacogdoches County	\$ 21,284,123	25.491%	255	1275
City of Cushing	\$ 72,724	0.087%	1	5
City of Garrison	\$ 120,933	0.145%	1	5
City of Nacogdoches	\$ 11,318,226	13.555%	136	680
Central Heights ISD	\$ 1,994,170	2.388%	24	120
Chireno ISD	\$ 3,119,689	3.736%	37	185
Cushing ISD	\$ 2,271,906	2.721%	27	135
Douglass ISD	\$ 2,154,509	2.580%	26	130
Garrison ISD	\$ 2,090,229	2.503%	25	125
Martinsville ISD	\$ 2,222,871	2.662%	27	135
Nacogdoches ISD	\$ 32,643,157	39.095%	391	1955
Woden ISD	\$ 4,205,242	5.036%	50	250

Voting Entitlement derived by using 2022 tax levies

Official Ballot
Board of Directors
Nacogdoches Central Appraisal District
Term of Office
January 2024 thru December 2025

Candidate	Number of Votes
Jonathan Adams	_____
Robin Dawley	_____
Rev. James Ervin	_____
Brad Maule	_____
Mindy Winslow	_____

Name of Taxing Unit

Submit the vote to the chief appraiser before Dec. 15, 2023

RESOLUTION NO. 1355-11-23

A RESOLUTION CASTING CITY OF NACOGDOCHES' VOTES FOR NACOGDOCHES CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS

WHEREAS, the City of Nacogdoches has been allocated 680 votes for this entitlement for Central Appraisal District Board of Directors; and

WHEREAS, the Nacogdoches City Council meeting in regular session on November 7, 2023, is in agreement that all votes should be cast for the City's nomination in order to increase the chances of having a City representative elected to the Board; and

WHEREAS, Brad Maule is the City's nomination to the Central Appraisal District Board of Directors.

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

City Council of the City of Nacogdoches does hereby cast all 680 votes for Brad Maule to serve on the Central Appraisal District Board of Directors.

PASSED AND APPROVED THIS 7TH DAY OF NOVEMBER, 2023.

Mayor Randy Johnson
City of Nacogdoches

ATTEST:

Rhonda Lewis, Deputy City Secretary

Approved as to form:

Jerry Baker, City Attorney



City Council Meeting

Date: November 7, 2023

Agenda Item: 6.B.

PRESENTER:

ITEM/SUBJECT: Discuss work occurring in the rights of way, including fiber optic installation.

SUMMARY/BACKGROUND: Council recently adopted an ordinance regulating work in the rights of way. Staff has conducted meetings with the fiber optic installers that are operating in the City. This item will provide an opportunity to voice concerns and to ask staff questions regarding any improvements since the ordinance adoption.

FINANCIAL:

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

CITY CONTACT: Steve Bartlett, PE
City Engineer
bartletts@nactx.us
(936) 559-2522

ATTACHMENTS:



City Council Meeting

Date: November 7, 2023

Agenda Item: 6.C.

PRESENTER:

ITEM/SUBJECT: Presentation and recognition of the incoming City Manager, Rick Beverlin, and the outgoing Interim City Manager, Keith Kiplinger.

SUMMARY/BACKGROUND:

FINANCIAL:

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

CITY CONTACT:

ATTACHMENTS: