



August 5, 2024

Notice is hereby given of a Special 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 2:30 p.m. for the purpose of considering the following agenda items.

Some City Council Members may attend via videoconference but a quorum of the City Council and the Presiding Officer will be present at the above-stated physical location. The meeting will be streamed live at: <https://www.nactx.us/21>. There will be an opportunity for the public to comment on agenda items in person in Council Chambers.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.
2. PLEDGE OF ALLEGIANCE.
3. OPEN FORUM. Open Forum is an opportunity for citizens to address the City Council about items listed on the agenda, as well as on matters that are not specifically listed on the agenda. Alternatively, a citizen may address the City Council about an agenda item when the item comes up for consideration during the meeting. In order to address the City Council, please complete the Public Comment Form and submit it to the City Secretary prior to the start of the meeting. In accordance with the Texas Open Meetings Act, the City Council will not discuss, deliberate, or make any decisions on items not listed on the agenda. Comments are limited to 3 minutes per person.
4. ITEMS TO BE REMOVED FROM CONSENT AGENDA.
5. CONSENT AGENDA: Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
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 an ordinance amending Ordinance No. 1978-09-23 appropriating various amounts in accordance with the budget adopted for the ensuing fiscal year beginning October 1, 2023, and ending September 30, 2024 (Drainage Project #1). (Director of Public Works)
 - B. Consider approval of a contract by and between the City of Nacogdoches and Crockett Construction for the 2024 Drainage Improvements Project #1 in a not-to-exceed amount of \$1,958,073.00 (Director of Public Works).
7. ADJOURN.



Rhonda Lewis
City Secretary



This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact Attorney General of Texas at 1-800-252-8011; City Secretary at (936) 559-2506 or visit City of Nacogdoches web site at www.nactx.us.

CERTIFICATION

I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on August 2, 2024, at 2:30 p.m. and remained posted until the meeting convened.

Rhonda Lewis, City Secretary

PRESENTER: Jason Vickery, Assistant City Engineer

ITEM/SUBJECT: Consider an ordinance amending Ordinance No. 1978-09-23 appropriating various amounts in accordance with the budget adopted for the ensuing fiscal year beginning October 1, 2023, and ending September 30, 2024 (Drainage Project #1). (Assistant City Engineer)

SUMMARY/BACKGROUND: As part of the American Rescue Plan Act, the City of Nacogdoches received \$8,162,000, which was then allocated between storm drainage projects, fire station repairs, park restrooms, water system improvements and sanitary sewer improvements.

Recently, The City of Nacogdoches received two (2) bids for the 2024 Drainage Improvements – Project No. 1 on Thursday, July 11, 2024. The drainage improvements include projects located on Old Lufkin Road, Humphreys Road, Perry Street and Burk Street. The City Council approved moving forward with the award of a contract with Crockett Construction in the amount of \$1,958,073.00, which exceeds the budget for drainage improvements in ARPA.

Staff is requesting consideration of a budget amendment in the amount of \$300,000 to fund this work which would allow for some contingencies for any unforeseen change orders during construction of the 2024 Drainage Improvements Project #1. This amount would be from available ARPA funds in the Utility Fund, reducing available funding for water line replacement and the sewer line replacement CIP ARPA projects by \$150,000 each.

FINANCIAL:

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

Account No.: 24.75 680.31

Account Name: *Special Grant Funds - Drainage Capital*

Amount: \$300,000

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

Infrastructure

CITY CONTACT: Jason Vickery, Assistant Director of Public Works/Assistant City Engineer
vickeryj@nactx.us
(936) 559-2518

ATTACHMENTS: 1. Ordinance

**AN ORDINANCE AMENDING ORDINANCE NO. 1978-09-23 APPROPRIATING
VARIOUS AMOUNTS IN ACCORDANCE WITH BUDGET ADOPTED FOR THE
ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2023 AND ENDING SEPTEMBER
30, 2024.**

WHEREAS, the City Council of the City of Nacogdoches, Texas has approved and adopted the budget for said city for the ensuing fiscal year beginning October 1, 2023 and ending September 30, 2024.

WHEREAS, the City of Nacogdoches received \$8,162,558 from the American Rescue Plan Act (ARPA); and

WHEREAS, ARPA funds are currently budgeted to repair and replace various water and sewer lines and make drainage improvements; and

WHEREAS, the City has determined there are additional immediate drainage improvement capital needs that must be addressed; and

WHEREAS, with the adoption of this ordinance, the Public Works Department is authorized to expend funds as needed.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Nacogdoches that sums of money as herein set forth in said budget are hereby appropriated and amended for the payment of capital outlays of the city government of the City of Nacogdoches as follows:

Fund	Dept	Acct.	Department	Description	Amt.
24	75	680.31	Special Grant Funds- Drainage Capital	Storm Drainage Repairs	\$ 300,000
30	36	680.96	ARPA – Water Lines	Water Line Repairs	(\$150,000)
30	39	680.96	ARPA – Sewer Lines	Sewer Line Repairs	(\$150,000)

PASSED AND APPROVED this the 5th day of August, 2024.

Randy Johnson, Mayor
City of Nacogdoches

ATTEST:

Rhonda Lewis, City Secretary

Approved as to form: _____
Jerry Baker, City Attorney

Approved as to content: _____
Todd Simoneaux, Director of Finance



City Council Meeting

Date: August 5, 2024

Agenda Item: 6.B.

PRESENTER: Jason Vickery, Assistant City Engineer

ITEM/SUBJECT: Consider approval of a contract by and between the City of Nacogdoches and Crockett Construction for the 2024 Drainage Improvements Project #1 for a not-to-exceed amount of \$1,958,073.00. (Assistant City Engineer).

SUMMARY/BACKGROUND: On July 11, 2024, the City received bids for the 2024 Drainage Improvements Project #1. Two (2) contractors submitted bids as follows:

Crockett Construction	\$ 1,958,073.00
Lakey, Inc.	\$ 54,958,250.88

Crockett Construction was found to be the lowest responsible bidder. They are a Crockett-based contractor who has completed several projects for the City in the past. It is recommended that the contract for this project be awarded to Crockett Construction in the amount of \$1,958,073.00.

FINANCIAL:

Item is budgeted:

Account No.: 24.75 680.31

Account Name: *Special Grant Funds - Drainage Capital*

Amount: \$1,958,073.00

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

Infrastructure

CITY CONTACT: Jason Vickery, Asst. Director of Public Works/Asst. City Engineer
vickeryj@nactx.us
(936) 559-2518

ATTACHMENTS:

1. Award Recommendation
2. Bid Tab
3. Contract

July 15, 2024

Mr. Casey R. Opperman
Assistant Director of Public Works/Assistant City Engineer
City of Nacogdoches, Texas
202 E. Pilar
Nacogdoches, Texas 75963

VIA ELECTRONIC MAIL (oppermanc@nactx.us)

**Re: 2024 Drainage Improvements – Project #1
Bid Summary and Award Recommendation**

Dear Mr. Opperman,

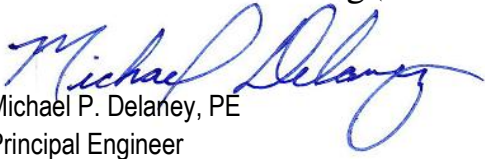
As you are aware, on Thursday, July 11, 2024 the City of Nacogdoches received two(2) bids for the above referenced project. Enclosed is a copy of the bid tabulation for your review. The apparent low bidder at the public reading of the bids was Lakey, Inc. A check of the arithmetic revealed the actual lower bidder to be Crockett Construction. Due to an error in the bid form provided by Lakey, Inc., their bid resulted in substantially higher amount.

We have worked with Crockett Construction on municipal and public projects in the past. We have found them to be a qualified, competent contractor capable of completing the proposed project to the satisfaction of the City. Therefore, it is our recommendation the City accepts the actual low bid in the amount of **\$1,958,073.00** and awards the contract to Crockett Construction.

As always, if you should have any questions or need any additional information please do not hesitate to call.

Sincerely,

Two Fifteen Consulting (TBPE F-17461)


Michael P. Delaney, PE
Principal Engineer

Encl(2): Bid Tabulation
As-read Bid Results

City of Nacogdoches
2024 Drainage Improvements - Project No. 1

				Lakey Inc.		Crockett Construction		Notes
Item	Quan	Unit	Description	Unit Price	TOTAL	Unit Price	TOTAL	
HUMPHREY STREET DRAINAGE IMPROVEMENTS								
1.	186	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMAC, saw-cuts, all materials, labor & testing; complete, in place	\$80.05	\$14,889.30	\$200.00	\$37,200.00	
2.	1	EA	24" - 4H:1V concrete safety end treatment including all materials & labor; complete, in place	\$1,987.84	\$1,987.84	\$2,800.00	\$2,800.00	
3.	15	LF	24" Reinforced concrete pipe culvert (Class III ASTM C-76) including all materials & labor; complete, in place	\$164.77	\$2,471.55	\$210.00	\$3,150.00	
4.	42	SY	6" Deep crushed stone (Type A, grade 2) shoulder, including all materials & labor; complete, in place	\$48.59	\$2,040.78	\$65.00	\$2,730.00	
5.	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor	\$3,749.74	\$3,749.74	\$2,000.00	\$2,000.00	
6.	1	LS	Temporary erosion controls, including sediment fencing, all materials & labor; complete, in place	\$4,410.38	\$4,410.38	\$1,500.00	\$1,500.00	
7.	148	SY	Permanent erosion control turf/slope stabilization mats, including all materials & labor; complete, in place	\$13.63	\$2,017.24	\$50.00	\$7,400.00	
8.	26	LF	Cast-in-place concrete retaining wall (TxDOT RW-1(L)C) including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$1,627.80	\$42,322.80	\$950.00	\$24,700.00	
9.	94	LF	36" DIA ASTM C-76, Class III RCP (dual 36" barrels x 47 LF), including removal of existing culverts, select fill bedding, crushed stone backfill inside pavement limits, select fill backfill outside pavement limits, cement sand between culverts, and all materials & labor; complete, in place	\$531.24	\$49,936.56	\$310.00	\$29,140.00	
10.	60	SY	Permanent erosion control 12" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place	\$132.46	\$7,947.60	\$300.00	\$18,000.00	
11.	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place	\$35,469.40	\$35,469.40	\$55,000.00	\$55,000.00	
12.	1	LS	Trench AND Excavation Safety Plan and Implementation, including all materials & labor; complete, in place	\$770.98	\$770.98	\$1,000.00	\$1,000.00	
13.	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place	\$2,354.40	\$2,354.40	\$3,000.00	\$3,000.00	
14.	1	LS	Demolition and removal of existing pavements and materials for installation of proposed improvements, including milling, all materials and labor; complete, in place	\$13,656.52	\$13,656.52	\$7,500.00	\$7,500.00	
15.	90	LF	Water pipe replacement/lowering including pipe, thrust blocks, tracer wire, bends, fittings, adapters, bedding, crushed stone and select fill backfill, sequencing and testing, all materials & labor, complete in place. (Option 1 in plans)	\$352.03	\$31,682.70	\$161.00	\$14,490.00	
16.	1	EA	6" MJ gate valve with box, including locating and connecting to existing water main, all materials & labor; complete, in place	\$2,447.85	\$2,447.85	\$3,500.00	\$3,500.00	
PERRY DRIVE (SOUTH) DRAINAGE IMPROVEMENTS								
17.	200	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMAC, saw-cuts, all materials, labor & testing; complete, in place	\$86.13	\$17,226.00	\$190.00	\$38,000.00	
18.	140	LF	Five, 18" x 28 LF Reinforced concrete pipe culverts (Class III ASTM C-76) including removal of existing culverts, select fill bedding, crushed stone backfill, cement sand between culverts, all materials & labor; complete, in place	\$284.66	\$39,852.40	\$215.00	\$30,100.00	
19.	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor	\$3,749.74	\$3,749.74	\$2,000.00	\$2,000.00	
20.	1	LS	Temporary erosion controls, including sediment fencing, construction exit(s), slope protection fabrics, all materials & labor; complete, in place	\$2,354.40	\$2,354.40	\$3,000.00	\$3,000.00	
21.	450	SY	Permanent erosion control turf/slope stabilization mats, including all materials & labor; complete, in place	\$5.23	\$2,353.50	\$40.00	\$18,000.00	
22.	2	EA	Cast-in-place concrete shoulder and sloped concrete apron at upstream cuvert ends including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$9,258.52	\$18,517.04	\$8,000.00	\$16,000.00	
23.	30	LF	36" reinforced concrete pipe culverts including all materials & labor; complete, in place	\$280.28	\$8,408.40	\$350.00	\$10,500.00	
24.	20	LF	30" reinforced concrete pipe culverts including all materials & labor; complete, in place	\$195.49	\$3,909.80	\$260.00	\$5,200.00	
25.	2	EA	8" MJ gate valve with box, including locating and connecting to existing water main, all materials & labor; complete, in place	\$4,187.35	\$8,374.70	\$5,000.00	\$10,000.00	
26.	180	LF	Water pipe relocation including pipe, thrust blocks, tracer wire, bends, fittings, adapters, service tap reconnections, backfill, testing, sequencing, all materials & labor, complete in place	\$214.41	\$38,593.80	\$175.00	\$31,500.00	
27.	35.5	LF	Two cast-in-place concrete head walls (TxDOT CH-PW-0) (16.5 LF and 19 LF) including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$1,612.22	\$57,233.81	\$950.00	\$33,725.00	
28.	205	SF	6" Concrete shoulder pavement including all excavation, forming, reinforcement, select fill, all materials & labor; complete, in place	\$42.93	\$8,800.65	\$35.00	\$7,175.00	1
29.	20	LF	Concrete curb including all excavation, forming, reinforcement, select fill, all materials & labor; complete, in place	\$168.63	\$3,372.60	\$100.00	\$2,000.00	
30.	2	EA	10' throat custom precast curb inlet, including all materials & labor; complete, in place	\$31,884.46	\$63,768.92	\$12,000.00	\$24,000.00	1
31.	86	SY	8" Deep crushed stone (Type A, grade 2) shoulder, including select fill subgrade,all materials & labor; complete, in place	\$93.35	\$8,028.10	\$160.00	\$13,760.00	
32.	50	LF	Re-bedding and backfill (covering) of exposed existing 6" sewer pipe, including materials & labor; complete, in place	\$172.15	\$8,607.50	\$35.00	\$1,750.00	
33.	8	EA	36" Tall, flexible, reflective, bolt-down delineator post, including all material & labor, complete, in place	\$366.24	\$2,929.92	\$300.00	\$2,400.00	

City of Nacogdoches
2024 Drainage Improvements - Project No. 1

Item	Quan	Unit	Description	Lahey Inc.		Crockett Construction		Notes
				Unit Price	TOTAL	Unit Price	TOTAL	
34.	40	SY	Permanent erosion control 12" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place	\$58.86	\$2,354.40	\$285.00	\$11,400.00	
35.	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place	\$41,039.87	\$41,039.87	\$80,000.00	\$80,000.00	
36.	1	LS	Trench AND Excavation Safety Plan and Implementation, including all materials & labor; complete, in place	\$1,823.74	\$1,823.74	\$1,500.00	\$1,500.00	
37.	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place	\$2,354.40	\$2,354.40	\$3,000.00	\$3,000.00	
38.	1	LS	Demolition and removal of existing pavements and materials for installation of proposed improvements, including milling, all materials and labor; complete, in place	\$5,808.52	\$5,808.52	\$10,000.00	\$10,000.00	
BURK STREET DRAINAGE IMPROVEMENTS								
39.	225	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMAC, saw-cuts, all materials, labor & testing; complete, in place	\$85.45	\$19,226.25	\$190.00	\$42,750.00	2
40.	117	LF	Triple (3-span) 6' span x 4' rise box culverts, cast in place (TxDOT Detail MC-6-16) including stone foundation, stone backfill/cap, testing and all materials & labor; complete, in place	\$1,309.17	\$153,172.89	\$1,700.00	\$198,900.00	
41.	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor	\$3,869.74	\$3,869.74	\$2,000.00	\$2,000.00	
42.	1	LS	Temporary erosion controls, including sediment fencing, all materials & labor; complete, in place	\$2,354.40	\$2,354.40	\$2,000.00	\$2,000.00	
43.	55	SY	Permanent erosion control turf/slope stabilization mats, including all materials & labor; complete, in place	\$42.81	\$2,354.55	\$40.00	\$2,200.00	
44.	536	SF	Cast-in-place 4" thick concrete apron with exterior toe wall including all stone bedding, excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$90,953.84	\$48,751,258.24	\$55.00	\$29,480.00	1
45.	286	SF	Cast-in-place concrete capped shoulder including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$15,512.64	\$4,436,615.04	\$25.00	\$7,150.00	1
46.	173	LF	Cast-in-place concrete curb and gutter including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$86.77	\$15,011.21	\$50.00	\$8,650.00	
47.	2	EA	6" MJ gate valve with box, including locating and connecting to existing water main, all materials & labor; complete, in place	\$3,406.35	\$6,812.70	\$5,000.00	\$10,000.00	
48.	2	EA	12" MJ gate valve with box, including locating and connecting to existing water main, all materials & labor; complete, in place	\$5,606.35	\$11,212.70	\$9,000.00	\$18,000.00	
49.	80	LF	Water pipe replacement/lowering and upsizing including pipe, thrust blocks, tracer wire, bends, fittings, adapters, bedding, crushed stone and selcet backfill, sequencing and testing, all materials & labor, complete in place	\$594.79	\$47,583.20	\$320.00	\$25,600.00	
50.	33	LF	Steel pipe casing with spacers and end seals, including all materials & labor, complete in place	\$316.00	\$10,428.00	\$210.00	\$6,930.00	
51.	102	LF	Two, cast-in-place concrete head walls (TxDOT PW-1) with extended curb (TxDOT ECD) (49.5 LF and 52.5 LF), including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$1,035.07	\$105,577.14	\$700.00	\$71,400.00	
52.	1	LS	Demolition and removal of existing pavements, walls, bridge, foundations, walks, inlets, pipes, and materials for installation of proposed improvements, including milling, all materials and labor; complete, in place	\$13,836.52	\$13,836.52	\$60,000.00	\$60,000.00	
53.	102	LF	Proposed decorative guardrail, including all materials & labor; complete, in place	\$220.00	\$22,440.00	\$250.00	\$25,500.00	
54.	4	EA	5' throat curb inlet and corresponding 15" PVC SDR 26 ASTM D3034 storm pipe, including all materials & labor; complete, in place	\$11,500.58	\$46,002.32	\$8,500.00	\$34,000.00	
55.	3	EA	3" vertical PVC pipe gutter drains cast through top of box culvert, including all materials & labor; complete, in place	\$3,150.00	\$9,450.00	\$250.00	\$750.00	
56.	20	LF	Replace existing 30" RCP (min. 20 LF), including select fill bedding, crushed stone backfill, all materials & labor; complete, in place	\$286.35	\$5,727.00	\$330.00	\$6,600.00	
57.	50	SY	Permanent erosion control 18" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place	\$284.09	\$14,204.50	\$255.00	\$12,750.00	
58.	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place	\$37,102.24	\$37,102.24	\$18,000.00	\$18,000.00	
59.	1	LS	Trench AND Excavation Safety Plan and Implementation, including all materials & labor; complete, in place	\$922.44	\$922.44	\$2,000.00	\$2,000.00	
60.	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place	\$3,390.46	\$3,390.46	\$3,000.00	\$3,000.00	
PERRY DRIVE (NORTH) DRAINAGE IMPROVEMENTS								
61.	185	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMAC, saw-cuts, all materials, labor & testing; complete, in place	\$93.20	\$17,242.00	\$210.00	\$38,850.00	
62.	34	LF	Double 6' span x 3' rise box culverts, cast in place (TxDot Detail MC-6-16) including stone foundation, stone backfill/cap, select fill backfill on sides, testing, and all materials & labor; complete, in place	\$1,875.70	\$63,773.80	\$1,700.00	\$57,800.00	
63.	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor	\$3,869.74	\$3,869.74	\$2,000.00	\$2,000.00	
64.	1	LS	Temporary erosion controls, including sediment fencing, all materials & labor; complete, in place	\$2,354.40	\$2,354.40	\$4,000.00	\$4,000.00	
65.	156	SF	Cast-in-place concrete capped shoulder including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$101.26	\$15,796.56	\$33.00	\$5,148.00	1
66.	144	LF	Cast-in-place concrete curb and gutter including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$102.07	\$14,698.08	\$60.00	\$8,640.00	
67.	2	EA	8" MJ gate valve with box, including locating and connecting to existing water main, including special backfill, all materials & labor; complete, in place	\$6,831.67	\$13,663.34	\$4,700.00	\$9,400.00	

City of Nacogdoches
2024 Drainage Improvements - Project No. 1

Item	Quan	Unit	Description	Lakey Inc.		Crockett Construction		Notes
				Unit Price	TOTAL	Unit Price	TOTAL	
68	64	LF	Water pipe replacement/lowering and upsizing including pipe, thrust blocks, tracer wire, bends, fittings, adapters, special backfill, bedding, sequencing, testing, and demo of existing waterline, all materials & labor, complete in place	\$620.13	\$39,688.32	\$240.00	\$15,360.00	
69	48.5	LF	Two, cast-in-place concrete head walls (TxDOT PW-1) with extended curb (25 LF and 25 LF), including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$1,649.19	\$79,985.72	\$800.00	\$38,800.00	
70	1	LS	Demolition and removal of existing pavements, walls, bridge, foundations, walks, inlets, pipes, grout plug of abandoned pipes, and materials for installation of proposed improvements, including pavement milling and all materials and labor; complete, in place	\$6,745.03	\$6,745.03	\$80,000.00	\$80,000.00	
71	6	EA	36" Tall, flexible, reflective, bolt-down delineator post, including all material & labor, complete, in place	\$366.24	\$2,197.44	\$250.00	\$1,500.00	
72	2	EA	5' throat curb inlet and corresponding 15" PVC SDR 26 ASTM D3034 storm pipe, including all materials & labor; complete, in place	\$12,172.78	\$24,345.56	\$9,000.00	\$18,000.00	
73	2	EA	5' throat curb inlet and corresponding 18" PVC SDR 26 PS115 ASTM F679 storm pipe, connections to existing pipes, including all materials & labor; complete, in place	\$12,172.78	\$24,345.56	\$9,000.00	\$18,000.00	
74	2	EA	Adjust existing manholes to proposed grades, all heights, including all materials & labor; complete, in place	\$5,050.06	\$10,100.12	\$750.00	\$1,500.00	
75	34	SY	Permanent erosion control 18" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place	\$69.25	\$2,354.50	\$350.00	\$11,900.00	
76	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place	\$41,471.87	\$41,471.87	\$9,000.00	\$9,000.00	
77	1	LS	Trench AND Excavation Safety Plan and Implementation, including all materials & labor; complete, in place	\$1,823.74	\$1,823.74	\$1,500.00	\$1,500.00	
78	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place	\$2,354.40	\$2,354.40	\$5,000.00	\$5,000.00	
OLD LUFKIN ROAD DRAINAGE IMPROVEMENTS								
79	225	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMAC, saw-cuts, all materials, labor & testing; complete, in place	\$80.05	\$18,011.25	\$200.00	\$45,000.00	
80	24	LF	24" Reinforced concrete pipe culvert (Class III ASTM C-76) including select bedding, crushed stone backfill, cement sand between pipes, all materials & labor; complete, in place	\$168.86	\$4,052.64	\$250.00	\$6,000.00	
81	50	LF	24" Gasketed joint PP Culvert (ASTM F2881) including select fill bedding, crushed stone backfill, all materials & labor; complete, in place	\$152.47	\$7,623.50	\$175.00	\$8,750.00	
82	150	LF	18" Gasketed joint PP Culvert (ASTM F2881) including select fill bedding, crushed stone backfill, cement sand between pipes, all materials & labor; complete, in place	\$160.81	\$24,121.50	\$170.00	\$25,500.00	
83	48	LF	30" Reinforced concrete pipe culvert (Class III ASTM C-76) including select fill bedding, crushed stone backfill, cement sand between pipes, all materials & labor; complete, in place	\$204.76	\$9,828.48	\$400.00	\$19,200.00	
84	12	LF	36" Reinforced concrete pipe culvert (Class III ASTM C-76) including special stone bedding, all materials & labor; complete, in place	\$375.04	\$4,500.48	\$550.00	\$6,600.00	
85	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor	\$4,245.28	\$4,245.28	\$5,000.00	\$5,000.00	
86	1	LS	Temporary erosion controls, including sediment fencing, slope protection fabrics, all materials & labor; complete, in place	\$2,354.40	\$2,354.40	\$5,000.00	\$5,000.00	
87	319	SY	Permanent erosion control 12" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place	\$7.38	\$2,354.22	\$155.00	\$49,445.00	3
88	160	SF	Cast-in-place 4" thick concrete apron with curbs and exterior toe wall including all excavation, forming, reinforcement, connections to inlet and headwall, all materials & labor; complete, in place	\$47.58	\$7,612.80	\$60.00	\$9,600.00	
89	63	LF	Three, cast-in-place concrete head walls (TxDOT CH-PW-0, 2:1 slope) with parallel wings (19 LF, 25 LF, and 19 LF), including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$1,593.19	\$100,370.97	\$800.00	\$50,400.00	
90	1	LS	Demolition and removal of existing pavements, walls, bridge, foundations, walks, inlets, pipes, grout plug of abandoned pipes, and materials for installation of proposed improvements, including all materials and labor; complete, in place	\$11,977.03	\$11,977.03	\$90,000.00	\$90,000.00	
91	4	EA	Single guardrail terminal (SGT-(12S)-31-18) upstream of guard fence, including all materials & labor; complete, in place	\$3,855.37	\$15,421.48	\$4,500.00	\$18,000.00	
92	250	LF	Metal beam guard fences at four locations [50LF (qty 3) and 100LF (qty 1)] (TxDOT Detail GF(31)LS-19) with w-beam end section (rounded 12GA) (TxDOT Detail GF(31)DAT-19 (9)) downstream, including all posts, railing, conc. mow strip (TxDOT detail MGBF (MS)-19, materials, and labor; complete in place	\$9.42	\$2,355.00	\$50.00	\$12,500.00	1, 3
93	1	EA	5' open sides inlet, including special stone bedding and cement sand backfill, all materials & labor; complete, in place	\$11,773.01	\$11,773.01	\$10,000.00	\$10,000.00	
94	1	EA	8'x4' pre-cast concrete junction box, including special stone bedding and cement sand backfill, all materials & labor; complete, in place	\$12,323.01	\$12,323.01	\$15,000.00	\$15,000.00	
95	3	EA	24" - 4:1 concrete safety end treatment including all materials & labor; complete, in place	\$2,384.34	\$7,153.02	\$3,800.00	\$11,400.00	
96	3	EA	18" - 4:1 concrete safety end treatment including all materials & labor; complete, in place	\$2,054.34	\$6,163.02	\$3,200.00	\$9,600.00	
97	1	EA	15" - 4:1 concrete safety end treatment including all materials & labor; complete, in place	\$5,063.01	\$5,063.01	\$2,900.00	\$2,900.00	
98	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place	\$43,789.07	\$43,789.07	\$60,000.00	\$60,000.00	
99	1	LS	Trench AND Excavation Safety Plan and Implimentation, including all materials & labor; complete, in place	\$1,823.74	\$1,823.74	\$4,000.00	\$4,000.00	
100	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place	\$2,354.40	\$2,354.40	\$12,000.00	\$12,000.00	

City of Nacogdoches
2024 Drainage Improvements - Project No. 1

				Lahey Inc.		Crockett Construction		Notes
Item	Quan	Unit	Description	Unit Price	TOTAL	Unit Price	TOTAL	
			HUMPHREY STREET (Items 1 - 16)		\$218,155.64		\$213,110.00	
			PERRY DRIVE (SOUTH) (Items 17 - 38)		\$349,462.21		\$355,010.00	1
			BURK STREET (Items 39 - 60)		\$53,718,551.54		\$587,660.00	1, 2
			PERRY DRIVE NORTH (Items 61 - 78)		\$366,810.18		\$326,398.00	1
			OLD LUFKIN ROAD (Items 79 - 100)		\$305,271.31		\$475,895.00	1, 3
TOTAL					\$54,958,250.88		\$1,958,073.00	
Notes	1	Indicates an error or irregularity in the bid submitted by Lahey Inc. in which there is an arithmetic error in the total bid amount or the bid amount written in numbers does not match the bid amount written in words.						
	2	Indicates an error or irregularity in the bid submitted by Crockett Construction in which there is an arithmetic error in the total bid amount.						
	3	Indicates an irregularity in unit price based on the scope of work of bid item.						



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



**BIDDING
and
CONTRACT DOCUMENTS

FOR

CONSTRUCTION SERVICES
FOR
2024 DRAINAGE IMPROVEMENTS – PROJECT NO. 1

Bid #: 24-10-130**

**DUE DATE
JULY 11, 2024 @ 2:00 PM**

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

www.nactx.us

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INSTRUCTIONS TO BIDDERS

1.0 NOTICE

Sealed bids addressed to the City of Nacogdoches Engineering Office, 202 Pilar St., Suite 239, Nacogdoches, TX 75961, will be received for **Construction Services for 2024 Drainage Improvements – Project No. 1** until **2:00 PM, July 11, 2024** after which time all qualified bids will be publicly opened and read aloud at City Hall Conference Room 203. Bids received after that time will be returned unopened. No fax or email bids will be accepted.

LOCATION AND DESCRIPTION OF PROJECT

The project includes drainage improvements at multiple locations, including the installation of drainage structures, box culverts, storm pipe, stone riprap, utility relocations, pavements, erosion control, traffic control and all other work as shown in the plans, details and specifications.

COPIES OF BIDDING DOCUMENTS

A complete set of Bidding and Contract Documents will be made available for no charge on a flash drive (or other electronic means) at:

City of Nacogdoches City Hall
Engineering Office
202 Pilar Street, Suite 239
Nacogdoches, TX 75961

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

Sealed bids shall be clearly marked with the words “Sealed Bid, 2024 Drainage Improvements – Project No. 1” and addressed to the City of Nacogdoches. Bids shall be delivered using one of the following methods:

Hand-deliver to:	Mail to:	Ship to (FedEx, UPS, DHL, etc.):
Engineering Office	Attn: Engineering	Attn: Engineering
202 Pilar Street, Suite 239	PO Box 635030	202 East Pilar, Suite 239
Nacogdoches, TX 75961	Nacogdoches, Texas 75963	Nacogdoches, Texas 75961

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

2.0 DEFINITION OF TERMS

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

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

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

CITY – Same as City of Nacogdoches.

CITY COUNCIL – The elected officials of the City of Nacogdoches, Texas given the authority to exercise such powers and jurisdiction of all City business as conferred by the State Constitution and Laws.

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

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

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

OWNER – City of Nacogdoches.

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

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

SUPPLIER – Same as Contractor.

3.0 COPIES OF BIDDING DOCUMENTS

A complete set of Bidding Documents are available for no charge on a flash drive (or other electronic means) by contacting the following:

City of Nacogdoches City Hall
Engineering Office
202 Pilar Street, Suite 239
Nacogdoches, TX 75961

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

4.0 COMMUNICATION

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

Two Fifteen Consulting
Michael Delaney, P.E.
michael@twofifteen.net
(936) 569-0505

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

5.0 PRE-BID CONFERENCE

A Pre-bid Meeting will not be held for this project.

6.0 GENERAL BID PROVISIONS

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

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

7.0 QUALIFICATIONS OF BIDDERS

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

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

- A. Work previously completed by the bidder and whether the bidder:
 - a. maintains a permanent place of business;
 - b. has adequate plant and equipment to do the work properly and expeditiously;
 - c. has paid or settled all claims for payment promptly;
 - d. has appropriate technical experience;
 - e. has job references for work of similar size and scope to the project; and
 - f. satisfactory performance and completion of public, or comparable, projects.
- B. The safety record of the Bidder, of the corporation, partnership, or institution represented by the Bidder, or of any one acting for such firm, corporation, or partnership.

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

8.0 EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- A. It is the responsibility of each Bidder before submitting a Bid to:
- a. examine the Contract Documents thoroughly;
 - b. visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work;
 - c. consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work;
 - d. study and carefully correlate Bidder's observations with the Contract Documents;
 - e. notify the Owner's Representative of all conflicts, errors or discrepancies in the Contract Documents; and
 - f. visit with local utilities, including cable companies, and other entities that may have underground or above-ground infrastructure in the work area for infrastructure location.
- B. Information and data reflected in the Contract Documents with respect to underground facilities at or contiguous to the site is based upon information and data from the Owner's files for its underground facilities and information and data furnished by owners of other underground facilities. Owner does not assume responsibility for the accuracy or completeness thereof.
- C. Before submitting a Bid each Bidder will be responsible to make or obtain such explorations, at bidders expense and not to be added into cost of bid if accepted (tests and data concerning physical conditions - surface, subsurface and underground facilities - at or contiguous to the site, or otherwise) which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- D. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment or disposal of spoil are to be provided by the Contractor. Contractor is responsible for obtaining all permits required for any of the before mentioned purposes prior to beginning work in accordance with the Standard Form Of Agreement, Paragraph 35 Permits and Licenses.
- E. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this section, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be

indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

9.0 INTERPRETATIONS and ADDENDA

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

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

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

10.0 BID SECURITY

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

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

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

11.0 CONTRACT TIME

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

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

12.0 SUBSTITUTE OR "OR EQUAL" ITEMS

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

13.0 BID FORM

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

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

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

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

All names must be typed or printed below the signature.

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

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

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

14.0 SUBMISSION OF BIDS

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

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

15.0 MODIFICATION AND WITHDRAWAL OF BIDS

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

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

16.0 OPENING OF BIDS

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

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

17.0 BIDS TO REMAIN SUBJECT TO ACCEPTANCE

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

18.0 AWARD OF CONTRACT

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

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

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

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

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

Pursuant to Local Government Code 271.9051, if the bid is less than \$100,000 and the City Council determines that a local bidder whose principal place of business is in the City offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality, the city **may** award the bid to the local bidder whose bid is within 5% of the lowest bid.

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

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

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

19.0 CONTRACT SECURITY

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

20.0 SIGNING OF AGREEMENT

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

21.0 PERSONAL INTEREST

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

22.0 DISCLOSURE OF INTERESTED PARTIES

Contracting hereunder may require compliance with §2252.908 Texas Government Code/Disclosure of Interested Parties for contracts that (1) require an action or vote by the City Council before the contract may be signed; or (2) has a value of at least \$1 million. The law provides that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity at the time the business entity submits the signed contract to the governmental entity or state agency.

For purposes of this section, the following definitions apply:

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

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

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

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

The process as implemented by the Texas Ethics Commission (“TEC”) is as follows:

1. The disclosure of interested parties must be performed using the [Texas Ethics Commission’s electronic filing application](#) listing each interested party of which the business entity is aware of Form 1295, obtaining a certification of filing number for this form from the TEC, and printing a copy of it to submit to the City.
2. The copy of Form 1295 submitted to the City must be notarized and contain the unique certification number from the TEC. The form must be filed with the City pursuant to §2252.908 Texas Government Code, “at the time the business entity submits the signed contract” to the City.

The City, in turn, will submit a copy of the disclosure form to the TEC not later than the 30th day after the date the City receives the disclosure of interested parties from the business entity.

CONTRACTOR'S PROPOSAL

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
HUMPHREY STREET DRAINAGE IMPROVEMENTS					
1	186	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMAC, saw-cuts, all materials, labor & testing; complete, in place Two Hundred	\$ 200.00	\$ 37,200.00
			per SY (written in words)		
2	1	EA	24" - 4H:1V concrete safety end treatment including all materials & labor; complete, in place Two Thousand Eight Hundred	\$ 2,800.00	\$ 2,800.00
			per EA (written in words)		
3	15	LF	24" Reinforced concrete pipe culvert (Class III ASTM C-76) including all materials & labor; complete, in place Two Hundred Ten	\$ 210.00	\$ 3,150.00
			per LF (written in words)		
4	42	SY	6" Deep crushed stone (Type A, grade 2) shoulder, including all materials & labor; complete, in place Sixty Five	\$ 65.00	\$ 2,730.00
			per SY (written in words)		
5	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor Two Thousand	\$ 2,000.00	\$ 2,000.00
			per LS (written in words)		
6	1	LS	Temporary erosion controls, including sediment fencing, all materials & labor; complete, in place One Thousand Five Hundred	\$ 1,500.00	\$ 1,500.00
			per LS (written in words)		
7	148	SY	Permanent erosion control turf/slope stabilization mats, including all materials & labor; complete, in place Fifty	\$ 50.00	\$ 7,400.00
			per SY (written in words)		

CITY OF NACOGDOCHES
2024 Drainage Improvements
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BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
8	26	LF	Cast-in-place concrete retaining wall (TxDOT RW-1(L)C) including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$ 950.00	\$ 24,700.00
			<u>Nine Hundred Fifty</u>		
			<u>per LF</u> (written in words)		
9	94	LF	36" DIA ASTM C-76, Class III RCP (dual 36" barrels x 47 LF), including removal of existing culverts, select fill bedding, crushed stone backfill inside pavement limits, select fill backfill outside pavement limits, cement sand between culverts, and all materials & labor; complete, in place	\$ 310.00	\$ 29,140.00
			<u>Three Hundred Ten</u>		
			<u>per LF</u> (written in words)		
10	60	SY	Permanent erosion control 12" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place	\$ 300.00	\$ 18,000.00
			<u>Three Hundred</u>		
			<u>per SY</u> (written in words)		
11	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place	\$ 55,000.00	\$ 55,000.00
			<u>Fifty Five Thousand</u>		
			<u>per LS</u> (written in words)		
12	1	LS	Trench AND Excavation Safety Plan and Implementation, including all materials & labor; complete, in place	\$ 1,000.00	\$ 1,000.00
			<u>One Thousand</u>		
			<u>per LS</u> (written in words)		
13	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place	\$ 3,000.00	\$ 3,000.00
			<u>Three Thousand</u>		
			<u>per LS</u> (written in words)		

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
14	1	LS	Demolition and removal of existing pavements and materials for installation of proposed improvements, including milling, all materials and labor; complete, in place <u>Seven Thousand Five Hundred</u>	\$ <u>7,500.00</u>	\$ <u>7,500.00</u>
			<u>per LS</u> (written in words)		
15	90	LF	Water pipe replacement/lowering including pipe, thrust blocks, tracer wire, bends, fittings, adapters, bedding, crushed stone and select fill backfill, sequencing and testing, all materials & labor, complete in place. (Option 1 in plans) <u>One Hundred Sixty One</u>	\$ <u>161.00</u>	\$ <u>14,490.00</u>
			<u>per LF</u> (written in words)		
16	1	EA	6" MJ gate valve with box, including locating and connecting to existing water main, all materials & labor; complete, in place <u>Three Thousand Five Hundred</u>	\$ <u>3,500.00</u>	\$ <u>3,500.00</u>
			<u>per EA</u> (written in words)		
<u>PERRY DRIVE (SOUTH) DRAINAGE IMPROVEMENTS</u>					
17	200	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMA, saw-cuts, all materials, labor & testing; complete, in place <u>One Hundred Ninety</u>	\$ <u>190.00</u>	\$ <u>38,000.00</u>
			<u>per SY</u> (written in words)		
18	140	LF	Five, 18" x 28 LF Reinforced concrete pipe culverts (Class III ASTM C-76) including removal of existing culverts, select fill bedding, crushed stone backfill, cement sand between culverts, all materials & labor; complete, in place <u>Two Hundred Fifteen</u>	\$ <u>215.00</u>	\$ <u>30,100.00</u>
			<u>per LF</u> (written in words)		
19	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor <u>Two Thousand</u>	\$ <u>2,000.00</u>	\$ <u>2,000.00</u>
			<u>per LS</u> (written in words)		
20	1	LS	Temporary erosion controls, including sediment fencing, construction exit(s), slope protection fabrics, all materials & labor; complete, in place <u>Three Thousand</u>	\$ <u>3,000.00</u>	\$ <u>3,000.00</u>
			<u>per LS</u> (written in words)		

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BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
21	450	SY	Permanent erosion control turf/slope stabilization mats, including all materials & labor; complete, in place	\$ 40.00	\$ 18,000.00
			Forty		
			per SY (written in words)		
22	2	EA	Cast-in-place concrete shoulder and sloped concrete apron at upstream culvert ends including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$ 8,000.00	\$ 16,000.00
			Eight Thousand		
			per EA (written in words)		
23	30	LF	36" reinforced concrete pipe culverts including all materials & labor; complete, in place	\$ 350.00	\$ 10,500.00
			Three Hundred Fifty		
			per LF (written in words)		
24	20	LF	30" reinforced concrete pipe culverts including all materials & labor; complete, in place	\$ 260.00	\$ 5,200.00
			Two Hundred Sixty		
			per LF (written in words)		
25	2	EA	8" MJ gate valve with box, including locating and connecting to existing water main, all materials & labor; complete, in place	\$ 5,000.00	\$ 10,000.00
			Five Thousand		
			per EA (written in words)		
26	180	LF	Water pipe relocation including pipe, thrust blocks, tracer wire, bends, fittings, adapters, service tap reconnections, backfill, testing, sequencing, all materials & labor, complete in place	\$ 175.00	\$ 31,500.00
			One Hundred Seventy Five		
			per LF (written in words)		
27	35.5	LF	Two cast-in-place concrete head walls (TxDOT CH-PW-0) (16.5 LF and 19 LF) including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$ 950.00	\$ 33,725.00
			Nine Hundred Fifty		
			per LF (written in words)		

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BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
28	205	SF	6" Concrete shoulder pavement including all excavation, forming, reinforcement, select fill, all materials & labor; complete, in place Thirty Five	\$ 35.00	\$ 7,175.00
			per SF (written in words)		
29	20	LF	Concrete curb including all excavation, forming, reinforcement, select fill, all materials & labor; complete, in place One Hundred	\$ 100.00	\$ 2,000.00
			per LF (written in words)		
30	2	EA	10' throat custom precast curb inlet, including all materials & labor; complete, in place Twelve Thousand	\$ 12,000.00	\$ 24,000.00
			per EA (written in words)		
31	86	SY	8" Deep crushed stone (Type A, grade 2) shoulder, including select fill subgrade, all materials & labor; complete, in place One Hundred Sixty	\$ 160.00	\$ 13,760.00
			per SY (written in words)		
32	50	LF	Re-bedding and backfill (covering) of exposed existing 6" sewer pipe, including materials & labor; complete, in place Thirty Five	\$ 35.00	\$ 1,750.00
			per LF (written in words)		
33	8	EA	36" Tall, flexible, reflective, bolt-down delineator post, including all material & labor, complete, in place Three Hundred	\$ 300.00	\$ 2,400.00
			per EA (written in words)		
34	40	SY	Permanent erosion control 12" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place Two Hundred Eighty Five	\$ 285.00	\$ 11,400.00
			per SY (written in words)		

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
35	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place <u>Eighty Thousand</u>	\$ <u>80,000.00</u>	\$ <u>80,000.00</u>
			<u>per LS</u> (written in words)		
36	1	LS	Trench AND Excavation Safety Plan and Implementation, including all materials & labor; complete, in place <u>One Thousand Five Hundred</u>	\$ <u>1,500.00</u>	\$ <u>1,500.00</u>
			<u>per LS</u> (written in words)		
37	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place <u>Three Thousand</u>	\$ <u>3,000.00</u>	\$ <u>3,000.00</u>
			<u>per LS</u> (written in words)		
38	1	LS	Demolition and removal of existing pavements and materials for installation of proposed improvements, including milling, all materials and labor; complete, in place <u>Ten Thousand</u>	\$ <u>10,000.00</u>	\$ <u>10,000.00</u>
			<u>per LS</u> (written in words)		
<u>BURK STREET DRAINAGE IMPROVEMENTS</u>					
39	225	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMA, saw-cuts, all materials, labor & testing; complete, in place <u>One Hundred Ninety</u>	\$ <u>190.00</u>	\$ <u>38,000.00</u>
			<u>per SY</u> (written in words)		
40	117	LF	Triple (3-span) 6' span x 4' rise box culverts, cast in place (TxDOT Detail MC-6-16) including stone foundation, stone backfill/cap, testing and all materials & labor; complete, in place <u>One Thousand Seven Hundred</u>	\$ <u>1,700.00</u>	\$ <u>198,900.00</u>
			<u>per LF</u> (written in words)		
41	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor <u>Two Thousand</u>	\$ <u>2,000.00</u>	\$ <u>2,000.00</u>
			<u>per LS</u> (written in words)		

CITY OF NACOGDOCHES
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BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
42	1	LS	Temporary erosion controls, including sediment fencing, all materials & labor; complete, in place Two Thousand	\$ 2,000.00	\$ 2,000.00
			per LS (written in words)		
43	55	SY	Permanent erosion control turf/slope stabilization mats, including all materials & labor; complete, in place Forty	\$ 40.00	\$ 2,200.00
			per SY (written in words)		
44	536	SF	Cast-in-place 4" thick concrete apron with exterior toe wall including all stone bedding, excavation, forming, reinforcement, backfill, all materials & labor; complete, in place Fifty Five	\$ 55.00	\$ 29,480.00
			per SF (written in words)		
45	286	SF	Cast-in-place concrete capped shoulder including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place Twenty Five	\$ 25.00	\$ 7,150.00
			per SF (written in words)		
46	173	LF	Cast-in-place concrete curb and gutter including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place Fifty	\$ 50.00	\$ 8,650.00
			per LF (written in words)		
47	2	EA	6" MJ gate valve with box, including locating and connecting to existing water main, all materials & labor; complete, in place Five Thousand	\$ 5,000.00	\$ 10,000.00
			per EA (written in words)		
48	2	EA	12" MJ gate valve with box, including locating and connecting to existing water main, all materials & labor; complete, in place Nine Thousand	\$ 9,000.00	\$ 18,000.00
			per EA (written in words)		

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BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
49	80	LF	Water pipe replacement/lowering and upsizing including pipe, thrust blocks, tracer wire, bends, fittings, adapters, bedding, crushed stone and selcet backfill, sequencing and testing, all materials & labor, complete in place	\$ 320.00	\$ 25,600.00
			<u>Three Hundred Twenty</u>		
			<u>per LF</u> (written in words)		
50	33	LF	Steel pipe casing with spacers and end seals, including all materials & labor, complete in place	\$ 210.00	\$ 6,930.00
			<u>Two Hundred Ten</u>		
			<u>per LF</u> (written in words)		
51	102	LF	Two, cast-in-place concrete head walls (TxDOT PW-1) with extended curb (TxDOT ECD) (49.5 LF and 52.5 LF), including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place	\$ 700.00	\$ 71,400.00
			<u>Seven Hundred</u>		
			<u>per LF</u> (written in words)		
52	1	LS	Demolition and removal of existing pavements, walls, bridge, foundations, walks, inlets, pipes, and materials for installation of proposed improvements, including milling, all materials and labor; complete, in place	\$ 60,000.00	\$ 60,000.00
			<u>Sixty Thousand</u>		
			<u>per LS</u> (written in words)		
53	102	LF	Proposed decorative guardrail, including all materials & labor; complete, in place	\$ 250.00	\$ 25,500.00
			<u>Two Hundred Fifty</u>		
			<u>per LF</u> (written in words)		
54	4	EA	5' throat curb inlet and corresponding 15" PVC SDR 26 ASTM D3034 storm pipe, including all materials & labor; complete, in place	\$ 8,500.00	\$ 34,000.00
			<u>Eight Thousand Five Hundred</u>		
			<u>per EA</u> (written in words)		
55	3	EA	3" vertical PVC pipe gutter drains cast through top of box culvert, including all materials & labor; complete, in place	\$ 250.00	\$ 750.00
			<u>Two Hundred Fifty</u>		
			<u>per EA</u> (written in words)		

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BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
56	20	LF	Replace existing 30" RCP (min. 20 LF), including select fill bedding, crushed stone backfill, all materials & labor; complete, in place <u>Three Hundred Thirty</u>	\$ <u>330.00</u>	\$ <u>6,600.00</u>
			<u>per LF</u> (written in words)		
57	50	SY	Permanent erosion control 18" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place <u>Two Hundred Fifty Five</u>	\$ <u>255.00</u>	\$ <u>12,750.00</u>
			<u>per SY</u> (written in words)		
58	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place <u>Eighteen Thousand</u>	\$ <u>18,000.00</u>	\$ <u>18,000.00</u>
			<u>per LS</u> (written in words)		
59	1	LS	Trench AND Excavation Safety Plan and Implementation, including all materials & labor; complete, in place <u>Two Thousand</u>	\$ <u>2,000.00</u>	\$ <u>2,000.00</u>
			<u>per LS</u> (written in words)		
60	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place <u>Three Thousand</u>	\$ <u>3,000.00</u>	\$ <u>3,000.00</u>
			<u>per LS</u> (written in words)		

PERRY DRIVE (NORTH) DRAINAGE IMPROVEMENTS

61	185	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMA, saw-cuts, all materials, labor & testing; complete, in place <u>Two Hundred Ten</u>	\$ <u>210.00</u>	\$ <u>38,850.00</u>
			<u>per SY</u> (written in words)		
62	34	LF	Double 6' span x 3' rise box culverts, cast in place (TxDot Detail MC-6-16) including stone foundation, stone backfill/cap, select fill backfill on sides, testing, and all materials & labor; complete, in place <u>One Thousand Seven Hundred</u>	\$ <u>1,700.00</u>	\$ <u>57,800.00</u>
			<u>per LF</u> (written in words)		

CITY OF NACOGDOCHES
2024 Drainage Improvements
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BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
63	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor Two Thousand	\$ 2,000.00	\$ 2,000.00
			per LS (written in words)		
64	1	LS	Temporary erosion controls, including sediment fencing, all materials & labor; complete, in place Four Thousand	\$ 4,000.00	\$ 4,000.00
			per LS (written in words)		
65	156	SF	Cast-in-place concrete capped shoulder including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place Thirty Three	\$ 33.00	\$ 5,148.00
			per SF (written in words)		
66	144	LF	Cast-in-place concrete curb and gutter including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place Sixty	\$ 60.00	\$ 8,640.00
			per LF (written in words)		
67	2	EA	8" MJ gate valve with box, including locating and connecting to existing water main, including special backfill, all materials & labor; complete, in place Four Thousand Seven Hundred	\$ 4,700.00	\$ 9,400.00
			per EA (written in words)		
68	64	LF	Water pipe replacement/lowering and upsizing including pipe, thrust blocks, tracer wire, bends, fittings, adapters, special backfill, bedding, sequencing, testing, and demo of existing waterline, all materials & labor, complete in place Two Hundred Forty	\$ 240.00	\$ 15,360.00
			per LF (written in words)		
69	48.5	LF	Two, cast-in-place concrete head walls (TxDOT PW-1) with extended curb (25 LF and 25 LF), including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place Eight Hundred	\$ 800.00	\$ 38,800.00
			per LF (written in words)		

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BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
70	1	LS	Demolition and removal of existing pavements, walls, bridge, foundations, walks, inlets, pipes, grout plug of abandoned pipes, and materials for installation of proposed improvements, including pavement milling and all materials and labor; complete, in place Eighty Thousand	\$ 80,000.00	\$ 80,000.00
			per LS (written in words)		
71	6	EA	36" Tall, flexible, reflective, bolt-down delineator post, including all material & labor, complete, in place Two Hundred Fifty	\$ 250.00	\$ 1,500.00
			per EA (written in words)		
72	2	EA	5' throat curb inlet and corresponding 15" PVC SDR 26 ASTM D3034 storm pipe, including all materials & labor; complete, in place Nine Thousand	\$ 9,000.00	\$ 18,000.00
			per EA (written in words)		
73	2	EA	5' throat curb inlet and corresponding 18" PVC SDR 26 PS115 ASTM F679 storm pipe, connections to existing pipes, including all materials & labor; complete, in place Nine Thousand	\$ 9,000.00	\$ 18,000.00
			per EA (written in words)		
74	2	EA	Adjust existing manholes to proposed grades, all heights, including all materials & labor; complete, in place Seven Hundred Fifty	\$ 750.00	\$ 1,500.00
			per EA (written in words)		
75	34	SY	Permanent erosion control 18" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place Three Hundred Fifty	\$ 350.00	\$ 11,900.00
			per SY (written in words)		
76	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place Nine Thousand	\$ 9,000.00	\$ 9,000.00
			per LS (written in words)		

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
77	1	LS	Trench AND Excavation Safety Plan and Implementation, including all materials & labor; complete, in place One Thousand Five Hundred	\$ 1,500.00	\$ 1,500.00
			per LS (written in words)		
78	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place Five Thousand	\$ 5,000.00	\$ 5,000.00
			per LS (written in words)		
OLD LUFKIN ROAD DRAINAGE IMPROVEMENTS					
79	225	SY	Asphalt pavement surface replacement, including 3" (compacted) Type D HMA, saw-cuts, all materials, labor & testing; complete, in place Two Hundred	\$ 200.00	\$ 45,000.00
			per SY (written in words)		
80	24	LF	24" Reinforced concrete pipe culvert (Class III ASTM C-76) including select bedding, crushed stone backfill, cement sand between pipes, all materials & labor; complete, in place Two Hundred Fifty	\$ 250.00	\$ 6,000.00
			per LF (written in words)		
81	50	LF	24" Gasketed joint PP Culvert (ASTM F2881) including select fill bedding, crushed stone backfill, all materials & labor; complete, in place One Hundred Seventy Five	\$ 175.00	\$ 8,750.00
			per LF (written in words)		
82	150	LF	18" Gasketed joint PP Culvert (ASTM F2881) including select fill bedding, crushed stone backfill, cement sand between pipes, all materials & labor; complete, in place One Hundred Seventy	\$ 170.00	\$ 25,500.00
			per LF (written in words)		
83	48	LF	30" Reinforced concrete pipe culvert (Class III ASTM C-76) including select fill bedding, crushed stone backfill, cement sand between pipes, all materials & labor; complete, in place Four Hundred	\$ 400.00	\$ 19,200.00
			per LF (written in words)		

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BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
84	12	LF	36" Reinforced concrete pipe culvert (Class III ASTM C-76) including special stone bedding, all materials & labor; complete, in place Five Hundred Fifty	\$ 550.00	\$ 6,600.00
			per LF (written in words)		
85	1	LS	Traffic control, all barricades, signage, notifications, flagmen, including all materials & labor Five Thousand	\$ 5,000.00	\$ 5,000.00
			per LS (written in words)		
86	1	LS	Temporary erosion controls, including sediment fencing, slope protection fabrics, all materials & labor; complete, in place Five Thousand	\$ 5,000.00	\$ 5,000.00
			per LS (written in words)		
87	319	SY	Permanent erosion control 12" deep stone rip-rap, including bedding material and filter fabric underlayment, embedment, all materials & labor; complete, in place One Hundred Fifty Five	\$ 155.00	\$ 49,445.00
			per SY (written in words)		
88	160	SF	Cast-in-place 4" thick concrete apron with curbs and exterior toe wall including all excavation, forming, reinforcement, connections to inlet and headwall, all materials & labor; complete, in place Sixty	\$ 60.00	\$ 9,600.00
			per SF (written in words)		
89	63	LF	Three, cast-in-place concrete head walls (TxDOT CH-PW-0, 2:1 slope) with paralell wings (19 LF, 25 LF, and 19 LF), including all excavation, forming, reinforcement, backfill, all materials & labor; complete, in place Eight Hundred	\$ 800.00	\$ 50,400.00
			per LF (written in words)		
90	1	LS	Demolition and removal of existing pavements, walls, bridge, foundations, walks, inlets, pipes, grout plug of abandoned pipes, and materials for installation of proposed improvements, including all materials and labor; complete, in place Ninety Thousand	\$ 90,000.00	\$ 90,000.00
			per LS (written in words)		

CITY OF NACOGDOCHES
2024 Drainage Improvements
Project No. 1

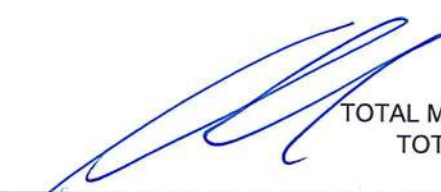
BID FORM
BID #: 24-10-130

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
91	4	EA	Single guardrail terminal (SGT-(12S)-31-18) upstream of guard fence, including all materials & labor; complete, in place Four Thousand Five Hundred	\$ 4,500.00	\$ 18,000.00
			per EA (written in words)		
92	250	LF	Metal beam guard fences at four locations [50LF (qty 3) and 100LF (qty 1)] (TxDOT Detail GF(31)LS-19) with w-beam end section (rounded 12GA) (TxDOT Detail GF(31)DAT-19 (9)) downstream, including all posts, railing, conc. mow strip (TxDOT detail MGBF (MS)-19, materials, and labor; complete in place Fifty	\$ 50.00	\$ 12,500.00
			per LF (written in words)		
93	1	EA	5' open sides inlet, including special stone bedding and cement sand backfill, all materials & labor; complete, in place Ten Thousand	\$ 10,000.00	\$ 10,000.00
			per EA (written in words)		
94	1	EA	8'x4' pre-cast concrete junction box, including special stone bedding and cement sand backfill, all materials & labor; complete, in place Fifteen Thousand	\$ 15,000.00	\$ 15,000.00
			per EA (written in words)		
95	3	EA	24" - 4:1 concrete safety end treatment including all materials & labor; complete, in place Three Thousand Eight Hundred	\$ 3,800.00	\$ 11,400.00
			per EA (written in words)		
96	3	EA	18" - 4:1 concrete safety end treatment including all materials & labor; complete, in place Three Thousand Two Hundred	\$ 3,200.00	\$ 9,600.00
			per EA (written in words)		
97	1	EA	15" - 4:1 concrete safety end treatment including all materials & labor; complete, in place Two Thousand Nine Hundred	\$ 2,900.00	\$ 2,900.00
			per EA (written in words)		

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
98	1	LS	Site clearing, excavation, and earthwork, including all on-site cut and fill, imported fill, rough grading, fine grading, tree and vegetation removal, and haul-off and disposal of excess material, all materials & labor; complete, in place <u>Sixty Thousand</u> per LS (written in words)	\$ <u>60,000.00</u>	\$ <u>60,000.00</u>
99	1	LS	Trench AND Excavation Safety Plan and Implimentation, including all materials & labor; complete, in place <u>Four Thousand</u> per LS (written in words)	\$ <u>4,000.00</u>	\$ <u>4,000.00</u>
100	1	LS	Site restoration and clean-up, including hydromulch seed and fertilizer, all materials & labor; complete, in place <u>Twelve Thousand</u> per LS (written in words)	\$ <u>12,000.00</u>	\$ <u>12,000.00</u>

BID SUMMARY

SUBTOTAL HUMPHREY STREET (Items 1 - 16)	<u>213,110.00</u>
SUBTOTAL PERRY DR. (SOUTH) (Items 17 - 38)	<u>355,010.00</u>
SUBTOTAL BURK STREET (Items 39 - 60)	<u>582,910.00</u>
SUBTOTAL PERRY DR. (NORTH) (Items 61 - 78)	<u>326,398.00</u>
SUBTOTAL OLD LUFKIN ROAD (Items 79 - 100)	<u>475,895.00</u>
TOTAL BASE BID (SUM ALL ITEMS)	<u>1,953,323.00</u>

BY:  TOTAL MATERIALS BID: \$ 800,000.00
TOTAL LABOR BID: \$ 500,000.00
Chris Morris - President
Printed Name Title
COMPANY: Crockett Construction Phone No. 936-544-2500
1045 Highway 7 West, Crockett TX 75835
Address City State Zip

CONTRACTOR DATA SHEET

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

Name of Company: Crockett Construction

Company Years in Business: 21

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

Project	Municipality	\$ Amount	Type	Date
See Attached				

Superintendent & Project Manager Information

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

Superintendent	Years Experience	Projects
See Attached		

Project Manager	Years Experience	Projects

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

1. See Attached		

2.		

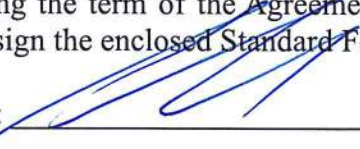
3.		

4.		

5.		

CERTIFICATION OF BID

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

Signed By:  Title: President

Typed Name: Chris Morris Company Name: Crockett Construction

Phone No: 936-544-2500 Fax No: 936-544-9998

Email: chrismorris@crockettconstruction.net

Bid Address: 1045 Highway 7 West, Crockett TX 75835
P.O. Box or Street City State Zip

Remit Address: Same
P.O. Box or Street City State Zip

Federal Tax ID No: 83-0358268

DUNS No: 187594911

Date: 07/11/2024

Qualifications of Construction Team and the Execution of Services

1. **Chris Morris** – President / Project Manager (20 years at Crockett Construction)
(Direct Field Project Management 100% of Project Time, Close out and Warranty)
 - a. General Project Oversight
 - b. Project Production
 - c. Site Survey and Layout
 - d. Residence- Crockett TX
2. **Brooke Key** – Accounting / Human Resources (11 years at Crockett Construction)
(Indirect Project Office Management 10% of Project Time)
 - a. Account Billing and Receiving
 - b. Employee Time Tracking
 - c. Residence- Crockett TX
3. **Ryan Morris**- Estimator / Assistant Project Manager (1 Year at Crockett Construction)
(Direct Field Project Management 20% of Project Time)
 - a. General Project Oversight
 - b. Residence- Huntsville TX
4. **Ronnie Sims** – General Superintendent (16 years at Crockett Construction)
(Direct Field Project Management 10% of Project Time)
 - a. Direct Project Oversight
 - b. On Site Quality Control Review
 - c. Project Production
 - d. Site Quality Control
 - e. Site Safety
 - f. Residence- Crockett TX
5. **Charlie Goldman** – Site Foreman (15 years at Crockett Construction)
(On Site Project Management 100% of Project Time)
 - a. On Site Daily Management
 - b. Project Production
 - c. Site Quality Control
 - d. Site Safety
 - e. Residence- Crockett TX

These team members are selected for submission with this project proposal for their specific familiarity with the work tasks associated with this project. Please reference the following section for resumes and project responsibilities associated with these key project persons.

Ronnie Sims -

- Scheduling various aspects of projects with owners and venders.
- Ensuring quality work is performed per plan.
- Direct Project Oversight
- On Site Quality Control Review
- Project Production
- Site Quality Control
- Site Safety

- **Chris Morris-**

- General Project Oversight
- Project Production
- Site Survey and Layout

Frankston ISD Slope Repair and Drainage Improvements 11/1/2018-4/22/2019

Frankston, Texas

Contract Method – General Contractor

Contract Amount – 200,000.00

Project Manager – Chris Morris

Project Superintendent – Charlie Goldman (936-222-6877)

General Contractor – Crockett Construction

Civil Contractor – Crockett Construction

Utility Contractor – Crockett Construction

Owners Representative – Frankston ISD, Ed Prater

Architect/Engineer Representative – Benchmark Design Group, Ed Snodgrass

- Contact edprater@frankstonisd.net
- 903-876-5920
- Business Relationship – Project Duration

Charlie Goldman -

- Ensuring the project is done in a timely manner.
- Quality work is being performed on site.
- Ensure safety procedures are being followed.
- All work is followed according to plan.
- On Site Daily Management
- Project Production
- Site Quality Control
- Site Safety

Ronnie Sims -

- Scheduling various aspects of projects with owners and vendors.
- Ensuring quality work is performed per plan.
- Direct Project Oversight
- On Site Quality Control Review
- Project Production
- Site Quality Control
- Site Safety

- **Chris Morris-**

- General Project Oversight
- Project Production
- Site Survey and Layout

Lake Livingston Dam Slope Repairs 8/13/2018-9/28/2018

Livingston, Texas

Contract Method – General Contractor

Contract Amount – 266,000.00

Project Manager – Chris Morris

Project Superintendent – Ronnie Sims (936-222-0457)

General Contractor – Crockett Construction

Civil Contractor – Crockett Construction

Owners Representative – Trinity River Authority,

Architect/Engineer Representative – Freese and Nichols, James Murphy

- Contact- JCM@freese.com
- 817-735-7345
- Business Relationship – Project Duration

All Members of The Lake Livingston job will have the same responsibilities on the Quad Parking phase 2 including. They are similar in size and type of work.

Charlie Goldman -

- Ensuring the project is done in a timely manner.
- Quality work is being performed on site.
- Ensure safety procedures are being followed.
- All work is followed according to plan.
- On Site Daily Management
- Project Production
- Site Quality Control
- Site Safety

Ronnie Sims -

- Scheduling various aspects of projects with owners and venders.
- Ensuring quality work is performed per plan.
- Direct Project Oversight
- On Site Quality Control Review
- Project Production
- Site Quality Control
- Site Safety

- **Chris Morris-**
- General Project Oversight
- Project Production
- Site Survey and Layout

Mexia Economic Development Corporation Industrial Park Improvements 10/7/2018-3/25/2020

Mexia, Texas

Contract Method – General Contractor

Contract Amount – 2,000,000.00

Project Manager – Chris Morris

Project Superintendent – Charlie Goldman (936-222-6877)

General Contractor – Crockett Construction

Civil Contractor – Crockett Construction

Utility Contractor – Crockett Construction

Owners Representative – City of Mexia EDC, Joanna Shivers

Architect/Engineer Representative – KSA Engineers, Bob Thurber

- Contact- bthurber@ksaeng.com
- 936-637-6061
- Business Relationship – 15 Years

All Members of park job will have the same responsibilities on the Quad Parking phase 2 including. The jobs are similar in concrete work.

Charlie Goldman -

- Ensuring the project is done in a timely manner.
- Quality work is being performed on site.
- Ensure safety procedures are being followed.
- All work is followed according to plan.
- On Site Daily Management
- Project Production
- Site Quality Control
- Site Safety

Ronnie Sims -

- Scheduling various aspects of projects with owners and vendors.
- Ensuring quality work is performed per plan.
- Direct Project Oversight
- On Site Quality Control Review
- Project Production
- Site Quality Control
- Site Safety
- **Chris Morris-**
- General Project Oversight
- Project Production
- Site Survey and Layout

Holleman Field Drainage 6/30/2021-5/12/2022

Huntsville, Texas

Contract Method- General Contractor

Contract amount- 754,000.00

Project Manager- Chris Morris

Project Superintendent- Charlie Goldman

General Contractor- Crockett Construction

Civil Contractor – Crockett Construction

Utility Contractor – Crockett Construction

Owners Representative – SHSU, Hanson Ward

Architect/Engineer Representative – PBK, Trace C. Cryer

Contact- 713-965-0608

CONDITIONS OF AGREEMENT

CONDITIONS OF AGREEMENT

CONTRACT DOCUMENTS

STANDARD SPECIFICATIONS FOR CONSTRUCTION--CITY OF NACOGDOCHES

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

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

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

GENERAL CONDITIONS OF AGREEMENT

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

SPECIAL PROVISIONS OF AGREEMENT

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

Explosion

Applies to blasting operations

Collapse

Applies to excavation and grading work adjacent to structure

Underground

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

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

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

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

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

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

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

PERFORMANCE BOND

PAYMENT BOND

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

STANDARD FORM OF AGREEMENT FOR CONSTRUCTION

CITY OF NACOGDOCHES CONSTRUCTION AGREEMENT

This Agreement is entered into by and between the **City of Nacogdoches**, a Texas home-rule municipal corporation (the "City") and Crockett Construction, a limited liability corporation (the "Contractor"), for **Construction Services for 2024 Drainage Improvements – Project No. 1** located in Nacogdoches, Texas (the "Project").

1. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

1.13. Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due.

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

1.15. Work. The term "work" as used in this Agreement shall mean and include all that is required herein to obtain a final product that is acceptable to the City. The term "Project" shall have like meaning. This Project includes the following: **Construction Services for 2024 Drainage Improvements – Project No. 1** located in Nacogdoches, Texas.

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

2. CONTRACT DOCUMENTS

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

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

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

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

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

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

3. AWARD OF CONTRACT

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

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

3.03. **Contract Amount.** Except in the event of a duly authorized change order approved by the City as provided in this Contract, and in consideration of the Contractor’s final completion of all work in conformity with this Contract, the City shall pay the Contractor an amount not to exceed **One Million Nine Hundred Fifty Eight Thousand Seventy Three** and 0/100 Dollars (**\$1,958,073.00**).

4. CITY'S REPRESENTATIVE

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

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

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

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

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

5. INDEPENDENT CONTRACTOR

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

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

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

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

6. DISORDERLY EMPLOYEES

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

7. HOURS OF WORK

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

8. NATURE OF THE WORK

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

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

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

9. POST-AGREEMENT AWARD MEETINGS

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

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

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

10. PROGRESS OF WORK

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

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

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

carry on the work with dates at which the Contractor will start the several parts of the work and the estimated dates of completion of the several parts.

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

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

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

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

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

11. SITE CONDITIONS AND MANAGEMENT

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

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

11.03. Throughout the progress of the work, the Contractor shall keep the working area free from debris of all types, and remove from premises all rubbish, resulting from any work being done by him. At the completion of the work, the Contractor shall leave the premises in a clean and finished condition. Any failure to do so may be remedied and charged back to the Contractor.

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

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

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

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

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

11.09. When two or more contractors, including Contractor, are employed on related or adjacent work or obtain materials from the same material source, or when work must be completed by one contractor before another can begin, each shall conduct his operations in such a manner as not to cause any unnecessary delay or hindrance to the other. Each contractor, including Contractor if applicable, shall be responsible to the

other for all damage to work, to persons, or to property caused to the other by his operations, and for loss caused the other due to unreasonable or unjustified delays or failure to finish the work or portions thereof, or furnish materials within the time requested. Should Contractor cause damage to the work or property of any separate contractor at the Project site, or should any claim arising out of Contractor's separate contractor at the Project site, or should any claim arising out of Contractor's performance of the Work at the Project site be made by any separate contractor against Contractor, City or other consultants, or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute. **Contractor shall, to the fullest extent permitted by applicable laws, indemnify and hold City harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of architects, attorneys and other professionals and court costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against City to the extent based on a claim arising out of Contractor's negligence.**

12. MATERIALS

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

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

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

(a) Upon acceptance of the materials furnished or ordered by the City, the Contractor warrants that it shall properly handle, transport, store and safeguard the materials.

(b) Further, the Contractor shall repair, repaint or replace any and all materials or any part thereof damaged or stolen while in its possession. Such materials are considered to be in the Contractor's possession from the moment the Contractor either accepts delivery of the materials or

signs a receipt accepting delivery of said materials until the Project is accepted by the City's Representative.

(c) Before transporting any of the materials furnished or ordered by the City, the Contractor shall establish to the City's satisfaction that it has obtained insurance against losses, theft, damage, equal to or greater than the amounts spent by the City in securing said materials. It shall be incumbent upon the Contractor to verify the cost of materials.

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

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

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

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

13. ENTRY, OBSERVATION, TESTING & POSSESSION

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

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

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

work, and fails to do so, if the work is in accordance with the plans, specifications, and other Contract Documents, the City shall pay the costs of repair and restoration of the work.

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

14. REJECTED WORK

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

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

(a) The Contractor may be required, at the City's option, after notice from City's Representative, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.

(b) If the City deems it inexpedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum may be made by the City at the City's sole discretion.

15. SUBCONTRACTING & SUBCONTRACTORS

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

15.02. Subcontractors must be approved by City's Representative prior to hiring or beginning any work on the Project. If City's Representative judges any subcontractor to be failing to perform the work in strict accordance with the drawings and specifications, the Contractor, after due notice, shall discharge the same, but this shall in no way release the Contractor from its obligations and responsibility under this Agreement. Every subcontractor shall be bound by the terms and provisions of this Agreement and the Contract Documents as far as applicable to their work. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

16. PAYMENT

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

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

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

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

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

16.06. Reduction in the scope or quantity of work on unit price items shall merely reduce the number of units. In the event that materials have been delivered prior to notice of such reduction, the City will have

the option either to pay freight & transportation costs and any re-stocking charges actually incurred by the Contractor or to purchase the materials. The Contractor shall never be entitled to anticipated or lost profits on the deleted or reduced portion of a job, whether bid on a unit price or lump sum basis.

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

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

16.09. Unless otherwise provided in the Contract Documents:

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

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

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

- (a) Defective work.
- (b) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.
- (c) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.
- (d) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.
- (e) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.

- (f) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.
- (g) City's determination of an amount of liquidated damages.
- (h) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.
- (i) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.

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

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

17. EXTRA WORK CHARGES

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

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

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

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

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

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

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

Method A - By agreed unit prices, or

Method B - By agreed lump sum, or

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

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

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

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

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

(g) **Method C - Actual Field Costs.** The actual field cost is hereby defined to include the cost of all applicable workmen and laborers, as well as materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used for such Extra Work, plus actual transportation charges necessarily incurred, together with other costs reasonably incurred directly on account of such Extra Work, including social security, old age benefits, maintenance bonds, public liability, property damage, worker's compensation, and all other insurance as may be required by law or ordinances or required and agreed to by the City or City's Representative. City's Representative may direct the form in which accounts of the actual field costs shall be kept and records of these

accounts shall be made available to City's Representative. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using one hundred percent (100%), unless otherwise specified, of the latest schedule of equipment and ownership expenses adopted by the Associated General Contractors of America. Where practical, the terms and prices for the use of machinery and equipment shall be incorporated in the written Extra Work order. Actual field costs shall not exceed the prevailing market price therefor within reasonable tolerances as determined by City's Representative. The amount due to Contractor for costs other than actual field costs shall be calculated in accordance with the following standards:

- (1) No indirect or consequential damages will be allowed.
- (2) All costs must be directly and specifically shown to be caused by a proven wrong. No recovery shall be based on a comparison by planned expenditures to total actual expenditures or on estimated losses of labor efficiency, or on a comparison of planned manloading to actual manloading, or any other analysis that is used to show damages indirectly.
- (3) Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong.
- (4) The maximum daily limit on any recovery for delay shall be the amount established by the Contractor for job overhead costs, defined in the pay applications, divided by the total number of days specified for completion called for in the original Contract. Absent an overhead amount in the Schedule of Values, the amount estimated by Contractor for job overhead cost shall be used.

18. TIME OF COMPLETION

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

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

18.03. The work shall be Substantially Completed within the time bid, which shall run from the date when the notice to proceed is given by City's Representative. The Contractor has bid **270 calendar days** for the time within which it shall reach Substantial Completion of the Project.

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

19. SUBSTANTIAL COMPLETION

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

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

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

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

20. FINAL COMPLETION

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

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

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

21. DELAYS

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

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

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

22. EXTENSIONS OF TIME

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

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

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

23. LIQUIDATED DAMAGES

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

23.02. As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Paragraph 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of

Five Hundred and no/100 DOLLARS (\$500.00) for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

24. CHARGES FOR INJURY OR REPAIR

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

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

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

25. WARRANTY

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

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

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

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

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

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

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

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

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

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

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

26. PAYMENT OF EMPLOYEES, SUBCONTRACTORS & SUPPLIERS

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

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

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

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

26.05. **Payment of Subcontractors.** The Contractor shall be solely and exclusively responsible for compensating any of the Contractor's employees, subcontractors, materialmen and/or suppliers of any type or nature whatsoever and for insuring that no claims or liens of any type arising out of or incidental to the performance of any services performed pursuant to this Agreement are filed against any property owned by the City. In the event a statutory lien notice is sent to the City, the Contractor shall, where no payment bond covers the work, upon written notice from the City, immediately obtain a bond at its expense and hold

the City harmless from any losses that may result from the filing or enforcement of any said lien notice. In the event that the Contractor defaults in the provision of the bond, the City may withhold such funds as are necessary to assure the payment of such claim until litigation determines to whom payment shall be made.

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

27. **INSURANCE**

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

28. **BOND PROVISIONS**

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

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

28.02. The Contractor may make such changes and alterations as the City may require in the work or any part thereof without affecting the validity of this Agreement and any accompanying bond. If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for any claim

for damages or anticipated profits. If the City makes changes or alterations that render useless any work already done or material already used in said work, then the City shall compensate the Contractor for any material or labor so used, and for any actual loss occasioned by such change due to actual expenses incurred in preparation for the work as originally planned, in accordance with the provisions of Article 17.

29. SURETY

29.01. If the Contractor has abandoned the Project or the City has terminated the contract for cause and the Contractor's Surety, after notice demanding completion is sent, fails to commence the completion of the work in compliance with this Agreement, then the City at its option may provide for completion of the work in either of the following manners:

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

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

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

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

30. COMPLIANCE WITH LAW

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

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

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

30.04 The Immigration Reform and Control Act (IRCA). The Contractor may not knowingly obtain the labor or services of an undocumented worker. The Contractor, not the City, must verify eligibility for employment as required by IRCA;

30.05 In accordance with Section 2155.4441 of the Texas Government Code, Contractor agrees that during the performance of this contract it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state;

31. SAFETY PRECAUTIONS

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

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

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

31.04. Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in Paragraph 31.07, except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws (as hereafter defined at Paragraph 31.07). **In the event Contractor engages in any of the activities prohibited in this Paragraph 31.04 to the fullest extent permitted by law, Contractor hereby indemnifies and holds**

City and all of its respective officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from the activities prohibited in this Paragraph 31.04.

31.05. In the event Contractor encounters on the Project site any Hazardous Substance, or what Contractor may reasonably believe to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project site, in a manner violative of any applicable Environmental Laws, Contractor shall immediately stop work in the area affected and report the condition to City in writing. The Work in the affected area shall not thereafter be resumed except by written authorization of City if in fact a Hazardous Substance has been encountered and has not been rendered harmless. In the event Contractor fails to stop the Work upon encountering a Hazardous Substance at the Project site, **to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from Contractor's failure to stop the Work.**

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

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

32. TRENCH SAFETY

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

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

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

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

32.04 The Contractor must provide the City the name of the “competent person” required by OSHA standards to perform the trench safety inspections. The Contractor must make daily inspections to ensure that the systems comply with all applicable laws and regulations, and must maintain a permanent record of daily inspections available for examination by the City or other government authority.

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

33. INDEMNITY

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

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

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

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

- (b) The Contractor shall indemnify and hold harmless and defend the City from any claims for payment for goods or services brought by any material suppliers, mechanics, laborers, or other subcontractors.
- (c) The Contractor shall indemnify and hold harmless and defend the City from any and all injuries to or claims of adjacent property owners caused by the Contractor, its agents, employees, and representatives.
- (d) The Contractor shall be responsible for any damage to the floor, walls, etc., caused by the Contractor's personnel or equipment during installation.
- (e) The Contractor shall also be responsible for the removal of all related debris.
- (f) The Contractor shall also be responsible for subcontractors hired by it.
- (g) The Contractor shall indemnify, hold harmless, and defend the City from any liability caused by the Contractor's failure to comply with applicable federal, state, or local regulations, that touch upon or concern the maintenance of a safe and protected working environment and the safe use and operation of machinery and equipment in that working environment, no matter where fault or responsibility lies.

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

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

34. RELEASE

The Contractor assumes full responsibility for the work to be performed hereunder, and hereby releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether employees of either party or other third parties) and any loss of or damage to any property (whether property of either of the parties hereto, their employees, or of third parties) that is caused by or alleged to be caused by, arising out of, or in connection with the Contractor's work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance, and in the event of injury, death, property damage, or loss suffered by the Contractor, any subcontractor, or any person or organization directly or indirectly employed by any of them to

perform or furnish work on the Project, this release shall apply regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City.

35. PERMITS AND LICENSES

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

36. ROYALTIES AND LICENSING FEES

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

37. BREACH OF CONTRACT & DAMAGES

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

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

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

38. TERMINATION FOR CAUSE

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

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

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

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

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

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

38.06. If the Contractor abandons the Work.

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

39. TERMINATION FOR CONVENIENCE

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

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

40. RIGHT TO COMPLETE

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

41. CLOSE OUT

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

- (a) Stop the work on the date and to the extent specified in the notice of termination;
- (b) Place no further orders or subcontracts for services, equipment, or materials, except as may be necessary for completion of such portion of the work as is not terminated;
- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of the work terminated by the notice of termination;
- (d) Assign to City's Representative, in the manner and to the extent directed by it, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case, City's Representative shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (e) With the approval of City's Representative, settle all outstanding liabilities and all claims arising out of such termination, orders, and subcontracts;
- (f) Deliver to City's Representative, when directed by City's Representative, all documents and all property, which if the work had been completed, Contractor would have been required to account for or deliver to City's Representative, and transfer title to such property to City's Representative to the extent not already transferred.

42. TERMINATION CONVERSION

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

43. HIRING

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

44. **ASSIGNMENT**

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

45. **EFFECTIVE DATE**

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

46. **OTHER TERMS**

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

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

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

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

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

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

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

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

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

46.10. Contractor Affirmations: If this contract is funded in whole or in part by money from the State of Texas, State law requires the following certifications, representations and/or warranties. Regardless of funding by the State, by signature hereon affixed, the Contractor hereby certifies that:

- (a) Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract
- (b) Contractor represents and warrants that it has no actual or potential conflicts of interest in the goods and or services described in the scope of work to this contract.
- (c) **Antitrust.** Pursuant to 15 U.S.C. §1, et seq. and Tex. Bus. & Comm. Code §15.01, et seq. neither the contractor nor the firm, corporation, partnership, or institution represented by the contractor, or anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.
- (d) **Child Support.** Pursuant to §231.006(d), Texas Family Code, regarding child support, the Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified payment and acknowledges that the contract may be terminated, and payment may be withheld if this certification is inaccurate. Furthermore, any Contractor subject to §231.006, Gov't Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the bid. This information must be provided prior to award. Enter the Name & Social Security Numbers for each person below:

Name:	Social Security Number:
Name:	Social Security Number:
Name:	Social Security Number:

- (e) **Debarment.** Contractor certifies that Contractor and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement. Entities ineligible for state procurement are listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration. Entities ineligible for federal procurement are listed at <http://www.sam.gov/content/exclusions>.
- (f) **Terrorism Watch List.** Contractor represents and warrants that it does not do business with Iran, Sudan or a foreign terrorist organization as prohibited by Texas Government Code 2252.152. Contractor certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
- (g) **Critical Infrastructure.** If Contractor will be granted direct or indirect access to a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility, Contractor certifies that neither it or its parent company, is (1) majority owned by citizens or governmental entities of China, North Korea, Russia or any other country designated by the Governor under Government Code 2274.0103, or (2) headquartered in any of those countries.
- (h) **Convictions.** Under Sections 2155.006, 23155.0061 and 2261.053 of the Texas Government Code, Contractor certifies that it is not ineligible to receive the specified contract and may be terminated and payment withheld if this certification is inaccurate. These sections prohibit contracts that include proposed financial participation by an individual or business entity who has been convicted in the past five years of (a) violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Gov't Code, occurring after September 24, 2005; and (b) of any offense related to the direct support or promotion of human trafficking.
- (i) **COVID Vaccinations.** Contractor certifies that it does not require its customers to provide any documentation certifying the Customer's COVID-19 vaccination or post-transmission recovery on entry to, or to receive service from the Contractor's business.
- (j) **Boycotts.** (1) To the extent this Contract is considered a Contract for goods or services subject to § 2270.002 Texas Government Code, Contractor verifies that it: (i) does not boycott Israel; and (ii) will not boycott Israel during the term of this Contract. (2) To the extent this Contract has a value of \$100,000 or more and Contractor is an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit that employs 10 or more full time employees, Contractor certifies that it: (i) does not and will not boycott energy companies during the term of the contract (*See Texas Government Code 2274.002, et seq.*); and (ii) does not and will not discriminate against a firearm entity or firearm trade association (*See Texas Government Code 2274.002, et seq.*).

46.11. **Waiver.** Failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision nor in any way affect the validity of this Agreement, any part hereof, or the right of the City thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to

have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

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

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

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

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

CROCKETT CONSTRUCTION

CITY OF NACOGDOCHES

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

By: _____
City Manager
Date: _____

APPROVED AS TO FORM:

City Attorney
Date: _____

Exhibit A
DAVIS BACON WAGE RATES

"General Decision Number: TX20240084 01/05/2024

Superseded General Decision Number: TX20230084

State: Texas

Construction Type: Heavy

Counties: Cass, Cherokee, Erath, Fannin, Franklin, Hood, Hopkins, Marion, Montague, Morris, Nacogdoches, Navarro, Palo Pinto, Panola, Rains, Red River, Somervell, Titus, Van Zandt and Wood Counties in Texas.

HEAVY CONSTRUCTION PROJECTS

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

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

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

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

Modification Number	Publication Date
0	01/05/2024

SUTX2009-129 04/21/2009

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 13.00 **	0.00
LABORER: Common or General.....	\$ 8.61 **	0.00
LABORER: Pipelayer.....	\$ 9.94 **	0.00
OPERATOR: Backhoe/Trackhoe.....	\$ 11.75 **	0.00
OPERATOR: Bulldozer.....	\$ 14.25 **	0.00
OPERATOR: Loader (Front End)....	\$ 11.52 **	0.00
TRUCK DRIVER.....	\$ 10.80 **	0.26

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

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

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

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

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

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the

most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

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

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

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

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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

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

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

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

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

Exhibit B
INSURANCE REQUIREMENTS

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

I. Standard Insurance Policies Required:

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

II. General Requirements Applicable to All Policies:

- A. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
- B. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- C. "Claims Made" policies are not accepted.
- D. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of Nacogdoches.
- E. Upon request, certified copies of all insurance policies shall be furnished to the City of Nacogdoches.
- F. The City of Nacogdoches, its officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General, Umbrella and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.
- G. Waiver of subrogation in a form at least as broad as ISO form 2404 shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement.

III. Commercial General Liability

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

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

- C. Coverage shall be at least as broad as ISO form GC 00 01.
- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- E. The coverage shall include but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, Personal & Advertising Liability; and Explosion, Collapse, and Underground coverage.

IV. Business Automobile Liability

- A. Business Automobile Liability insurance shall be written by a carrier with a “A:VIII” or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- C. Coverage shall be at least as broad as Insurance Service’s Office Number CA 00 01.
- D. The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.
- E. The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- F. Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of \$1,000,000.00.

V. Excess Liability

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

- VI. Those policies set forth in Paragraphs III, IV, and V shall contain an endorsement naming the City as Additional Insured and further providing that the Contractor’s policies are primary to any self-insurance or insurance policies procured by the City. The additional insured endorsement shall be in a form at least as broad as ISO form GC 2026. Waiver of subrogation in a form at least as broad as ISO form 2404 shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement. Contractor shall be responsible for all deductibles which may exist on any policies obtained in compliance with the terms of this Agreement. All coverage for subcontractors shall be subject to the requirements stated herein. All Certificates of Insurance and endorsements shall be

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

VII. Workers Compensation Insurance

- A. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers compensation insurance policy: either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- B. Workers compensation insurance shall include the following terms:
1. Employer's Liability minimum limits of \$1,000,000.00 for each accident/each disease/each employee are required.
 2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
 3. Texas must appear in Item 3A of the Workers Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.
- C. Pursuant to the explicit terms of Title 28, Section 110.110(c) (7) of the Texas Administrative Code, the bid specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

"A. Definitions:

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

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

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

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

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

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

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

Exhibit C
PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

Project No. 24-10-130

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF NACOGDOCHES

§

§

THAT WE, Crockett Construction, as Principal, hereinafter called "Contractor" and the other subscriber hereto Granite Re, Inc., as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of Nacogdoches, a municipal corporation, in the sum of **One Million Nine Hundred Fifty Eight Thousand Seventy Three and 0/100 Dollars (\$1,958,073.00)** for the payment of which sum, well and truly to be made to the City of Nacogdoches and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of Nacogdoches for **Construction Services for 2024 Drainage Improvements – Project No. 1** all of such work to be done as set out in full in said Contract Documents therein referred to and adopted by the City Council, all of which are made a part of this instrument as fully and completely as if set out in full herein.

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

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

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

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

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

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

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

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

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

By: Abbigale Shelton
Name: Abbigale Shelton
Title: Secretary

Crockett Construction
(Name of Contractor)
By: [Signature]
Name: Chris Morris
Title: President
Date:

ATTEST/WITNESS (SEAL)

By: [Signature]
Name: Kyle McDonald
Title: Assistant Secretary
Date: July 26, 2024

Granite Re, Inc.
(Full Name of Surety)
14001 Quailbrook Drive, Oklahoma City, OK 73134
(Address of Surety for Notice)

By: [Signature]
Name: Kenneth D. Whittington
Title: Attorney-in-Fact
Date: July 26, 2024

REVIEWED:

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

City Attorney's Office

City Manager

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

**GRANITE RE, INC.
GENERAL POWER OF ATTORNEY**

Know all Men by these Presents:

That GRANITE RE, INC., a corporation organized and existing under the laws of the State of MINNESOTA and having its principal office at the City of OKLAHOMA CITY in the State of OKLAHOMA does hereby constitute and appoint:

KENNETH D. WHITTINGTON; KYLE MCDONALD its true and lawful Attorney-in-Fact(s) for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said GRANITE RE, INC. a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said GRANITE RE, INC. through us, its Board of Directors, hereby ratifies and confirms all and whatsoever the said:

KENNETH D. WHITTINGTON; KYLE MCDONALD may lawfully do in the premises by virtue of these presents.

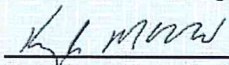
In Witness Whereof, the said GRANITE RE, INC. has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Assistant Secretary, this 31st day of July, 2023.

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)





Kenneth D. Whittington, President

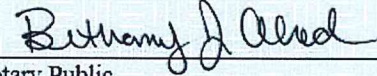


Kyle P. McDonald, Assistant Secretary

On this 31st day of July, 2023, before me personally came Kenneth D. Whittington, President of the GRANITE RE, INC. Company and Kyle P. McDonald, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said, that they, the said Kenneth D. Whittington and Kyle P. McDonald were respectively the President and the Assistant Secretary of GRANITE RE, INC., the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their name thereto by like order as President and Assistant Secretary, respectively, of the Company.

My Commission Expires:
April 21, 2027
Commission #: 11003620





Notary Public

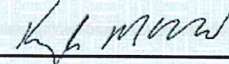
**GRANITE RE, INC.
Certificate**

THE UNDERSIGNED, being the duly elected and acting Assistant Secretary of Granite Re, Inc., a Minnesota Corporation, HEREBY CERTIFIES that the following resolution is a true and correct excerpt from the July 15, 1987, minutes of the meeting of the Board of Directors of Granite Re, Inc. and that said Power of Attorney has not been revoked and is now in full force and effect.

“RESOLVED, that the President, any Vice President, the Assistant Secretary, and any Assistant Vice President shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the Company in the course of its business. On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the Company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking.”

IN WITNESS WHEREOF, the undersigned has subscribed this Certificate and affixed the corporate seal of the Corporation this
July 26 , 2024 .





Kyle P. McDonald, Assistant Secretary

TEXAS STATUTORY PAYMENT BOND

Project No. 24-10-130

THE STATE OF TEXAS

§

THE COUNTY OF NACOGDOCHES

§

§

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, Crockett Construction, as Principal, hereinafter called "Principal", and the other subscriber hereto Granite Re, Inc., a corporation organized and existing under the laws of the State of Minnesota, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of Nacogdoches, a municipal corporation, in the sum of **One Million Nine Hundred Fifty Eight Thousand Seventy Three and 0/100 Dollars (\$1,958,073.00)** for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of Nacogdoches, dated the 19th day of July, 2024, for **Construction Services for 2024 Drainage Improvements – Project No. 1** which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

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

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

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

By: Abbigale Shelton
Name: Abbigale Shelton
Title: Secretary

Crockett Construction
(Name of Contractor)

By: [Signature]
Name: Christopher
Title: President
Date:

ATTEST/WITNESS (SEAL)

By: [Signature]
Name: Kyle McDonald
Title: Assistant Secretary
Date: July 26, 2024

Granite Re, Inc.
(Full Name of Surety)

14001 Quailbrook Drive, Oklahoma City, OK 73134
(Address of Surety for Notice)

By: [Signature]
Name: Kenneth D. Whittington
Title: Attorney-in-Fact
Date: July 26, 2024

REVIEWED:

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

City Attorney's Office

City Manager

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

GRANITE RE, INC.
GENERAL POWER OF ATTORNEY

Know all Men by these Presents:

That GRANITE RE, INC., a corporation organized and existing under the laws of the State of MINNESOTA and having its principal office at the City of OKLAHOMA CITY in the State of OKLAHOMA does hereby constitute and appoint:

KENNETH D. WHITTINGTON; KYLE MCDONALD its true and lawful Attorney-in-Fact(s) for the following purposes, to wit:

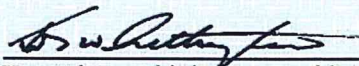
To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said GRANITE RE, INC. a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said GRANITE RE, INC. through us, its Board of Directors, hereby ratifies and confirms all and whatsoever the said:

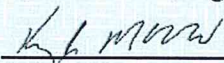
KENNETH D. WHITTINGTON; KYLE MCDONALD may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said GRANITE RE, INC. has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Assistant Secretary, this 31st day of July, 2023.

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)



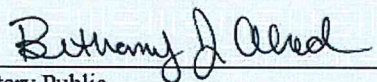

Kenneth D. Whittington, President


Kyle P. McDonald, Assistant Secretary

On this 31st day of July, 2023, before me personally came Kenneth D. Whittington, President of the GRANITE RE, INC. Company and Kyle P. McDonald, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said, that they, the said Kenneth D. Whittington and Kyle P. McDonald were respectively the President and the Assistant Secretary of GRANITE RE, INC., the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their name thereto by like order as President and Assistant Secretary, respectively, of the Company.

My Commission Expires:
April 21, 2027
Commission #: 11003620




Notary Public

GRANITE RE, INC.
Certificate

THE UNDERSIGNED, being the duly elected and acting Assistant Secretary of Granite Re, Inc., a Minnesota Corporation, HEREBY CERTIFIES that the following resolution is a true and correct excerpt from the July 15, 1987, minutes of the meeting of the Board of Directors of Granite Re, Inc. and that said Power of Attorney has not been revoked and is now in full force and effect.

“RESOLVED, that the President, any Vice President, the Assistant Secretary, and any Assistant Vice President shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the Company in the course of its business. On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the Company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking.”

IN WITNESS WHEREOF, the undersigned has subscribed this Certificate and affixed the corporate seal of the Corporation this
July 26 , 2024 .



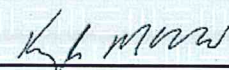

Kyle P. McDonald, Assistant Secretary

Exhibit D
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/23/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hlgginbotham Insurance Agency, Inc. 1400 FM 528, Suite F Webster TX 77598	CONTACT NAME: Sarah Sowinski	
	PHONE (A/C No, Ext): 281-990-6051 FAX (A/C No): 281-990-6052	
	E-MAIL ADDRESS: ssowinski@hlgginbotham.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : United States Fire Insurance Co	21113
	INSURER B : The North River Insurance Company	21105
	INSURER C : Hanover Insurance Company	22292
	INSURER D :	
	INSURER E :	
	INSURER F :	

License#: 2081754
CROCCON-02**COVERAGES****CERTIFICATE NUMBER:** 780914480**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ PD Ded. \$1,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:			506-9083509	12/31/2023	12/31/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY			506-9083509	12/31/2023	12/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			582-1225902	12/31/2023	12/31/2024	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	Inland Marine			IHD J618482 00	1/18/2024	12/31/2024	Scheduled Equip. R/L Equip Per Item Deductible On File \$750,000 \$2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Automobile Liability policies include a blanket automatic additional insured endorsement that provides additional insured status and General Liability and Automobile Liability policies include a blanket waiver of subrogation endorsement to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status.

The General Liability and Automobile Liability policies have a blanket Primary & Non-Contributory endorsement that affords that coverage to certificate holders only where there is a written contract between the Named Insured and the certificate holder that requires such status.

The Excess Liability policy referenced herein is follow form if all policy requirements have been met.
See Attached...

CERTIFICATE HOLDER**CANCELLATION**City of Nacogdoches
202 East Pilar Street
Nacogdoches TX 75961

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

07/23/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Crockett Insurance Service P.O. Box 670 Crockett TX 75835		CONTACT NAME: Virginia Smith PHONE (A/C, No, Ext): (936) 544-2291 E-MAIL ADDRESS: glnlas@crockettinsurance.com FAX (A/C, No): (936) 544-1418	
INSURED Crockett Construction, Inc. 1045 Highway 7 West Crockett TX 75835		INSURER(S) AFFORDING COVERAGE INSURER A: Texas Mutual Insurance Co. INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES**CERTIFICATE NUMBER:** MASTER 24-25**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$ ☐						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☒ Y	N/A		0002042295	07/20/2024	07/20/2025	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

BLANKET WAIVER OF SUBROGATION APPLIES TO THE WORKERS COMP POLICY.

2024 Drainage Improvements -- Project No. 1.

CERTIFICATE HOLDER**CANCELLATION**

City of Nacogdoches 202 East Pilar Street Nacogdoches TX 75961	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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**ADDITIONAL REMARKS SCHEDULE**Page 1 of 1

AGENCY Higginbotham Insurance Agency, Inc.		NAMED INSURED Crockett Construction Inc. 1045 Highway 7 West Crockett TX 75835
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Project: 2024 Drainage Improvements – Project No. 1.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/23/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Higginbotham Insurance Agency, Inc. 1400 FM 528, Suite F Webster TX 77598	CONTACT NAME: Sarah Sowinski	FAX (A/C, No): 281-990-6052	
	PHONE (A/C, No, Ext): 281-990-6051	E-MAIL ADDRESS: ssowinski@higginbotham.com	
INSURED Crockett Construction Inc. 1045 Highway 7 West Crockett TX 75835	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: United States Fire Insurance Co		21113
	INSURER B: The North River Insurance Company		21105
	INSURER C: Hanover Insurance Company		22292
	INSURER D:		
	INSURER E:		
INSURER F:			

License#: 2081754
CROCCON-02**COVERAGES****CERTIFICATE NUMBER:** 985281813**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ PD Ded. \$1,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:		506-9083509	12/31/2023	12/31/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY		506-9083509	12/31/2023	12/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$		582-1225902	12/31/2023	12/31/2024	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N ☐ N / A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	Inland Marine		IHD J618482 00	1/18/2024	12/31/2024	Scheduled Equip. R/L Equip Per Item Deductible On File \$750,000 \$2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Automobile Liability policies include a blanket automatic additional insured endorsement that provides additional insured status and General Liability and Automobile Liability policies include a blanket waiver of subrogation endorsement to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status.

The General Liability and Automobile Liability policies have a blanket Primary & Non-Contributory endorsement that affords that coverage to certificate holders only where there is a written contract between the Named Insured and the certificate holder that requires such status.

The Excess Liability policy referenced herein is follow form if all policy requirements have been met.

See Attached...

CERTIFICATE HOLDER**CANCELLATION**Two Fifteen Consulting
412 North St.
Nacogdoches TX 75961

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

07/23/2024

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PRODUCER Crockett Insurance Service P.O. Box 670 Crockett TX 75835	CONTACT NAME: Virginia Smith PHONE (A/C, No. Ext): (936) 544-2291 E-MAIL ADDRESS: glnlas@crockettinsurance.com FAX (A/C, No): (936) 544-1418 INSURER(S) AFFORDING COVERAGE INSURER A: Texas Mutual Insurance Co. INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED Crockett Construction, Inc. 1045 Highway 7 West Crockett TX 75835	NAIC #

COVERAGES

CERTIFICATE NUMBER: MASTER 24-25

REVISION NUMBER:

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$ ☐ OCCUR ☐ CLAIMS-MADE						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☒ Y	N/A		0002042295	07/20/2024	07/20/2025	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

BLANKET WAIVER OF SUBROGATION APPLIES TO THE WORKERS COMP POLICY.

2024 Drainage Improvements - Project No. 1.

CERTIFICATE HOLDER

CANCELLATION

TWO FIFTEEN CONSULTING 412 North St Nacogdoches TN 75961	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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ADDITIONAL REMARKS SCHEDULE

AGENCY Higginbotham Insurance Agency, Inc.		NAMED INSURED Crockett Construction Inc. 1045 Highway 7 West Crockett TX 75835	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

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