Nacogdoches
the oldest town in Texas

September 3, 2024

Notice is hereby given of a Regular Meeting of Nacogdoches City Council to be held on the above date in the City Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, beginning at 5:30 p.m. for the purpose of considering the following agenda items.

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

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

1. CALL TO ORDER.

2. PLEDGE OF ALLEGIANCE.

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

4. ITEMS TO BE REMOVED FROM CONSENT AGENDA.

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

    A. Annual review and approval of the City's Investment Policy. (Interim Director of Finance)

    B. Consider a contract between The City of Nacogdoches and NewGen Strategies and Solutions, for the remaining tasks of the Utility Rate and Design Study Project. (Interim Director of Finance)

    C. Consider approval of minutes for the August 20, 2024, Regular City Council Meeting. (City Secretary)

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

A. Consider contract options between the City of Nacogdoches and AquaMetric for meter replacement/installation project. (Human Resources Director)

B. Discussion of Request for Proposals (RFQ) and Schedule Update for the Fire Stations. (Assistant Director of Public Works/Assistant City Engineer).

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 29, 2024, at 5:00 p.m., and remained posted until the meeting convened.

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Rhonda Lewis, City Secretary

City Council Meeting

Date: September 3, 2024

Agenda Item: 5.A.

PRESENTER: Todd Simoneaux, Interim Finance Director

ITEM/SUBJECT: Annual review and approval of the City's Investment Policy. (Interim Director of Finance)

SUMMARY/BACKGROUND: State law requires the City Council to annually review and adopt the City's Investment Policy.

FINANCIAL:
No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Not Applicable

CITY CONTACT: Todd Simoneaux, Interim Director of Finance
simoneauxt@nactx.us
(936) 559-2529

ATTACHMENTS: 1. Investment Policy

CITY OF NACOGDOCHES
INVESTMENT POLICY

I. POLICY

It is the policy of the City of Nacogdoches (City) that after allowing for the anticipated cash flow requirements of the City and giving due consideration to the safety and risk of investment, all available funds shall be invested in conformance with these legal and administrative guidelines, seeking to optimize interest earnings to the maximum extent possible.

Effective cash management is recognized as essential to good fiscal management. Investment interest is a source of revenue to the City's funds. The City's investment portfolio shall be designed and managed in a manner designed to utilize this revenue source, to be responsive to public trust, and to be in compliance with legal requirements and limitations.

Investments shall be made with the primary objectives of:

- **Safety** and preservation of principal
- Maintenance of sufficient **liquidity** to meet operating needs
- **Public trust** from prudent investment activities
- **Diversification** of portfolio
- Optimization of **interest earnings** on the portfolio

II. PURPOSE

The purpose of this Investment Policy is to comply with Chapter 2256 of the Government Code ("Public Funds Investment Act" or "PFIA")), which requires the City to adopt a written investment policy regarding the investment of its funds and funds under its control. This Investment Policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City's funds. This Policy and investment strategies shall be reviewed annually by the Investment Committee and City Council who will formally approve any modifications.

III. SCOPE

This Investment Policy shall govern the investment of all financial assets of the City. These funds are accounted for in the City's Annual Comprehensive Financial Report and include:

- General Fund
- Special Revenue Funds
- Capital Projects Funds
- Enterprise Funds
- Internal Service Fund
- Trust and Agency Funds, to the extent not required by law or existing contract to be

kept segregated and managed separately

- Debt Service Funds, including reserves and sinking funds, to the extent not required by law or existing contract to be kept segregated and managed separately
- Any new fund created by the City, unless specifically exempted from this Policy by the City Council or by law.

This Investment Policy shall apply to all transactions involving the financial assets and related activity for all the foregoing funds. However, this Policy does not apply to the assets administered for the benefit of the City by outside agencies under deferred compensation programs.

IV. INVESTMENT OBJECTIVES

The City shall manage and invest its cash with five primary objectives, listed in order of priority: **safety, liquidity, public trust, diversification, and yield.** The safety of the principal invested always remains the primary objective. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

The City shall maintain a comprehensive cash management program, which includes collection of account receivables, vendor payments in accordance with invoice terms, and prudent investment of available cash. Cash management is defined as the process of managing monies in order to ensure maximum cash availability and optimize earnings on short-term investment of idle cash.

A. Safety [*PFIA 2256.005*(*b*)(*2*)]

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit and interest rate risk.

1. Credit Risk – The City will minimize credit risk, the risk of loss due to the failure of the issuer or backer of the investment, by:
    - Limiting investments to the safest types of investments
    - Pre-qualifying the financial institutions and broker/dealers with which the City will do business
    - Diversifying the investment portfolio so that potential losses on individual issuers will be minimized.

2. Interest Rate Risk – the City will minimize the risk that the interest earnings and the market value of investments in the portfolio will fall due to changes in general interest rates, by:
    - Structuring the investment portfolio so that investments mature to meet cash requirements for ongoing operations, thereby avoiding the need to liquidate investments prior to maturity.
    - Investing operating funds primarily in certificates of deposit, shorter-term securities, money market mutual funds, or local government investment pools functioning as money market mutual funds.
    - Diversifying maturities and staggering purchase dates to minimize the impact of market movements over time.

B. Liquidity [*PFIA 2256.005*(*b*)(*2*)]

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that investments mature concurrent with cash needs to meet anticipated demands. Because all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in demand or money market accounts, shares of money market mutual funds or local government investment pools that offer same-day liquidity.

C. Public Trust

All participants in the City's investment process shall seek to act responsibly as custodians of the public trust. Investment officers shall avoid any transaction that might impair public confidence in the City's ability to govern effectively.

D. Diversification [*PFIA 2256.005*(*b*)(*3*)]

Investment maturities shall be staggered to provide cash flow based on the anticipated needs of the City. Diversifying the appropriate maturity structure will reduce market cycle risk.

E. Yield [*PFIA 2256.005*(*b*)(*3*)]

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above.

V. INVESTMENT STRATEGY FOR SPECIFIC FUNDS

The overall strategy of the City's investment objective shall be to ensure a) the understanding of suitability of investment to the financial requirements of the City, b) preservation and safety of principal, c) liquidity, d) marketability of the investment, if the need arises to liquidate the investment before maturity, e) diversification of the investment portfolio; and f) yield. [*PFIA 2256.005*(d)]

The City maintains portfolios which utilize specific investment strategy considerations designed to address the unique characteristics of the fund groups represented in the portfolios:

A. Operating Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Operating Funds.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, managing the weighted average days to maturity to less than 180 days and restricting the maximum allowable maturity to two years using the final stated maturity dates of each investment will minimize the price volatility of the portfolio.

Marketability - Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement.

Liquidity - Operating Funds require short-term liquidity to adequately fund any unanticipated cash outflow. Short-term financial institution deposits, investment pools and money market mutual funds will provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Diversification - Investment maturities should be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City. Diversifying the appropriate maturity structure up to the two-year maximum will reduce interest rate risk.

Yield - Attaining a competitive market yield for comparable security types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury Bill portfolio will be the minimum yield objective.

B. Debt Service Funds

Suitability - Any investment eligible in the Investment Policy is suitable for the Debt Service Fund.

Safety of Principal - All investments shall be of high quality with no perceived default risk. Market price fluctuations may occur. However, by managing Debt Service Funds to not exceed the debt service payment schedule, the market risk of the overall portfolio will be minimized.

Marketability - Securities with active and efficient secondary markets are not necessary as the event of an unanticipated cash flow requirement is not probable.

Liquidity - Debt Service Funds have predictable payment schedules. Therefore, investment maturities should not exceed the anticipated cash flow requirements. Cash equivalent investments may provide a competitive yield alternative for short-term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any debt service payment. This investment structure is commonly referred to as a flexible repurchase agreement.

Diversification - Market conditions influence the attractiveness of fully extending maturity to the next “unfunded” payment date. Generally, if investment rates are anticipated to decrease over time, the City is best served by locking in most investments. If the interest rates are potentially rising, then investing in shorter and larger amounts may provide advantage. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.

Yield - Attaining a competitive market yield for comparable investment-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury Bill portfolio shall be the minimum yield objective.

C. Debt Service Reserve Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Debt Service Reserve Funds. Bond resolution and loan documentation constraints and insurance company restrictions may create specific considerations in addition to the Investment Policy.

Safety of Principal - All investments shall be high quality with no perceived default risk. Market price fluctuations will occur. However, managing Debt Service Reserve Fund maturities to not exceed the call provisions of the borrowing reduces the investment's market risk if the City's debt is redeemed and the Reserve Fund liquidated. No stated final investment maturity shall exceed the shorter of the final maturity of the borrowing or five years. Annual mark-to-market requirements or specific maturity and average life limitations within the borrowing's documentation will influence the attractiveness of market risk and reduce the opportunity for maturity extension.

Marketability - Securities with less active and efficient secondary markets are acceptable for Debt Service Reserve Funds.

Liquidity – Debt Service Reserve Funds have no anticipated expenditures. The Funds are deposited to provide annual debt service payment protection to the City's debt holders. The funds are "returned" to the City at the final debt service payment. Market conditions and arbitrage regulation compliance determine the advantage of investment diversification and liquidity. Generally, if investment rates exceed the cost of borrowing, locking in investment maturities and reducing liquidity best serve the City. If the borrowing cost cannot be exceeded, then concurrent market conditions will determine the attractiveness of locking in maturities or investing shorter and anticipating future increased yields.

Diversification - Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for Debt Service Reserve Funds. At no time shall the final debt service payment date of the bond issue be exceeded in an attempt to bolster yield.

Yield - Achieving a positive spread to the applicable borrowing cost is the desired objective. Debt Service Reserve Fund portfolio management shall at all times operate within the limits of the Investment Policy's risk constraints.

D. Capital Project and Special Purpose Funds

Suitability - Any investment eligible in the Investment Policy is suitable for Capital Project and Special Purpose Funds.

Safety of Principal – All investments will be of high quality with no perceived default risk. Market fluctuations may occur. However, by restricting the maximum maturity to the lesser of the anticipated cash flow requirements or the IRS defined temporary period, the market risk of the portfolio will be minimized.

Marketability - The balancing of short-term and long-term cash flow needs requires the Capital Project and Special Purpose Funds portfolio to have securities with active and efficient secondary markets.

Liquidity - Capital Project and Special Purpose Funds used as part of a CIP plan or scheduled repair and replacement program are reasonably predictable. However, unanticipated needs or emergencies may arise. Maintaining minimum cash equivalent investment amounts will reduce the liquidity risk of unanticipated expenditures. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any required expenditures. This investment structure is commonly referred to as a flexible repurchase agreement.

Diversification - Investment maturities should blend the short-term and long-term cash flow needs to provide adequate liquidity, yield enhancement and stability.

Yield - Attaining a competitive market yield for comparable investment-types and portfolio structures is the desired objective. The yield of an equally weighted, rolling six-month Treasury Bill portfolio will be the minimum yield objective.

VI. RESPONSIBILITY AND CONTROL

A. **Delegation of Authority** [*PFIA 2256.005*(*f*)]

In accordance with the Public Funds Investment Act, the Council designates the Director of Finance and Accounting Manager as the City's Investment Officers. An Investment Officer is authorized to execute investment transactions on behalf of the City.
No person may engage in an investment transaction or the management of City's funds except as provided under the terms of this Investment Policy as approved by the Council. The investment authority granted to the investing officer is effective until rescinded by the Council.

B. Investment Committee

An Investment Committee, consisting of the Director of Finance, Accounting Manager, and the City Manager shall meet periodically to determine operational strategies and to monitor results. The Investment Committee shall include in its deliberation such topics as: performance reports, economic outlook, portfolio diversification, maturity structure, potential risk to the City's funds, authorized brokers and dealers, eligible investment training sources, and the target rate of return on the investment portfolio.

C. **Training Requirement** *[PFIA 2256.008]*

In accordance with the Public Funds Investment Act, and to ensure qualified and capable investment management, the Investment Officers shall attend investment training no less often than once every two years commencing September 1, 1997 and accumulating not less than 8 hours of instruction relating to investment responsibilities. A newly appointed Investment Officer must attend training accumulating at least 10 hours of instruction within twelve months of the date the Officer took office or assumed the Officer's duties. The investment training session shall be provided by an independent source approved by the designated Investment Committee. For purposes of this Policy, an "independent source" from which investment training shall be obtained shall include a professional organization, an institution of higher education or any other sponsor other than a business organization with whom the City may engage in an investment transaction.

D. Internal Controls [*PFIA 2256.005(m)]*

The Director of Finance is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, the Director of Finance shall establish a process for annual independent review by an external auditor to assure compliance with policies and procedures. The internal controls shall address the following points:

- Avoidance of collusion.
- Separation of transaction authority from accounting and record keeping.
- Custodial safekeeping.
- Avoidance of physical delivery securities.
- Clear delegation of authority to subordinate staff members.
- Written confirmation for telephone (voice) transactions for investments and wire transfers.
- Development of a wire transfer agreement with the depository bank or third-party custodian.

E. **Prudence** [*PFIA 2256.006]*

The standard of prudence to be applied by the Investment Officers shall be the "prudent investor" rule. This rule states that "Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion and intelligence exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived." In determining whether an Investment Officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- The investment of all funds, or funds under the City's control, over which the Officer had responsibility rather than a consideration as to the prudence of a single investment.
- Whether the investment decision was consistent with the written approved Investment Policy of the City.

F. Indemnification

An Investment Officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific investment's credit risk or market price changes, provided that these deviations are reported immediately and the appropriate action is taken to control adverse developments

G. Ethics and Conflicts of Interest [*PFIA 2256.005*(*i*)]

City staff involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair the ability to make impartial investment decisions. City staff shall disclose to the City Manager any material financial interest in financial institutions that conduct business with the City and they shall further disclose positions that could be related to the performance of the City's portfolio. City staff shall subordinate their personal financial transactions to those of the City, particularly with regard to timing of purchase and sales.

A City Investment Officer who has a personal business relationship with an organization seeking to sell an investment to the City shall file a statement disclosing that personal business interest. An Investment Officer who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Council and the City Council.

VII. SUITABLE AND AUTHORIZED INVESTMENTS

A. Portfolio Management

The City currently has a "buy and hold" portfolio strategy. Maturity dates are matched with cash flow requirements and investments are purchased with the intent to be held until maturity. However, investments may be liquidated prior to maturity for the following reasons:

- An investment with declining credit may be liquidated early to minimize loss of principal.
- Cash flow needs of the City require that the investment be liquidated.

B. Investments [*PFIA 2256.005*(*b*)(*4*)(*A*)]

The City funds governed by this policy may be invested in the instruments described below, all of which are authorized by the Public Funds Investment Act. Investment of the City funds in any instrument or security not authorized for investment under the Act is prohibited. The City will not be required to liquidate an investment that becomes unauthorized subsequent to its purchase.

I. Authorized

1. Direct obligations, including letters of credit, of the United States of America, its agencies and instrumentalities, including the Federal Home Loan Banks.

2. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the United States of America, or its agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States.

3. Obligations of the State of Texas or its agencies and instrumentalities, and obligations of counties, cities, and other political subdivisions of this State rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.

4. Fully insured or collateralized certificates of deposit issued by a depository institution organized under Texas law, the laws of another state, or federal law, that has its main office or a branch office in Texas, that is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or secured by obligations in a manner and amount provided by law for deposits of the City.

5. Fully collateralized direct repurchase agreements with a defined termination date secured by a combination of cash and obligations of the United States or its agencies and instrumentalities. These shall be pledged to the City, held in an account in the City's name, and deposited at the time the investment is made with the City or with a third party selected and approved by the City.

Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in Texas. A Master Repurchase Agreement, or similar agreement, must be signed by the dealer/financial institution prior to investment in a repurchase agreement. Securities received for repurchase agreements must have a market value greater than or equal to 102 percent at all times.

6. Money Market Mutual funds that comply with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.) and are rated AAA by at least one nationally recognized rating service and seek to maintain a net asset value of $1.0000 per share.

7. Local government investment pools, which 1) meet the requirements of the Public Funds Investment Act, 2) are rated no lower than AAA or an equivalent rating by at least one nationally recognized rating service, 3) seek to maintain a $1.00 net asset value, and 4) are authorized by resolution or ordinance by the Council.

All prudent measures will be taken to liquidate an investment that is downgraded to less than the required minimum rating. (*PFIA 2256.021*)

II. Not Authorized

The City's authorized investments options are more restrictive than those allowed by State law. The City's requirements specifically prohibit investment in the following investment securities.

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.

2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.

3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years.

4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

5. Reverse repurchase agreements

6. International investment instruments.

VIII. INVESTMENT PARAMETERS

A. **Maximum Maturities** [*PFIA 2256.005*(*b*)(*4*)(*B*)]

The longer the maturity of securities, the greater their price volatility. Therefore, it is the City's policy to utilize shorter-term securities in order to limit principal risk caused by changes in interest rates.

The City attempts to match its investments with anticipated cash flow requirements. The City will not directly invest in maturities greater than those outlined in V. Investment Strategy for Specific Funds; however, the above-described obligations, certificates, or agreements may be collateralized using longer-dated investments.

Because no secondary market exists for repurchase agreements, the maximum maturity shall be 120 days except in the case of a flexible repurchase agreement for bond proceeds.

The maximum maturity for such an investment shall be determined in accordance with project cash flow projections and the requirements of the governing bond ordinance.

The composite portfolio will have a weighted average maturity of 365 days or less. This dollar-weighted average maturity will be calculated using the stated final maturity dates of each security. *[PFIA 2256.005(b)(4)(C)]*

B. **Diversification** [*PFIA 2256.005*(*b*)(*3*)]

The City recognizes that investment risks can result from issuer defaults, market price changes or various technical complications leading to temporary illiquidity. Risk is controlled through portfolio diversification that shall be achieved by the following general guidelines:

- Limiting investments to avoid overconcentration in investments from a specific issuer or business sector,
- Limiting investment in investments that have higher credit risks (example: commercial paper),
- Investing in investments with varying maturities, and
- Continuously investing a portion of the portfolio in readily available funds such as demand and money market accounts, local government investment pools (LGIPs), money market funds, or overnight repurchase agreements to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.

IX. SELECTION OF BANKS AND DEALERS

A. **Primary Depository** (*Chapter_105, Texas Local Government Code*)

At least every five (5) years a Depository shall be selected through the City's banking services procurement process, which shall include a formal request for application (RFA). The selection of a primary depository will be determined by competitive process and thorough evaluation that is most advantageous to the City, and will be generally based on the following selection criteria:

- The ability to qualify as a depository for public funds in accordance with state law.
- The ability to provide requested information or financial statements for the periods specified.
- The ability to meet all requirements in the primary depository RFA.
- Complete response to all required items on the application.
- Favorable net banking service cost/benefit, consistent with the ability to provide an appropriate level of service.
- The credit worthiness and financial stability of the bank.

The City reserves the right to place deposits with other financial institutions for diversification and investment purposes, or to utilize a service not reasonably available through the primary depository.

B. **Authorized Broker/Dealers** [*PFIA 2256.025]*

The City's Investment Committee shall, at least annually, review, revise, and adopt a list of qualified broker/dealers authorized to engage in securities transactions with the City. Those firms that request to become qualified broker/dealers for securities transactions will be required to provide information regarding creditworthiness, experience, and reputation.
Authorized firms may include primary dealers or non-primary dealers that qualify under Securities & Exchange Council Rule 15C3-1 (Uniform Net Capital Rule).

C. Competitive Environment

A competitive yield environment shall be achieved by soliciting quotes from multiple investment providers, monitoring comparable investment alternatives, and reviewing general market conditions.

When appropriate, bids or offers must be solicited for all individual security transactions. The City's investment advisor is also required to solicit bids or offers when transacting trades on the City's behalf. In the case of a certificate of deposit placement, competitive offers should provide a comparison. The quotes may be accepted orally, in writing, electronically, or any combination of these methods. These guidelines shall take into consideration the investment type, maturity date, amount, and potential disruptiveness to the City's investment strategy.

The Director of Finance shall develop and maintain procedures for ensuring competition in the investment of the City's funds.

D. **Delivery vs. Payment** [*PFIA 2256.005*(*b*)(*4*)(*E*)]

Securities shall be purchased using the **delivery verses payment** method of settlement. Funds will be released after the purchased security has been received.

E. **Business Organizations** [*PFIA 2256.005*(k-l)]

All investment pools and discretionary investment management firm (e.g. business organizations) must acknowledge that the business organization has received and reviewed the City's Investment Policy and that reasonable procedures and controls have been implemented to preclude investment transactions that are not authorized by the City's policy except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio, requires an interpretation of subjective investment standards, or relates to investment transactions of the City that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

X. SAFEKEEPING OF SECURITIES AND COLLATERAL

A. Safekeeping and Custodian Agreements (*Best Practice*)

The City shall contract with a financial institution for the safekeeping of securities owned by the City as part of its investment portfolio. Securities owned by the City shall be held in an account in the City’s name as evidenced by safekeeping receipts of the institution holding the securities.

Securities pledged as collateral for deposits will be held by a third-party custodian designated by the City and pledged to the City as evidenced by receipts of the institution with which the collateral is deposited. Original receipts shall be obtained. Collateral may be held by the depository institution’s trust department, a Federal Reserve Bank or branch of a Federal Reserve Bank, a Federal Home Loan Bank, or a third-party Custodian approved by the City.

B. Collateral Policy (*PFCA 2257.023*)

Consistent with the requirements of the Public Funds Collateral Act (“PFCA”), it is the policy of the City to require full collateralization of all City funds on deposit with a depository institution. Deposits secured with irrevocable letters of credit shall have 100% of principal plus anticipated interest of the deposit, less any amount insured by the FDIC. Deposits secured with pledged marketable securities shall have a market value equal to or greater than 102% of the principal plus accrued interest of the deposit, less any amount insured by the FDIC. All deposits shall be insured or collateralized in compliance with applicable State law. The City reserves the right, in its sole discretion, to accept or reject any form of insurance or collateralization pledged towards financial institution deposits. Financial institutions serving as City Depositories will be required to sign a depository agreement with the City.

Securities pledged as collateral shall be held by an independent third party with whom the City has a current custodial agreement. The Director of Finance is responsible for entering into collateralization agreements in compliance with this Policy. The agreements are to specify the acceptable investment securities for collateral, including provisions relating to possession of the collateral, the substitution or release of investment securities, ownership of securities, and the method of valuation of securities.

The custodial portion of the agreement shall define the City's rights to the collateral in case of default, bankruptcy, or closing, and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- the agreement must be in writing;
- the agreement must be executed by the depository and the City contemporaneously with the acquisition of the asset;

- the agreement must be approved by the board of directors or the loan committee of the depository and a copy of the meeting minutes must be delivered to the City, and
- the agreement must be part of the depository's "official record" continuously since its execution.

A clearly marked evidence of pledge (pledge receipt) must be supplied to the City and retained. Collateral shall be reviewed at least monthly to assure that the market value of the pledged securities is adequate.

C. Collateral Defined

The City shall accept only the following types of collateral:

1. Direct obligations of the United States of America or its agencies and instrumentalities.

2. Direct obligations of the state of Texas or its agencies and instrumentalities.

3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States of America, the underlying security for which is guaranteed by an agency or instrumentality of the United States of America.

4. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized rating firm not less than A or its equivalent with a remaining maturity of ten (10) years or less.

5. Federal Deposit Insurance Corporation (FDIC) Insurance Coverage.

6. A surety bond issued by an insurance company rated as to investment quality by a nationally recognized rating firm not less than A.

7. A letter of credit issued to the City by a Federal Home Loan Bank.

D. Subject to Audit

All collateral shall be subject to inspection and audit by the City or the City's independent auditors.

XI. PERFORMANCE

A. Performance Standards [*PFIA 2256.005*(*b*)(*4*)(C)]

The City's investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio shall be designed with the objective of obtaining a rate of return through budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow requirements of the City. Weighted average yield to maturity shall be the performance measurement standard.

B. Performance Benchmark (*Best Practice*)

It is the policy of the City to purchase investments with maturity dates coinciding with cash flow needs. Through this strategy, the City shall seek to optimize interest earnings utilizing allowable investments available on the market at that time. Market value will be calculated on a quarterly basis on all securities owned and compared to current book value. The City's portfolio shall be designed with the objective of regularly meeting or exceeding the average rate of return on U.S. Treasury Bills at a maturity level comparable to the City's weighted average maturity in days.

XII. REPORTING

The Investment Officers shall prepare an investment report on a quarterly basis that summarizes investment strategies employed in the most recent quarter, describes the portfolio in terms of investments and maturities, and shall explain the total investment return for the quarter.

The quarterly investment report shall include a summary statement of investment activity. This summary will be prepared in a manner that will allow the City to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will be provided to the Council. The report will include the following:

- A listing of individual investments held at the end of the reporting period.
- Unrealized gains or losses resulting from appreciation or depreciation by listing the beginning and ending book and market value of investments for the period.
- Additions and changes to the market value during the period.
- Average weighted yield to maturity of portfolio as compared to applicable benchmark.
- Listing of investments by maturity date.
- Fully accrued interest for the reporting period
- The percentage of the total portfolio that each type of investment represents.
- Statement of compliance of the City's investment portfolio with state law and the investment strategy and Policy approved by the Council.
- Signatures of the Investment Officers.

In conjunction with the annual audit, an independent auditor will perform a formal review of the quarterly reports with the results reported to the City Council [*PFIA 2256.023*(*d*)].

Monitoring [*PFIA 2256.005*(*b*)(*4*)(*D*)]

Market value of all securities in the portfolio will be determined on a quarterly basis. These values will be obtained from a reputable and independent source. The City shall monitor the rating of each issuer, as applicable, at least quarterly, and take all prudent measures that are consistent with this Policy to liquidate an investment that does not have the minimum rating.

XIII. INVESTMENT POLICY ADOPTION

The City's Investment Policy shall be adopted by resolution of the City Council. It is the City's intent to comply with state laws and regulations. The City's Investment Policy shall be subject to revisions consistent with changing laws, regulations, and needs of the City. The Council shall adopt a resolution stating that it has reviewed the Policy and investment strategies annually, approving any changes or modifications. [*PFIA 2256.005*(*e*)]

City Council Meeting

Date: September 3, 2024

Agenda Item: 5.B.

PRESENTER:

ITEM/SUBJECT: Consider a contract between The City of Nacogdoches and NewGen Strategies and Solutions, for the remaining tasks of the Utility Rate and Design Study Project. (Interim Director of Finance)

SUMMARY/BACKGROUND:

FINANCIAL:

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

CITY CONTACT: Todd Simoneaux, Interim Director of Finance
simoneauxt@nactx.us
(936) 559-2529

ATTACHMENTS: 1. NewGen Strategies Contract 24-10-136 - Utility Rate and Design Study

CITY OF NACOGDOCHES
GENERAL SERVICE CONTRACT

This General Service Contract is by and between the City of Nacogdoches, a Texas Home-Rule Municipal Corporation (the "City"), and NewGen Strategies and Solutions, LLC. (the "Contractor"), for the following work: Utility Rate and Design Study – Remaining Tasks as described in the Scope of Services attached as Exhibit "A".

ARTICLE I
PAYMENT AND TERM

1.1 Consideration. In consideration for the services performed in the Scope of Services and Contractor's completion of work in conformity with this Contract, the City shall pay the Contractor an amount not to exceed **Thirty Thousand and 00/100 Dollars** (**$30,000.00**). In no event shall payment under this contract exceed appropriations made by City Council.

1.2 Payment Application. Within **seven (7)** calendar days of completion of the services the Contractor will submit its payment application to the City.

1.3 City's Payment and Approval. The City will pay the Contractor as shown in **Exhibit "B"** Payment Schedule, for the services performed no later than **thirty (30)** calendar days from the date of the City's receipt of the payment application and the City's approval of the services.

1.4 Time is of the Essence. The Contractor must complete all the services described in the Scope of Services by the following date: 12/31/2024

1.5 Executed Contract. The "Notice to Proceed" will not be given nor shall any work commence until this Contract is fully executed and all exhibits and other attachments are completely executed and attached to the Contract.

ARTICLE II
CHANGE ORDERS

2.1 Changes will not be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid, except upon the prior written order from authorized personnel of the City. The Contractor will not execute change orders on behalf of the City or otherwise alter the financial scope of the services except in the event of a duly authorized change order approved by the City as provided in this Contract.

> **(a) City Manager Approval.** When the original Contract amount plus all change orders is $50,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more than $50,000. For such contracts, when a change order results in a total contract

amount that exceeds $50,000, the City Council of the City must approve such change order prior to commencement of the services or work; and

(b) City Council Approval. When the original contract amount plus all change orders is equal to or greater than $50,000, the City Manager or his designee may approve the written change order provided the change order does not exceed $50,000 and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds $50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work.

(c) Increase in Scope. Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in Article II of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.

(d) Dispute. If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

ARTICLE III
INDEPENDENT CONTRACTOR AND SUBCONTRACTORS

3.1 Independent Contractor. It is understood and agreed by the parties that the Contractor is an independent contractor retained for the services described in the Scope of Services. The City will not control the manner or the means of the Contractor's performance but shall be entitled to a work product as in the Scope of Services. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture.

3.2 Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with the 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. 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.

ARTICLE IV

INSURANCE

4.1 The Contractor shall procure and maintain, at its sole cost and expense for the duration of this Contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services performed by the Contractor, its officers, agents, volunteers, and employees.

4.2 The Contractor's insurance shall list the City of Nacogdoches, its officers, agents, volunteers, and employees as additional insureds. The Required Limits of Insurance are attached in **Exhibit "C"**. Certificates of insurance evidencing the required insurance policies are attached in **Exhibit "D"**.

ARTICLE V
INDEMNIFICATION AND RELEASE

5.1 Indemnification. The Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, volunteers, employees, representatives, contractors, assignees and/or designees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorneys' fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the Contractor under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party.

5.2 Release. The Contractor assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the City, its officers, agents, volunteers, 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 and any loss of or damage to any property that is caused by, 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 regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City, any other party released hereunder, the Contractor, or any third party.

5.3 Notice of Claims. If a claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Agreement, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and address of the claimant(s); the basis thereof; and the name of each person against whom such claim is asserted.

ARTICLE VI
GENERAL TERMS

6.1 Performance. Contractor, its employees, associates, or subcontractors shall perform all the services described in the Scope of Services, attached to and referenced herein as Exhibit A, in a professional manner and be fully qualified and competent to perform those services. Contractor shall undertake the work and complete it in a timely manner.

6.2 Termination. The City may terminate the Project and this Contract, at any time, for convenience. In the event of such termination the City will notify the Contractor in writing and the Contractor shall cease work immediately. Contractor shall be compensated for the services performed. Should the City terminate this Contract for convenience, the City shall pay Contractor for the services performed and expenses incurred before the date of termination.

6.3 Venue, Claims and Audit. (a) This Contract has been made under and shall be governed by the laws of the State of Texas.

(b) The parties agree that performance and all matters related thereto shall be in Nacogdoches County, Texas.

(c) Venue of any dispute will be in Nacogdoches County, Texas.

(d) The City, or if State funds are used to pay any part of this contract, the State Auditor, may conduct an audit or investigation of any entity receiving funds directly under this contract or indirectly through a subcontract under the contract. Acceptance of funds under the contract or through a subcontract under the contract acts as acceptance of the authority of the City or the State Auditor to conduct an audit or investigation. Contractor agrees to cooperate and must provide the City or State Auditor with access to any information the City or State Auditor considers relevant to the investigation or audit.

6.4 Amendment. This Contract may only be amended by a written instrument approved and executed by the parties.

6.5 Taxes. The City is exempt from payment of state and local sales and use taxes on labor and materials incorporated into the project. If necessary, it is the Contractor's responsibility to obtain a sales tax permit, resale certificate, and exemption certificate that shall enable the Contractor to buy any materials to be incorporated into the project and then resell the aforementioned materials to the City without paying the tax on the materials at the time of purchase.

6.6 Compliance with Laws. The Contractor will comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the following:

(a) Contractor shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations to the City.

(b) 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;

(c) 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;

6.7 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. By signature hereon affixed, the Contractor hereby certifies that:

6.7.1 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.

6.7.2 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.

6.7.1 **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.

6.7.2 **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:

6.7.3 **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 .

6.7.4 Convictions. Under Sections 2155.006, 2155.0061 and 2261.053 of the Texas Government Code, Respondent 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.

6.7.5 COVID Vaccinations. Respondent 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 Respondent's business.

6.7.6 Boycott. (a) To the extent this Contract is considered a Contract for goods or services subject to § 2270.002 Texas Government Code, Contractor verifies that it: i) does not boycott Israel; and ii) will not boycott Israel during the term of this Contract.

(b) To the extent this Contract has a value of $100,000 or more and Respondent 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, Respondent 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.*).

6.8 Waiver of Terms. No waiver or deferral by either party of any term or condition of this Contract shall be deemed or construed to be a waiver or deferral of any other term or condition or subsequent waiver or deferral of the same term or condition.

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

6.10 Invalid Provisions. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

6.11 Entire Agreement. This Contract represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

6.12 Agree to Terms. The parties state that they have read the terms and conditions of this Contract and agree to the terms and conditions contained in this Contract.

6.13 Effective Date. This Contract will be effective when it is signed by the last party making it fully executed.

6.14 Notice. Any official notice under this Contract will be sent to the following addresses:

City of Nacogdoches
Attn: City Manager
PO BOX 635030
202 East Pilar Street
Nacogdoches, TX 75961

NewGen Strategies and Solutions, LLC
Attn: Matthew Garrett
275 W. Campbell Rd, Suite 440
Richardson, TX 75080
mgarrett@newgenstrategies.net

6.15 Severability. In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and in lieu of each provision that is invalid, illegal or unenforceable, there shall be added a new provision to this Contract as similar in terms to such invalid, illegal, or unenforceable provision as may be possible and yet be valid, legal and enforceable, by means of good faith negotiation by the Parties to this Contract or by reform by a court of competent jurisdiction.

6.16 Duplicate Originals. The parties may execute this Contract in duplicate originals, each of equal dignity.

6.17 Exhibits. All exhibits to this Contract are incorporated and made part of this Agreement for all purposes.

List of Exhibits

- **A.** Scope of Services
- **B.** Payment Schedule
- **C.** Insurance Requirements
- **D.** Certificates of Insurance

NEWGEN STRATEGIES AND SOLUTIONS, LLC.	**CITY OF NACOGDOCHES**
By:______________________________	By:______________________________ City Manager
Printed Name:______________________	Date:____________
Title:______________________________	**APPROVED AS TO FORM:**
Date:______________________________	________________________________ City Attorney Date:____________

EXHIBIT A
SCOPE OF SERVICES

The terms and conditions of this Contract shall take precedence and control over any term or provision of the Scope of Services that in any way conflicts with, differs from, or attempts to alter the terms of this Contract.

		Garrett	QA/QC	Senior Manager	Analyst	Admin		
	Remaining Tasks Water/Wastewater	$315	$325	$225	$170	$120	Hours	Total
Task 1	Revenue Requirements						0	$ -
Task 2	Service Demand and Allocations						0	$ -
Task 3	Financing Plan for the Capital Improvement Plans						0	$ -
Task 4	Recommended Service Rates/Fees						0	$ -
Task 5	Benchmarking						0	$ -
Task 6	Effectiveness of Forecasting Methods and Models						0	$ -
Task 7	Reporting	2		6		2	10	$ 2,220
Task 8	Final Presentation	6					6	$ 1,890
	Labor Hours	8	0	6	0	2	16	
	Labor Cost	$2,520	$0	$1,350	$0	$240		
						Labor Subtotal		$ 4,110
						Out-of-Pocket Expenses		$ 745
						Total Proposed Budget		$ 4,855

		Garrett	QA/QC	Senior Manager	Analyst	Admin		
	Remaining Tasks Solid Waste	$315	$325	$230	$170	$120	Hours	Total
Task 1	Revenue Requirements	4		4	8		16	$ 3,520
Task 2	Service Demand and Allocations	4	2	6	16		28	$ 5,980
Task 3	Financing Plan for the Capital Improvement Plans	1		2	4		7	$ 1,445
Task 4	Recommended Service Rates/Fees	2	1	6	8		17	$ 3,665
Task 5	Benchmarking	1		1	2		4	$ 880
Task 6	Effectiveness of Forecasting Methods and Models	1	1	4	4		10	$ 2,220
Task 7	Reporting	2		4	4	2	12	$ 2,450
Task 8	Final Presentation	7	1	2	6	2	18	$ 4,240
	Labor Hours	22	5	29	52	4	112	
	Labor Cost	$6,930	$1,625	$6,670	$8,840	$480		
						Labor Subtotal		$ 24,400
						Out-of-Pocket Expenses		$ 745
						Total Proposed Budget		$ 25,145

EXHIBIT B
PAYMENT SCHEDULE

Payment is a fixed fee in the amount listed in Article II of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

EXHIBIT C
INSURANCE REQUIREMENTS

Throughout the term of this Agreement the Contractor must comply with the following:

I. Standard Insurance Policies Required:

- **A.** Commercial General Liability
- **B.** Business Automobile Liability
- **C.** Workers' Compensation

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 rated “A:VIII” or better under the current A. M. Best Key Rating Guide.

B. Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain

C. Limits of liability must be equal to or greater than $1,000,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of $2,000,000. Limits shall be endorsed to be per project.

D. No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted for the City's 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, and Personal & Advertising Liability.

IV. Business Automobile Liability

A. Business Automobile Liability insurance shall be written by a carrier rated "A:VIII" or better rating under the current A. M. Best Key Rating Guide.

B. Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain

C. Combined Single Limit of Liability not less than $1,000,000 per occurrence for bodily injury and property damage.

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 any autos, owned autos, leased or rented autos, non-owned autos, and hired autos.

V. Workers' Compensation Insurance

A. Workers compensation insurance shall include the following terms:

1. Employer's Liability minimum limits of liability not less than $500,000 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"

EXHIBIT D
CERTIFICATES OF INSURANCE

City Council Meeting

Date: September 3, 2024

Agenda Item: 5.C.

PRESENTER: Rhonda Lewis, City Secretary

ITEM/SUBJECT: Consider approval of minutes for the August 20, 2024, Regular City Council Meeting. (City Secretary)

SUMMARY/BACKGROUND:

FINANCIAL:
No financial impact associated with this item.

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

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

ATTACHMENTS: 1. City Council Meeting Minutes 08.20.24

Regular Session
Nacogdoches City Council
August 20, 2024 – 5:30 p.m.
City Council Chambers
202 E. Pilar Street, Nacogdoches, TX

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

1. Called to order at 5:30 p.m.

2. Pledge of Allegiance.

3. Open Forum:

There were no comments in Open Forum:

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

Item 5.E. was pulled from the Consent Agenda by the Interim Finance Director. This item will be presented to City Council on a future meeting date.

5. **CONSENT AGENDA:**

   A. Consider approval of an engineering contract by and between the City of Nacogdoches and Two Fifteen Consulting for Lanana Creek Bridge Utility Relocation for a not-to-exceed amount of $113,000.00.

   B. Consider approval of the purchase of a Bobcat Skid Steer from Bobcat of North Texas for the amount of $70,138.71.

   C. Consider approval and acceptance of the Little Reads Grant from Texas State Library and Archives Commission.

   D. Consider approval of TexSTAR Investment Pool as an Authorized Investment.

   E. Annual review and approval of the City's Investment Policy.

   F. Review and accept the Investment Report for the quarter ended June 30, 2024.

Councilman Huckaby moved to approve the remainder of the Consent Agenda. Councilman Maule duly seconded the motion and the Consent Agenda was approved unanimously.

6. **REGULAR AGENDA:**

   A. **Public Hearing:** Consider approval of a Specific Use Permit for Stone, Sand, Gravel & Mineral Extraction for approximately 3.3 acres on Lot 17-5, City Block 95, generally located on the west side of North West Stallings Drive approximately 350 feet north of the NW Stallings Drive and the West Austin Street Intersection. The applicant is currently using the property as a temporary dirt pit. This request has been submitted by Drewery Wheaton Investments, LLC. Case File SUP2024-05.

Interim City Planner, Juan Pollette, presented this item to Council stating that the owner of the property, Drewery Wheaton Investments, plans to level this property to the level of the roadway. A commercial building will be constructed as well, which will be in line with the current zoning district. Mr. Pollette stated that the surrounding areas are zoned B-2, and conduct similar businesses. He also stated that the Future Land Use designation is commercial and the request for this SUP will not change the current Land Uses. Mr. Pollette stated the Planning and Zoning staff sent five (5) notices to the property owner's and there were no attendees at the scheduled Neighborhood Meeting on June 25, 2024. On August 12, the Planning and Zoning Commission voted unanimously to approve the SUP.

Councilwoman Belanger asked what will happen after the expiration of the SUP. Mr. Pollette answered the property would go back to B-2, General Business.

Councilman Maule asked for clarification on the reference to “daylight hours”. Mr. Pollette stated that there is no specific time assigned to that term.

Councilman Huckaby also clarified that the reason the item is presented today, is due to a Code Enforcement violation brought to City Staff’s attention. Mr. Pollette stated that he was correct.

Councilman Huckaby moved to approve the Specific Use Permit with the recommendations as presented. Councilman Williams duly seconded the motion, and the motion carried unanimously.

B. Public Hearing: Consider approval of a Zone Change from B-2, General Business District to B-3, Central Business District for approximately .17 acres for Lot 13, City Block 3, located at 216 North Church Street. This request has been submitted by Grace Garrigan. Case File ZON2024-02.

Interim City Planner, Juan Pollette, stated that the applicant plans to convert the home to an indoor/outdoor bar with food service in the backyard that will accommodate a food service truck. Mr. Pollette clarified the difference in B-2, and B-3, including restrictions and parking requirements. He explained the concerns of the surrounding property owners.

Mayor Johnson asked if Ms. Garrigan can still open her business without changing the zoning to B-3. Mr. Pollette stated that Ms. Garrigan can still open her business and remain B-2; however, she must maintain her existing shared parking agreement under B-2. B-3 zoning does not require a shared parking agreement.

Councilwoman Belanger asked for clarification on the super-majority vote requirements. Mr. Pollette explained that 4 out 5 votes are needed to approve the zone change. Councilwoman Belanger also asked

Several attendees, including the applicant, spoke in agreement and opposition of this item. Their names appear below:

Applicant: Grace Garrigan, **and guests in support of the Item**: John Quinn; Eric Cline, M.D.; Richard Orton; Callie Childress; Hunter Sowards; Juan Lopez; Walt Postlewait; Michael Stedum; Debbie Wayland; Brigette Kozash; Anne Keehnen; Maggie Forbes; Laurie McDuffy; Mitch Mitchell

Those in opposition of the Item: Connie Haley; Mr. Jackson; Sarah Jackson; Clayton Haley

Mayor Johnson closed the Public Hearing and opened the meeting to discussion amongst Council.

Mayor Johnson commented that the application for the zone changed had nothing to do with character, but rather parking issues within the City. He stated that the applicant is able to open her business, and be successful, whether the zoning is B-2 or B-3.

Councilman Maule stated that Staff and Council are scheduled to meet on August 22, regarding zoning and zoning guidelines. He also stated that the noise of food preparation are things that are questioned by surrounding residents.

Councilman Huckaby stated that the meeting is about the interpretation of the zoning ordinances, to date. He also stated that he does not think that the current B-2 zoning may not be the best to protect the surrounding areas.

Councilman Williams is in favor of the zone change, as the surrounding areas are zoned B-3, and should be consistent with those businesses and homes in the area.

Councilwoman Belanger stated that the requirements of parking in the area is an influential topic in her decision. She also asked that in one year, that Council should review the item and the impact of the results.

Councilman Maule made a motion to deny the application, Mayor Johnson duly seconded the motion to deny.

Council gained clarification from the City Attorney regarding a supermajority vote.

Councilman Huckaby made a motion to approve Item 6.B. as presented, Councilman Williams duly seconded the motion, and the motion failed to pass by a supermajority vote of 3-2.

City Council took a five-minute break.

Council returned from the short break.

C. Presentation and consideration of the proposed 2024-2025 Budget.

Todd Simoneaux, Interim Director of Finance, recapped with Council on the FY2024-25 Budget. He stated the City addressed several priorities and challenges with this budget proposal.

D. City Council record vote on Proposed Tax Rate for the 2024-2025 fiscal year.

Todd Simoneaux, Interim Director of Finance, stated that since the proposed tax rate is greater than the no new revenue rated, state law requires that City Council is required to take a record vote that will be included in a newspaper advertisement announcing the date and time of a public hearing on September 17, 2024. The vote is called to approve a proposed tax rate being 0.52877 per $100 of assessed value.

Councilwoman Belanger made a motion to approve the proposed tax rate presented, Councilman Maule duly seconded the motion. The motion was approved unanimously for the proposed tax rate.

E. 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

Todd Simoneaux, Interim Director of Finance, stated that in FY2022 the City ordered 3 sanitation trucks, which the City did not receive in that year because of the supply chain. The trucks, which were later received, were returned because they were not up to specification. A budget amendment is requested of Council for the specified trucks in FY2024.

Councilwoman Belanger moved to amend Ordinance number 1978-09-23 as outlined in Item 6.E. Councilman Maule duly seconded the motion, and the motion carried with a unanimous vote.

Councilman Huckaby made a motion to approve Item 6.B as presented. Councilman Maule duly seconded the motion, and the motion carried unanimously.

7. **ADJOURNED:** 7:36 p.m.

Mayor, Randy Johnson
City Council
City of Nacogdoches

ATTEST:

Rhonda Lewis, City Secretary

Nacogdoches
the oldest town in Texas

City Council Meeting

Date: September 3, 2024

Agenda Item: 6.A.

PRESENTER: Bonita Hall, Director of Human Resources

ITEM/SUBJECT: Consider contract options between the City of Nacogdoches and AquaMetric for meter replacement/installation project. (Human Resources Director)

SUMMARY/BACKGROUND: The Utility Billing/Customer Service Department is requesting the City Council to consider a mass meter change out of any water meter and meter transmitters that are 10 years or older in our Automated Meter Infrastructure. The AMI system was installed in 2008 with an anticipated life of 20 years. It is now 16 years old.

FINANCIAL:
Todd Simoneaux, Interim Finance Director, says the budget shows $4,772,000 set aside for this project. Single year install option is $4,674,368.52

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

CITY CONTACT: Bonita Hall, Human Resources Director
hall@nactx.us
(936) 559-2565

ATTACHMENTS: 1. Q Meter Exchange Options 08-23-2024

Aqua Metric

Aqua-Metric Sales Company
16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154
Phone: (210) 967-6300 | Facsimile: (210) 967-6305

August 23, 2024

Client: City of Nacogdoches, TX
Attention: BD Rambin
Address
City, State, Zip:
Phone: (936) 559-2594
Email: rambinb@nactx.us

Line No.	Item	Quantity	Unit	Extended
Complete Meter Replacement				
Product				
	5/8" x 3/4" SRII Meter TR/PL USG	10,639	$131.00	$1,393,709.00
	1" SRII Meter TR/PL USG	707	$228.88	$161,818.16
	1 1/2" OMNI R2 Meter TR/PL USG	304	$506.46	$153,963.84
	2" OMNI R2 Meter TR/PL USG	285	$710.60	$202,521.00
	2" OMNI T2 Turbo Meter TR/PL USG (Meter for 4" Downsize)	1	$942.24	$942.24
	3" OMNI C2 Compound Meter TR/PL USG	7	$1,696.51	$11,875.57
	3" OMNI T2 Turbo Meter TR/PL USG	1	$1,174.19	$1,174.19
	4" OMNI C2 Compound Meter TR/PL USG	22	$2,946.56	$64,824.32
	4" OMNI T2 Turbo Meter TR/PL USG	8	$2,285.88	$18,287.04
	6" OMNI C2 Compound Meter TR/PL USG	14	$5,089.51	$71,253.14
	6" OMNI T2 Turbo Meter TR/PL USG	4	$4,115.36	$16,461.44
	8" OMNI T2 Turbo Meter TR/PL USG	1	$6,984.03	$6,984.03
	10" OMNI T2 Turbo Meter TR/PL USG	2	$9,105.76	$18,211.52
	520M Single Port SmartPoint Radio Transmitter	8,190	$112.50	$921,375.00
	520M Dual Port SmartPoint Radio Transmitter	1,500	$163.75	$245,625.00
Product Installation Services				
	Field Deployment Management, Monthly Fee	16	$10,000.00	$160,000.00
	Mobilization Fee	1	$37,500.00	$37,500.00
	NovusCenter WOMS Setup Fee	1	$8,996.26	$8,996.26
	NovusCenter WOMS Work Order Fee	11,995	$2.25	$26,988.75
	NovusCenter WOMS Data Quality Review Fee	11,995	$3.00	$35,985.00
	Commercial Meter Survey for 3" and Larger Meters, to be Performed Prior to Meter Exchange	59	$118.75	$7,006.25
	NovusCenter WOMS Work Order Fee for Meter Survey	59	$2.25	$132.75
	5/8" x 3/4" Water Meter Exchange with SmartPoint Installation and Activation	10,639	$57.50	$611,742.50
	1" Water Meter Exchange with SmartPoint Installation and Activation	707	$57.50	$40,652.50
	1 1/2" Water Meter Exchange with SmartPoint Installation and Activation	304	$312.50	$95,000.00
	2" Water Meter Exchange with SmartPoint Installation and Activation	284	$348.68	$99,025.12
	2" Water Meter Exchange with SmartPoint Installation and Activation Resizing Services 4" to 2" Meter Exchange, Labor Only	2	$687.50	$1,375.00
	3" Water Meter Exchange with SmartPoint Installation and Activation	8	$926.67	$7,413.36
	4" Water Meter Exchange with SmartPoint Installation and Activation	30	$1,300.00	$39,000.00
	6" Water Meter Exchange with SmartPoint Installation and Activation	18	$1,973.33	$35,519.94
	8" Water Meter Exchange with SmartPoint Installation and Activation	1	$2,666.67	$2,666.67
	10" Water Meter Exchange with SmartPoint Installation and Activation	1	$3,433.33	$3,433.33
	10" Water Meter Exchange with SmartPoint Installation and Activation Resizing Services 12" to 10" Meter Exchange, Labor Only	1	$3,733.33	$3,733.33
	Add-On: Residential (5/8" - 1") Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only, Estimated Quantity	1,135	$62.50	$70,937.50
	Add-On: Residential 1 1/2" - 2" Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only, Estimated Quantity	59	$118.75	$7,006.25
	Add-On: Clean Out Excessive Dirt from Meter Box, Estimated Quantity	1,194	$13.33	$15,916.02
	Add-On: Clean Out Excessive Dirt from Meter Vault, Estimated Quantity	5	$62.50	$312.50
	Recommended Contingency Fund for Installation Incidentals	1	$75,000.00	$75,000.00
	Installation Incidental: Lid Modification - Drill Hole in Plastic Meter Box Lid		$7.50	
	Installation Incidental: Lid Modification - Drill Hole in Metal Meter Box Lid		$25.00	
	Installation Incidental: SmartPoint Installation and Activation Only on Existing Sensus Residential Meter, Labor Only		$52.50	

Aqua-Metric Sales Company
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Phone: (210) 967-6300 | Facsimile: (210) 967-6305

August 23, 2024

Client: City of Nacogdoches, TX
Attention: BD Rambin
Address
City, State, Zip:
Phone: (936) 559-2594
Email: rambinb@nactx.us

Line No.	Item	Quantity	Unit	Extended
	Installation Incidental: Water Meter Register Reprogramming of Existing Sensus Register, Labor Only		$12.50	
	Installation Incidental: Water Meter Register Replacement on Existing Sensus Residential Meter, Labor Only		$56.25	
	Installation Incidental: Water Meter Register Replacement on Existing Sensus Commercial Meter, Labor Only		$118.75	
	Installation Incidental: 5/8" - 1" Curb Stop Replacement, Labor Only		$150.00	
	Installation Incidental: 5/8" - 1" Meter Tail Replacement, Labor Only		$56.25	
	Installation Incidental: Meter Box Lid Replacement, Labor Only		$8.00	
	Installation Incidental: Replacement of Removal of Busing Adapter (5/8" - 1"), Labor Only		$8.13	
	Installation Incidental: 5/8" - 1" Meter Resetter / Riser Installation, Labor Only		$52.50	
	Installation Incidental: Site Visit Fee		$43.75	
	Installation Incidental: Special Job Hourly Rate, Price per Technician per Hour		$150.00	
	Installation Incidental: Daily Rate, Price per Technician per Day.		$1,125.00	
	Performance and Payment Bond			To Be Determined

This quote for the product and services named above is subject to the following terms:

1. All quotes are subject to the Aqua-Metric Terms of Sale unless there is an executed agreement between the parties. Terms of Sale can be found online at www.aqua-metric.com
2. Quote is valid for thirty days.
3. If modifications in materials, labor, or processing are required to meet new regulations, the pricing submitted herein is subject to immediate change.
4. Freight allowed on single Sensus Product orders exceeding $80,000.00.
5. Net Thirty Days to Pay
6. Returned product may be subject to a 25% restocking fee.
7. Sales Tax and/or Freight charges are not included.

Total: **$4,674,368.52**

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Email: rambinb@nactx.us

Line No.	Item	Quantity	Unit	Extended
Phased Replacement Year One				
Product				
	5/8" x 3/4" SRII Meter TR/PL USG	3,547	$131.00	$464,657.00
	1" SRII Meter TR/PL USG	236	$228.88	$54,015.68
	1 1/2" OMNI R2 Meter TR/PL USG	102	$506.46	$51,658.92
	2" OMNI R2 Meter TR/PL USG	95	$710.60	$67,507.00
	2" OMNI T2 Turbo Meter TR/PL USG (Meter for 4" Downsize)	1	$942.24	$942.24
	3" OMNI C2 Compound Meter TR/PL USG	7	$1,696.51	$11,875.57
	3" OMNI T2 Turbo Meter TR/PL USG	1	$1,174.19	$1,174.19
	4" OMNI C2 Compound Meter TR/PL USG	22	$2,946.56	$64,824.32
	4" OMNI T2 Turbo Meter TR/PL USG	8	$2,285.88	$18,287.04
	6" OMNI C2 Compound Meter TR/PL USG	14	$5,089.51	$71,253.14
	6" OMNI T2 Turbo Meter TR/PL USG	4	$4,115.36	$16,461.44
	8" OMNI T2 Turbo Meter TR/PL USG	1	$6,984.03	$6,984.03
	10" OMNI T2 Turbo Meter TR/PL USG	2	$9,105.76	$18,211.52
	520M Single Port SmartPoint Radio Transmitter	2,730	$112.50	$307,125.00
	520M Dual Port SmartPoint Radio Transmitter	500	$163.75	$81,875.00
Product Installation Services				
	Field Deployment Management, Monthly Fee	6	$10,000.00	$60,000.00
	Mobilization Fee	1	$37,500.00	$37,500.00
	NovusCenter WOMS Setup Fee	1	$7,500.00	$7,500.00
	NovusCenter WOMS Work Order Fee	4,040	$2.25	$9,090.00
	NovusCenter WOMS Data Quality Review Fee	4,040	$3.00	$12,120.00
	Commercial Meter Survey for 3" and Larger Meters, to be Performed Prior to Meter Exchange	59	$118.75	$7,006.25
	NovusCenter WOMS Work Order Fee for Meter Survey	59	$2.25	$132.75
	5/8" x 3/4" Water Meter Exchange with SmartPoint Installation and Activation	3,547	$57.50	$203,952.50
	1" Water Meter Exchange with SmartPoint Installation and Activation	236	$57.50	$13,570.00
	1 1/2" Water Meter Exchange with SmartPoint Installation and Activation	102	$312.50	$31,875.00
	2" Water Meter Exchange with SmartPoint Installation and Activation	94	$348.68	$32,775.92
	2" Water Meter Exchange with SmartPoint Installation and Activation Resizing Services 4" to 2" Meter Exchange, Labor Only	2	$687.50	$1,375.00
	3" Water Meter Exchange with SmartPoint Installation and Activation	8	$926.67	$7,413.36
	4" Water Meter Exchange with SmartPoint Installation and Activation	30	$1,300.00	$39,000.00
	6" Water Meter Exchange with SmartPoint Installation and Activation	18	$1,973.33	$35,519.94
	8" Water Meter Exchange with SmartPoint Installation and Activation	1	$2,666.67	$2,666.67
	10" Water Meter Exchange with SmartPoint Installation and Activation	1	$3,433.33	$3,433.33
	10" Water Meter Exchange with SmartPoint Installation and Activation Resizing Services 12" to 10" Meter Exchange, Labor Only	1	$3,733.33	$3,733.33
	Add-On: Residential (5/8" - 1") Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only, Estimated Quantity	378	$62.50	$23,625.00
	Add-On: Residential 1 1/2" - 2" Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only, Estimated Quantity	20	$118.75	$2,375.00
	Add-On: Clean Out Excessive Dirt from Meter Box, Estimated Quantity	398	$13.33	$5,305.34
	Add-On: Clean Out Excessive Dirt from Meter Vault, Estimated Quantity	5	$62.50	$312.50
	Recommended Contingency Fund for Installation Incidentals	1	$25,000.00	$25,000.00
	Installation Incidental: Lid Modification - Drill Hole in Plastic Meter Box Lid		$7.50	
	Installation Incidental: Lid Modification - Drill Hole in Metal Meter Box Lid		$25.00	
	Installation Incidental: SmartPoint Installation and Activation Only on Existing Sensus Residential Meter, Labor Only		$52.50	

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August 23, 2024

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Attention: BD Rambin
Address
City, State, Zip:
Phone: (936) 559-2594
Email: rambinb@nactx.us

Line No.	Item	Quantity	Unit	Extended
	Installation Incidental: Water Meter Register Reprogramming of Existing Sensus Register, Labor Only		$12.50	
	Installation Incidental: Water Meter Register Replacement on Existing Sensus Residential Meter, Labor Only		$56.25	
	Installation Incidental: Water Meter Register Replacement on Existing Sensus Commercial Meter, Labor Only		$118.75	
	Installation Incidental: 5/8" - 1" Curb Stop Replacement, Labor Only		$150.00	
	Installation Incidental: 5/8" - 1" Meter Tail Replacement, Labor Only		$56.25	
	Installation Incidental: Meter Box Lid Replacement, Labor Only		$8.00	
	Installation Incidental: Replacement of Removal of Busing Adapter (5/8" - 1"), Labor Only		$8.13	
	Installation Incidental: 5/8" - 1" Meter Resetter / Riser Installation, Labor Only		$52.50	
	Installation Incidental: Site Visit Fee		$43.75	
	Installation Incidental: Special Job Hourly Rate, Price per Technician per Hour		$150.00	
	Installation Incidental: Daily Rate, Price per Technician per Day.		$1,125.00	
	Performance and Payment Bond			To Be Determined

This quote for the product and services named above is subject to the following terms:

1. All quotes are subject to the Aqua-Metric Terms of Sale unless there is an executed agreement between the parties. Terms of Sale can be found online at www.aqua-metric.com
2. Quote is valid for thirty days.
3. If modifications in materials, labor, or processing are required to meet new regulations, the pricing submitted herein is subject to immediate (
4. Freight allowed on single Sensus Product orders exceeding $80,000.00.
5. Net Thirty Days to Pay
6. Returned product may be subject to a 25% restocking fee.
7. Sales Tax and/or Freight charges are not included.
8. Year 2 & 3 Product Pricing Reflects An Estimated 6% Annual Increase.
9. Year 2 & 3 Labor Pricing Reflects An Estimated 6% Annual Increase.

Year One Subtotal:	**$1,802,133.98**
Year Two Subtotal:	**$1,539,699.07**
Year Three Subtotal:	**$1,625,872.92**
Three Year Total:	**$4,967,705.97**

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Email: rambinb@nactx.us

Line No.	Item	Quantity	Unit	Extended
Phased Replacement Year Two				
Product				
	5/8" x 3/4" SRII Meter TR/PL USG	3,546	$138.86	$492,397.56
	1" SRII Meter TR/PL USG	236	$242.61	$57,255.96
	1 1/2" OMNI R2 Meter TR/PL USG	101	$536.85	$54,221.85
	2" OMNI R2 Meter TR/PL USG	95	$753.24	$71,557.80
	520M Single Port SmartPoint Radio Transmitter	2,730	$119.25	$325,552.50
	520M Dual Port SmartPoint Radio Transmitter	500	$173.58	$86,790.00
Product Installation Services				
	Field Deployment Management, Monthly Fee	5	$10,000.00	$50,000.00
	Mobilization Fee	1	$18,750.00	$18,750.00
	NovusCenter WOMS Setup Fee	1	$3,750.00	$3,750.00
	NovusCenter WOMS Work Order Fee	3,978	$2.39	$9,507.42
	NovusCenter WOMS Data Quality Review Fee	3,978	$3.18	$12,650.04
	5/8" x 3/4" Water Meter Exchange with SmartPoint Installation and Activation	3,546	$60.95	$216,128.70
	1" Water Meter Exchange with SmartPoint Installation and Activation	236	$60.95	$14,384.20
	1 1/2" Water Meter Exchange with SmartPoint Installation and Activation	101	$331.25	$33,456.25
	2" Water Meter Exchange with SmartPoint Installation and Activation	95	$369.61	$35,112.95
	Add-On: Residential (5/8" - 1") Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only, Estimated Quantity	378	$66.25	$25,042.50
	Add-On: Residential 1 1/2" - 2" Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only, Estimated Quantity	20	$125.88	$2,517.60
	Add-On: Clean Out Excessive Dirt from Meter Box, Estimated Quantity	398	$14.13	$5,623.74
	Recommended Contingency Fund for Installation Incidentals	1	$25,000.00	$25,000.00
	Installation Incidental: Lid Modification - Drill Hole in Plastic Meter Box Lid		$7.95	
	Installation Incidental: Lid Modification - Drill Hole in Metal Meter Box Lid		$26.50	
	Installation Incidental: Clean Out Excessive Dirt from Meter Vault		$66.25	
	Installation Incidental: SmartPoint Installation and Activation Only on Existing Sensus Residential Meter, Labor Only		$55.65	
	Installation Incidental: Water Meter Register Reprogramming of Existing Sensus Register, Labor Only		$13.25	
	Installation Incidental: Water Meter Register Replacement on Existing Sensus Residential Meter, Labor Only		$59.63	
	Installation Incidental: Water Meter Register Replacement on Existing Sensus Commercial Meter, Labor Only		$125.88	
	Installation Incidental: 5/8" - 1" Curb Stop Replacement, Labor Only		$159.00	
	Installation Incidental: 5/8" - 1" Meter Tail Replacement, Labor Only		$59.63	
	Installation Incidental: Meter Box Lid Replacement, Labor Only		$8.48	
	Installation Incidental: Replacement of Removal of Busing Adapter (5/8" - 1"), Labor Only		$8.62	
	Installation Incidental: 5/8" - 1" Meter Resetter / Riser Installation, Labor Only		$55.65	
	Installation Incidental: Site Visit Fee		$46.38	
	Installation Incidental: Special Job Hourly Rate, Price per Technician per Hour		$159.00	
	Installation Incidental: Daily Rate, Price per Technician per Day.		$1,192.50	
	Performance and Payment Bond			To Be Determined

This quote for the product and services named above is subject to the following terms:
1. All quotes are subject to the Aqua-Metric Terms of Sale unless there is an executed agreement between the parties.
2. Quote is valid for thirty days.
3. If modifications in materials, labor, or processing are required to meet new regulations, the pricing submitted herein is subject to immediate change.

Total: **$1,539,699.07**

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Line No.	Item	Quantity	Unit	Extended

4. Freight allowed on single Sensus Product orders exceeding $80,000.00.
5. Net Thirty Days to Pay
6. Returned product may be subject to a 25% restocking fee.
7. Sales Tax and/or Freight charges are not included.
8. Year 2 & 3 Product Pricing Reflects An Estimated 6% Annual Increase.
9. Year 2 & 3 Labor Pricing Reflects An Estimated 6% Annual Increase.

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Line No.	Item	Quantity	Unit	Extended
Phased Replacement Year Three				
Product				
	5/8" x 3/4" SRII Meter TR/PL USG	3,546	$147.19	$521,935.74
	1" SRII Meter TR/PL USG	235	$257.18	$60,437.30
	1 1/2" OMNI R2 Meter TR/PL USG	101	$569.06	$57,475.06
	2" OMNI R2 Meter TR/PL USG	95	$798.44	$75,851.80
	520M Single Port SmartPoint Radio Transmitter	2,730	$126.41	$345,099.30
	520M Dual Port SmartPoint Radio Transmitter	500	$183.99	$91,995.00
Product Installation Services				
	Field Deployment Management, Monthly Fee	5	$10,000.00	$50,000.00
	Mobilization Fee	1	$18,750.00	$18,750.00
	NovusCenter WOMS Setup Fee	1	$3,750.00	$3,750.00
	NovusCenter WOMS Work Order Fee	3,977	$2.53	$10,061.81
	NovusCenter WOMS Data Quality Review Fee	3,977	$3.36	$13,362.72
	5/8" x 3/4" Water Meter Exchange with SmartPoint Installation and Activation	3,546	$64.61	$229,107.06
	1" Water Meter Exchange with SmartPoint Installation and Activation	235	$64.61	$15,183.35
	1 1/2" Water Meter Exchange with SmartPoint Installation and Activation	101	$351.12	$35,463.12
	2" Water Meter Exchange with SmartPoint Installation and Activation	95	$391.78	$37,219.10
	Add-On: Residential (5/8" - 1") Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only, Estimated Quantity	378	$70.23	$26,546.94
	Add-On: Residential 1 1/2" - 2" Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only, Estimated Quantity	20	$133.43	$2,668.60
	Add-On: Clean Out Excessive Dirt from Meter Box, Estimated Quantity	398	$14.99	$5,966.02
	Recommended Contingency Fund for Installation Incidentals	1	$25,000.00	$25,000.00
	Installation Incidental: Lid Modification - Drill Hole in Plastic Meter Box Lid		$8.43	
	Installation Incidental: Lid Modification - Drill Hole in Metal Meter Box Lid		$28.09	
	Installation Incidental: Clean Out Excessive Dirt from Meter Vault		$70.23	
	Installation Incidental: SmartPoint Installation and Activation Only on Existing Sensus Residential Meter, Labor Only		$58.99	
	Installation Incidental: Water Meter Register Reprogramming of Existing Sensus Register, Labor Only		$14.05	
	Installation Incidental: Water Meter Register Replacement on Existing Sensus Residential Meter, Labor Only		$63.20	
	Installation Incidental: Water Meter Register Replacement on Existing Sensus Commercial Meter, Labor Only		$133.43	
	Installation Incidental: 5/8" - 1" Curb Stop Replacement, Labor Only		$168.54	
	Installation Incidental: 5/8" - 1" Meter Tail Replacement, Labor Only		$63.20	
	Installation Incidental: Meter Box Lid Replacement, Labor Only		$8.99	
	Installation Incidental: Replacement of Removal of Busing Adapter (5/8" - 1"), Labor Only		$9.13	
	Installation Incidental: 5/8" - 1" Meter Resetter / Riser Installation, Labor Only		$58.99	
	Installation Incidental: Site Visit Fee		$49.16	
	Installation Incidental: Special Job Hourly Rate, Price per Technician per Hour		$168.54	
	Installation Incidental: Daily Rate, Price per Technician per Day.		$1,264.05	
	Performance and Payment Bond			To Be Determined

This quote for the product and services named above is subject to the following terms:

1. All quotes are subject to the Aqua-Metric Terms of Sale unless there is an executed agreement between the parties.
2. Quote is valid for thirty days.
3. If modifications in materials, labor, or processing are required to meet new regulations, the pricing submitted herein is subject to immediate change.

Total: **$1,625,872.92**

Aqua-Metric Sales Company
16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154
Phone: (210) 967-6300 | Facsimile: (210) 967-6305

August 23, 2024

Client: City of Nacogdoches, TX
Attention: BD Rambin
Address
City, State, Zip:
Phone: (936) 559-2594
Email: rambinb@nactx.us

Line No.	Item	Quantity	Unit	Extended

4. Freight allowed on single Sensus Product orders exceeding $80,000.00.
5. Net Thirty Days to Pay
6. Returned product may be subject to a 25% restocking fee.
7. Sales Tax and/or Freight charges are not included.
8. Year 2 & 3 Product Pricing Reflects An Estimated 6% Annual Increase.
9. Year 2 & 3 Labor Pricing Reflects An Estimated 6% Annual Increase.

Aqua Metric
16914 Alamo Parkway, Bldg. 2, Selma, TX 78154
Phone: (210) 967-6300 Fax: (210) 967-6305

August 23, 2024

Project Clarifications

1. All quotes are subject to the Aqua-Metric Terms of Sale unless there is an executed agreement between the parties. Terms of Sale can be found online at www.aqua-metric.com
2. Quote is valid for 30 days.
3. If modifications in materials, labor, or processing are required to meet new regulations, the pricing submitted herein is subject to immediate change.
4. Freight allowed on single orders exceeding $80,000.00. All non-Sensus and/or non-water products are subject to additional freight charges (i.e., Juniper devices, meter boxes and lids, etc.).
5. Net Thirty Days to Pay.
6. Returned product subject to a 25% restocking fee for Sensus product. Due to their custom configuration and build, all electric meter sales are final. All non-Sensus product subject to their specific manufacturer's published return policy.
7. Sales tax and/or freight charges are not included.
8. Field Deployment Management total cost subject to change based on the actual number of months required to complete the project.
9. Standard meter installation pricing shall encompass like-for-like meter exchange. Pricing is for labor only and not inclusive of any special parts or materials necessary to facilitate a successful exchange. Aqua-Metric will furnish nuts, bolts, and gaskets as necessary to replace each meter. City will be responsible for supplying any additional materials including but not limited to meter boxes, meter box lids, curb stops, meter couplings, meter riser/resetter, etc.; however Aqua-Metric can supply any additional materials at cost plus fifteen percent. An installation scope of work will be drafted upon request. Pricing is subject to change based on revisions or modifications requested by the City.
10. Meter surveys are highly recommended prior to purchase of large metering product. Restocking fees and/or additional installation fees will apply for all returned or incorrectly purchased metering product.
11. Pricing does not include staging services, product storage, trash/recycling receptacles, or consumer outreach program.
12. Performance and Payment Bond not included.
13. Pricing does not reflect utilization of Buy-Board. Pricing does not reflect Prevailing Wage Rates.
14. Any items beyond quote above subject to price negotiations.

1. DEFINITIONS. “Customer” means the party purchasing goods or services pursuant to these Terms of Sale (“Terms”). “Aqua-Metric” means Aqua-Metric Sales Company, a subsidiary of Thirkettle Corporation. “Deliverables” and "Products" means the goods and/or services sold or otherwise provided pursuant to this Agreement. "Manufacturer" refers to Sensus Inc. unless otherwise stated. Software licenses are provided solely through a separate software license agreement.
2. CONTRACT OF SALE. All Deliverables offered for sale are subject to the prices and other terms specified in (i) an applicable Aqua-Metric quotation or proposal and (ii) the Terms defined herein (collectively, the “Proposal”), all of which are subject to the correction of clerical errors. A Customer’s purchase order or similar writing shall constitute an acceptance of the offer to sell; however, any inconsistent, additional or different terms to the Proposal contained in a Customer’s request for quotation or purchase order (collectively, “Additional Terms”) are hereby objected to and rejected by Aqua-Metric. Such Additional Terms will not become part of the contract of sale unless accepted by Aqua-Metric in a writing.
3. PROPOSALS AND QUOTATIONS. Proposals and quotations are inclusive of only the Deliverables included in a formal Aqua-Metric quotation form. Proposals and quotations will remain valid for a period of thirty (30) days unless otherwise noted. All pricing is subject to changes based on the manufacturer’s suggested retail price. Aqua-Metric reserves the right to apply a price adjustment to all quotes or orders received and not delivered to the Customer as a result of economic price increase or decrease in cost of raw materials, labor, or transport at the time imposed by Aqua-Metric’s suppliers. Any incidental product, materials, and/or labor required but not included will be subject to additional costs to the Customer. AQUA-METRIC MAKES NO GUARANTEE, EITHER EXPRESSED OR IMPLIED, THAT PROPOSAL OR QUOTED PRICING IS ALL INCLUSIVE.
4. INVOICES. Unless otherwise agreed upon in writing between Aqua-Metric and Customer, Aqua-Metric shall invoice Customer for 1) product(s) shipped within fifteen (15) days of shipment; 2) software within fifteen (15) after successful installation of software on Customer owned device(s); 3) implementation and support services within fifteen (15) days of completion of service; or 4) annual subscription services as defined in Section 6 within fifteen (15) days of successful installation and not less than thirty (30) days in advance of subscription anniversary date.
5. ANNUAL SUBSCRIPTION SERVICES. Annual Subscriptions Services are defined as recurring fees or cost of services required to operate, maintain, or support Customer’s product and/or software; including but not limited to Aqua-Metric Annual Support, Software-as-a-Service, Server/Data Hosting, or any fee requiring a recurring commitment. Unless otherwise agreed upon in writhing between Aqua-Metric and Customer, annual subscription services will automatically renew upon the anniversary date of the first invoice containing annual subscription services and each subsequent year annually thereafter unless canceled by Customer in writing prior to sixty (60) days of subscription renewal. Annual subscription services will be subject to an automatic annual increase of three percent (3%) of the previous installment.
6. TAXES. All prices quoted are exclusive of federal, state and municipal taxes. Customer shall be liable for all sales, use, and other taxes (whether local, state or federal) imposed on this Agreement or on the Deliverables. If Customer is exempt from tax, Customer is required to provide a tax exemption form prior to invoicing.
7. PAYMENT TERMS. Customer shall pay all undisputed invoices in US Dollars within thirty (30) days of the invoice date. Aqua-Metric reserves the right to establish credit limits for Customer and may require full or partial payment prior to provisioning of any Deliverables. All payments shall be made via credit card (VISA or MasterCard), check or electronic payment according to instructions provided by Aqua-Metric. The Customer must notify Aqua-Metric, in writing, within seven (7) days of receipt of an invoice if the Customer disputes such invoice. In the absence of such notice the Customer shall not be entitled to dispute an invoice. Save for any invoices disputed in good faith in accordance with the previous sentence, if the Customer does not pay within the time allotted in this Agreement, the amount due shall bear interest at the lower of (i) one percent (1%) per calendar day past due; or (ii) the highest rate permitted by applicable law. Should Customer become delinquent in payment of sums due hereunder, Aqua-Metric shall not be obligated to continue performance.
8. TITLE. Unless agreed upon in writing between Aqua-Metric and Customer, Customer shall assume title of deliverables from the date and time of product(s) shipment.
9. PACKAGING. Aqua-Metric reserves the right to select the manner in which Deliverables are packaged. Quoted prices include standard packaging. Special requirements for packaging will be subject to additional charges.
10. SHIPPING AND HANDLING. All stock Products and Materials will be shipped Freight on Board (FOB) Destination. Aqua-Metric will ship all Products on prepaid ground transportation. Expedited shipments, such as Next Day or Second Day, will be at the Customers expense unless otherwise agreed upon by Aqua-Metric. All applicable Shipping and Handling charges will be included with the final invoice to the Customer. Aqua-Metric does not guarantee and therefore will not be liable for any delays in shipment.
11. FREIGHT. Aqua-Metric shall ship oversized Product(s) or bulk orders on standard Less-Than-Truckload (“LTL”) freight carriers when applicable. The Customer is required to provide the necessary equipment required (i.e. loading dock, fork lift, pallet jack, etc.) to unload the shipment upon arrival. If the Customer does not have access to equipment necessary to unload the Product(s), Customer must inform Aqua-Metric in advance and prior to shipment. Customer will be responsible for any additional cost(s) or fee(s) incurred for special handling requirements.
12. FREIGHT ALLOWANCE. Single Sensus product orders exceeding $80,000 will be shipped FOB Freight Allowed unless otherwise specified and agreed upon in writing. Freight allowance is only applicable to single orders shipped complete. Partial shipments must be specified in writing at the time of order placement. Aqua-Metric reserves the right to refuse freight allowance and/or bill partial freight costs on final invoice.
13. LOSS OR DAMAGE CLAIMS. The Customer is responsible for reporting lost or damaged deliverables as a result of improper packaging and/or handling to Aqua-Metric within fifteen (15) business days. Claims will become void if made more than fifteen (15) business days after the product has left Aqua-Metric facilities. Damaged product(s) will be returned to Aqua-Metric for inspection. Aqua-Metric reserves the right to repair or replace product(s) damaged in shipment.
14. AMENDMENTS OR CANCELLATIONS. Orders submitted to Aqua-Metric must be canceled or amended by Customer prior to the shipment of Deliverables. Aqua-Metric reserves the right to invoice shipping charges for orders cancelled after deliverables shipped.
15. RETURNS. No product(s) may be returned for refund without the prior written authorization of Aqua-Metric. Aqua-Metric reserves the right to refund the cost of deliverables less a restocking fee and/or shipping and handling charges upon receipt of return product. Refunds will be processed and issued within thirty (30) days from the receipt of the returned product(s). Authorized return shipments must be returned within six (6) months of the delivery date, in “like-new” condition to Aqua-Metric's designated receiving point, must be shipped in original or suitable packaging, must be accompanied by a packing slip, including Aqua-Metric's return authorization number, and must have transportation charges prepaid. All returned product(s) will be inspected upon delivery for any indication of use or damage. Client will be responsible for returning the product(s) to Aqua-Metric's designated distribution warehouse and any cost(s) incurred to repackage and/or shipping carrier fees. Client will be responsible for any damages incurred during shipment. Aqua-Metric reserves the right to refuse product(s) which have been installed, used, or otherwise returned in any condition other than new. Aqua-Metric reserves the right to deduct an adequate service charge to cover all inspection, testing and handling from any refund.
16. RESTOCKING FEE. Return Product(s) are subject to a twenty-five percent (25%) restocking fee and special order Product(s), including but not limited to: meter reading equipment, infrastructure, ActPaks, or any Product(s) requiring a unique configuration, are subject to fifty percent (50%) restocking fee. Due to the custom configuration of electric meters, all electric meter sales are final.
17. OBSOLESCENCE. Aqua-Metric shall not be held liable for planned or unplanned obsolescence of product(s), parts, or software discontinued by any manufacturer.
18. WARRANTIES.

18.1. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SERVICES AND SOFTWARE ARE PROVIDED BY AQUA-METRIC ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

18.2. Aqua-Metric warrants that the services provided by Aqua-Metric will be performed in a professional and workmanlike manner with a degree of care, skill and competence that is consistent with the then generally accepted industry standards reasonably expected of similar types of engagements and the deliverables will substantially conform to the deliverables specified in the applicable purchase agreement.

18.3. Standard Manufacturer Warranty. Standard manufacturer product warranties shall apply to all product(s) furnished under this Agreement. Aqua-Metric and/or their supplier agrees to provide a repaired or replacement product of equal value and as provisioned within the manufacturer warranty terms.

18.4. Meter Services Warranty. Aqua-Metric warrants the quality of workmanship and services provided herein to be reasonably free from defects within twenty-four linear inches of the meter connection for a period of thirty (30) days from the date of meter exchange.

A. Meter Services Warranty is only applicable to the services rendered during the time of meter exchange and only applicable if the failure is reasonably evident of a faulty meter exchange service provided by Aqua-Metric or its subcontractor.

B. Aqua-Metric does not warrant defective product(s) or material(s) (including but not limited to piping, fittings risers, setters, curb stops, meter boxes, or similar) used to complete the meter exchange service. Such products will be subject to any applicable product warranty guidelines as provided by Aqua-Metric's suppliers.

C. Aqua-Metric does not warrant pre-existing conditions; service line damage(s) resulting from non-approved materials or the service line is not up to code compliance; or damage(s) due to age or instability of galvanized lines on either the distribution or consumer side.

D. Meter Services Warranty does not include defects as a result of tampering, vandalism, negligence, "Acts-of-God".

E. The Customer shall notify Aqua-Metric of any warrantable concern(s) within five (5) days of Customer becoming aware of suspect failure.

F. The Customer acknowledges Aqua-Metric is unable to determine pre-existing plumbing conditions, including but not limited to pipe condition, debris or hard water buildup in plumbing lines, unstable or faulty plumbing connections or plumbing fixtures, or water pressure, etc. Due to the unknown condition(s), Aqua-Metric does not warrant against damage(s) or defect(s) to plumbing, household fixtures, water heaters, water softening or filtration systems, sloan valves, appliances, water pressure, or other related appurtenances which rely on the utility services provided by the Customer.

G. Aqua-Metric reserves the right to inspect the project worksite prior to performing any work to determine the best course of action to correct the warranty concern. If such inspection is not indicative of Aqua-Metric or its contractor's faulty workmanship, Aqua-Metric, at its sole discretion, may invoice the Customer for any time and expense incurred to inspect the worksite. Aqua-Metric will not be held responsible for any unauthorized repair(s) performed by the Customer, Customer's resident or business customer, or any third-party repair company.

19. LIMITATIONS. Unless otherwise expressly provided herein, neither Aqua-Metric nor any of its service providers, licensors, employees or agents warrant that the operation of the Services will be uninterrupted or error free. Aqua-Metric will not be responsible for any damages that Customer may suffer arising out of use, or inability to use, the Services.

20. RETURN MATERIAL AUTHORIZATION. Product(s) returned for Warranty within the limitations defined by the Manufacturer will be returned directly to the Manufacturer unless otherwise instructed by Aqua-Metric. Customer shall submit a list of defective items with Serial Numbers and or Identification Numbers required to identify the product in an Excel format to rma-norcal@aqua-metric.com; rma-socal@aqua-metric.com; rma-texas@aqua-metric.com; or rma-louisiana@aqua-metric.com. Aqua-Metric will generate a Return Material Authorization form for the Customer to include with the Product(s) shipment to the Manufacturer. Customer will be responsible for any cost(s) incurred to return the Product(s) to the Manufacturer for warranty concerns.

21. FORCE MAJEURE. If Aqua-Metric becomes unable, either wholly or in part, by an event of Force Majeure, to fulfill its obligations under this agreement, the obligations affected by the event of Force Majeure will be suspended during the continuance of that inability. "Force Majeure" means an event beyond the reasonable control of Aqua-Metric, including without limit acts of God, hurricane, flood, volcano, tsunami, tornado, storm, tempest, mudslide, vandalism, illegal or unauthorized radio frequency interference, strikes, lockouts, or other industrial disturbances, immigration, unavailability or delay of component parts of any Deliverables provided hereunder, acts of public enemies, border disputes, border disruptions, delivery vehicle impound, wars, blockades, insurrections, riots, pandemics, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or any States, any arrests and restraints, civil disturbances and explosions.

22. LIMITATION OF LIABILITY.

22.1. AQUA-METRIC'S AGGREGATE LIABILITY IN ANY AND ALL CAUSES OF ACTION ARISING UNDER, OUT OF OR IN RELATION TO THIS AGREEMENT, ITS NEGOTIATION, PERFORMANCE, BREACH OR TERMINATION (COLLECTIVELY "CAUSES OF ACTION") SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO AQUA-METRIC UNDER THIS AGREEMENT. THIS IS SO WHETHER THE CAUSES OF ACTION ARE IN TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY, IN CONTRACT, UNDER STATUTE, OR OTHERWISE.

22.2. AS A SEPARATE AND INDEPENDENT LIMITATION ON LIABILITY, AQUA-METRIC'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES. AQUA-METRIC SHALL NOT BE LIABLE FOR: (I) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; NOR (II) ANY REVENUE OR PROFITS LOST BY CUSTOMER OR ITS AFFILIATES FROM ANY END USER IRRESPECTIVE OF WHETHER SUCH LOST REVENUE OR PROFITS IS CATEGORIZED AS DIRECT DAMAGES OR OTHERWISE, INCLUDING REVENUE LOST FROM THIRD PARTIES, PERSONS, OR ENTITIES, SUCH AS BILLS FOR ELECTRICITY, LIGHTING, GAS, OR WATER CONSUMPTION; NOR (III) ANY IN/OUT COSTS; NOR (IV) CLAIMS MADE BY A THIRD PARTY; NOR (V) MANUAL METER READ COSTS AND EXPENSES. "IN/OUT COSTS" MEANS ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN TRANSPORTING GOODS BETWEEN ITS WAREHOUSE AND ITS END USER'S PREMISES AND ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN INSTALLING, UNINSTALLING AND REMOVING GOODS. "END USER" MEANS ANY END USER OF ELECTRICITY/WATER/GAS THAT PAYS CUSTOMER FOR THE CONSUMPTION OF ELECTRICITY/WATER/GAS, AS APPLICABLE.

22.3. The limitations on liability set forth in this Agreement are fundamental inducements to Aqua-Metric entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Aqua-Metric the maximum protection permitted under law. To the maximum extent permitted by law, no Cause of Action may be instituted by Customer against Aqua-Metric more than TWELVE (12) MONTHS after the Cause of Action first arose. In the calculation of any damages in any Cause of Action, no damages incurred more than TWELVE (12) MONTHS prior to the filing of the Cause of Action shall be recoverable. If Customer is not the sole end user and ultimate owner of the Deliverables, then Customer shall ensure by its contract with the end user and ultimate owner (collectively, "Owner") that Aqua-Metric is given the benefit of the exclusions and limitations set out in these Terms. To the maximum extent permitted by law, Customer agrees to indemnify, defend, and hold harmless Aqua-Metric from and against all Losses (defined below) alleged by any Owner to the extent that Aqua-Metric would not be liable to Customer under these Terms if the claim had been made by Customer.

23. INDEMNIFICATION. To the maximum extent permitted by law, Customer agrees to defend, indemnify and hold Aqua-Metric harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on Aqua-Metric arising from or in connection with any and all third party suits, claims, actions or demands (a “Claim”): (i) for personal injuries, death or damage to tangible personal and real property caused by the negligence or willful misconduct of Customer, its employees, contractors or agents other than Aqua-Metric; (ii) relating to or arising out of Customer’s failure to comply with applicable law; and (iii) relating to or arising out of Customer’s breach of its confidentiality obligations hereunder.
24. CONFIDENTIAL INFORMATION. Each party shall hold the other party’s Confidential Information in confidence and shall not disclose such Confidential Information to third parties other than to consultants or contractors, subject to similar terms of confidentiality, when disclosure is necessary for the purposes set forth herein, nor use the other party’s Confidential Information for any purpose other than the purposes set forth under this Agreement. The foregoing restrictions on disclosure shall not apply to information which is: (i) already known by the recipient, (ii) becomes, through no act or fault of the recipient, publicly known, (iii) received by recipient from a third party without a restriction on disclosure or use, (iv) independently developed by recipient without reference to the other party’s Confidential Information, or (v) is a public record under applicable laws, subject to the terms of this Section. The Customer will maintain the confidentiality of all Aqua-Metric Confidential Information, and Aqua-Metric will maintain the confidentiality of all Customer Confidential Information, with each party taking all reasonable precautions to protect the same, at a minimum taking those precautions used to protect its own Confidential Information from unauthorized use or disclosure.
25. ASSIGNMENT. Customer may not assign, transfer or delegate this Agreement or any part of Customer’s rights or duties without prior written consent of Aqua-Metric. Any attempted assignment in violation of this section shall be null and void.
26. GOVERNING LAW AND DISPUTE RESOLUTION. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Texas, without regard to conflicts of law principles. Any and all disputes arising under, out of, or in relation to this Agreement or its performance (“Disputes”) shall first be resolved by the Parties attempting mediation in Texas. If the Dispute is not resolved within sixty (60) days of the commencement of the mediation, it shall be litigated in the state or federal courts located in the State of Texas.
27. COMPLIANCE WITH LAWS. Customer shall comply with all applicable laws and regulations, as set forth at the time of acceptance and as may be amended, changed, or supplemented. Customer shall not take any action or permit the taking of any action by a third party, which may render Aqua-Metric liable for a violation of applicable laws. Customer will perform its obligations under this Agreement in a manner that complies with all Laws applicable to Customer’s business, activities, and facilities. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound.
28. SEVERABILITY. In the event any provision of this Agreement is held to be void, unlawful or otherwise unenforceable, that provision will be severed from the remainder of the Agreement and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible; and the Agreement, as so modified, will continue to be in full force and effect.
29. NON-WAIVER. Failure or delay of Aqua-Metric to exercise a right or power under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise of a right or power preclude any other future exercise thereof.

Nacogdoches
the oldest town in Texas

City Council Meeting

Date: September 3, 2024

Agenda Item: 6.B.

PRESENTER: Jason Vickery, Assistant City Engineer

ITEM/SUBJECT: Discussion of Request for Proposals (RFQ) and Schedule Update for the Fire Stations. (Assistant Director of Public Works/Assistant City Engineer).

SUMMARY/BACKGROUND: The City is currently soliciting proposals for qualification statements from highly qualified, licensed, and experienced Architectural and Engineering firms or individuals to provide design and construction administration services for the following:

- New Station 1 - Central Fire Station (Design and Construction Administration Services)
- New Station 2 (Design Only)
- New Station 3 (Design Only)

The RFQ solicitation ad ws published in the Daily Sentinel on 08/14/24 and then again on 08/21/14. An addendum was issued on 08/21/24 modifying the schedule of important dates as follows:

Deadline for Questions and Inquiries	{2:00 PM}	{September 4, 2024}
Submissions Closing Date and Time	{2:00 PM}	{September 18, 2024}
City's Review of Submissions		{Sept/Oct, 2024}
Earliest Quals Award by City		{October 2024}

Once a firm(s) is selected based on qualifications, a cost proposal will be prepared and submitted for review and then brought back to City Council for a design award.

The following firms inquired and were sent the RFQ document. Others army have downloaded the RFQ from our website:

PGAL, BRW Architects, Parkhill, SZS Architects, Martinez Architects, SpeedFab Crete, ADG and Cox Jones Architecture & Construction

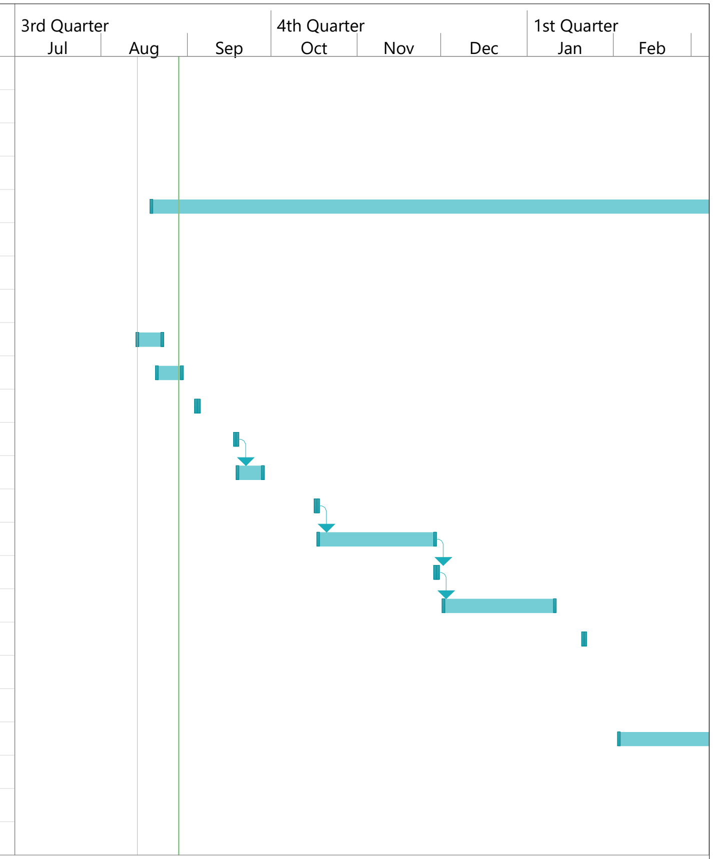
FINANCIAL:
No financial impact associated with this item.

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

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

ATTACHMENTS: 1. A&E Schedule

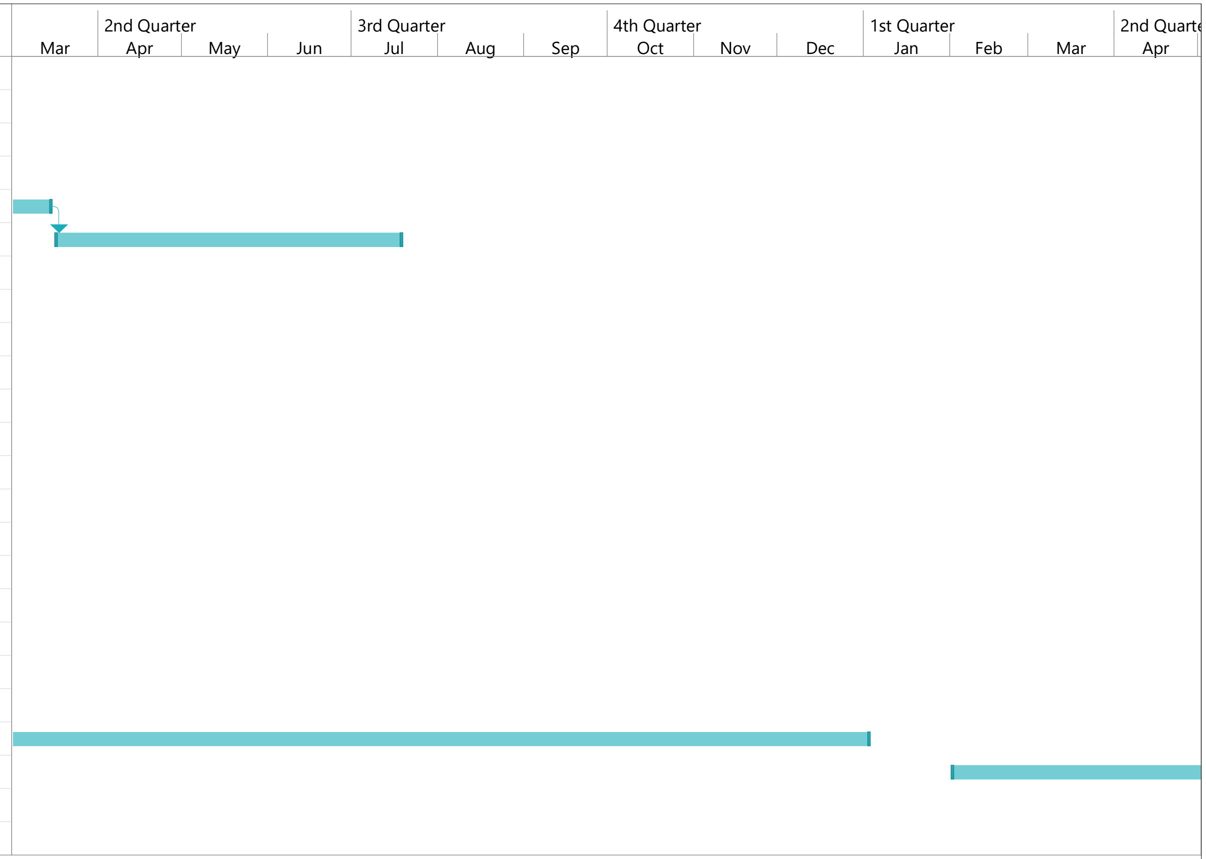
ID	Info	Task Mode	Task Name	Duration	Start	Finish
1						
2			**FIRE STATION A&E PROFESSSIONAL SERVICES**			
3						
4			**SITE SELECTION AND SURVEYING**			
5			Site Selection & Acquisition	150 days	Mon 8/19/24	Fri 3/14/25
6			Surveying	90 days	Mon 3/17/25	Fri 7/18/25
7						
8			**PROFESSIONAL PROCUREMENT**			
9			Publish 1st Public RFQ Notice	7 days	Wed 8/14/24	Thu 8/22/24
10			Publish 2nd Public RFQ Notice	7 days	Wed 8/21/24	Thu 8/29/24
11			RFQ Dealine for Questions and Inquiries	1 day	Wed 9/4/24	Wed 9/4/24
12			RFQ Submittal Due Date	1 day	Wed 9/18/24	Wed 9/18/24
13			City's Review of Submittals	7 days	Thu 9/19/24	Fri 9/27/24
14			Staff Recommendation of Selected Firm (s)	1 day	Thu 10/17/24	Thu 10/17/24
15			Proposal Development by Selected Firm	30 days	Fri 10/18/24	Thu 11/28/24
16			Proposal Submittal	1 day	Fri 11/29/24	Fri 11/29/24
17			Proposal Review	30 days	Mon 12/2/24	Fri 1/10/25
18			Recommendation to CC to Approve Proposal	1 day	Tue 1/21/25	Tue 1/21/25
19						
20			**FIRE STATIONS**			
21			Central Station Schematics & Design	240 days	Mon 2/3/25	Fri 1/2/26
22			Central Station Construction	340 days	Mon 2/2/26	Fri 5/21/27
23			Station 2 Design	180 days	Mon 5/4/26	Fri 1/8/27
24			Station 3 Design	180 days	Mon 8/3/26	Fri 4/9/27



Project: A&E Schedule
Date: Thu 8/29/24

Task	Inactive Task	Manual Summary Rollup	External Milestone
Split	Inactive Milestone	Manual Summary	Deadline
Milestone	Inactive Summary	Start-only	Progress
Summary	Manual Task	Finish-only	Manual Progress
Project Summary	Duration-only	External Tasks	

ID		Task Mode	Task Name
1			
2			**FIRE STATION A&E PROFESSSIONAL SERVICES**
3			
4			**SITE SELECTION AND SURVEYING**
5			Site Selection & Acquisition
6			Surveying
7			
8			**PROFESSIONAL PROCUREMENT**
9			Publish 1st Public RFQ Notice
10			Publish 2nd Public RFQ Notice
11			RFQ Dealine for Questions and Inquiries
12			RFQ Submittal Due Date
13			City's Review of Submittals
14			Staff Recommendation of Selected Firm (s)
15			Proposal Development by Selected Firm
16			Proposal Submittal
17			Proposal Review
18			Recommendation to CC to Approve Proposal
19			
20			**FIRE STATIONS**
21			Central Station Schematics & Design
22			Central Station Construction
23			Station 2 Design
24			Station 3 Design



Project: A&E Schedule
Date: Thu 8/29/24

Task	Inactive Task	Manual Summary Rollup	External Milestone
Split	Inactive Milestone	Manual Summary	Deadline
Milestone	Inactive Summary	Start-only	Progress
Summary	Manual Task	Finish-only	Manual Progress
Project Summary	Duration-only	External Tasks	

ID		Task Mode	Task Name
1			
2			**FIRE STATION A&E PROFESSSIONAL SERVICES**
3			
4			**SITE SELECTION AND SURVEYING**
5			Site Selection & Acquisition
6			Surveying
7			
8			**PROFESSIONAL PROCUREMENT**
9			Publish 1st Public RFQ Notice
10			Publish 2nd Public RFQ Notice
11			RFQ Dealine for Questions and Inquiries
12			RFQ Submittal Due Date
13			City's Review of Submittals
14			Staff Recommendation of Selected Firm (s)
15			Proposal Development by Selected Firm
16			Proposal Submittal
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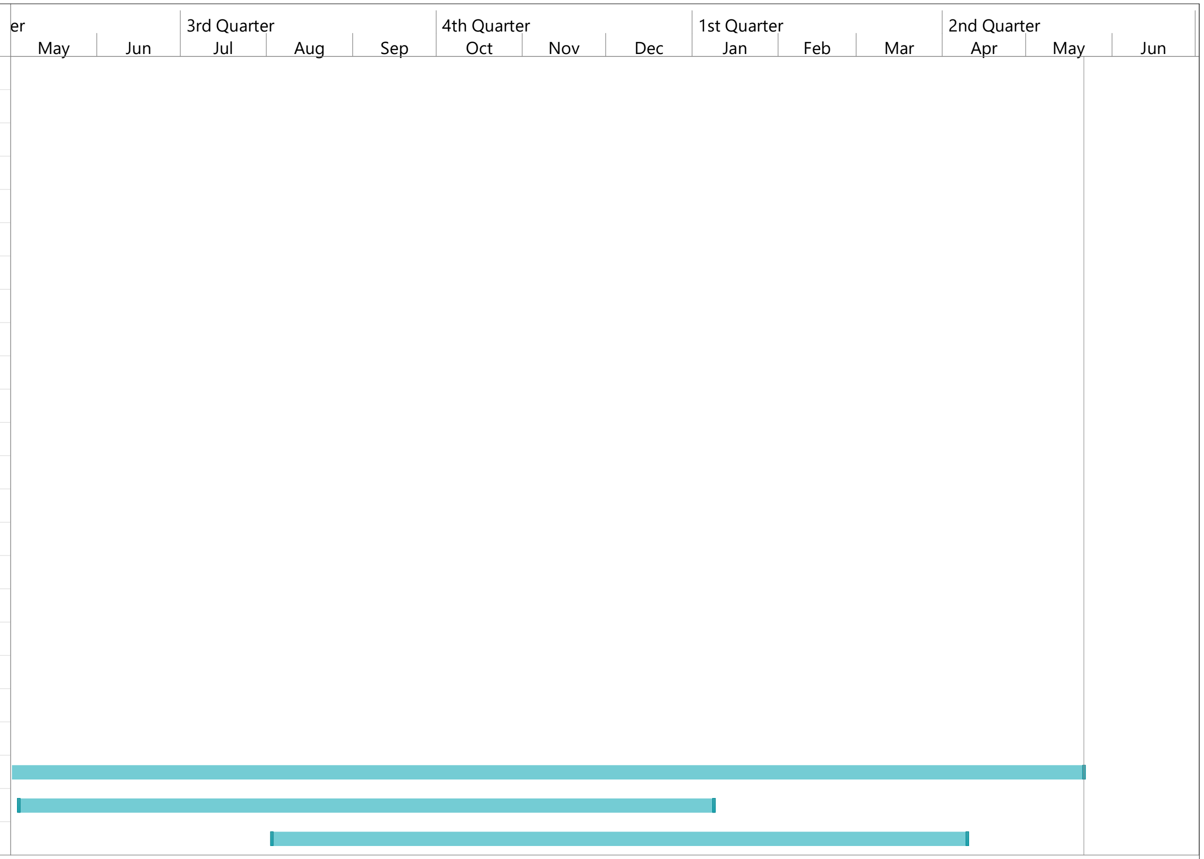
20			**FIRE STATIONS**
21			Central Station Schematics & Design
22			Central Station Construction
23			Station 2 Design
24			Station 3 Design



Project: A&E Schedule
Date: Thu 8/29/24

Task	Inactive Task	Manual Summary Rollup	External Milestone
Split	Inactive Milestone	Manual Summary	Deadline
Milestone	Inactive Summary	Start-only	Progress
Summary	Manual Task	Finish-only	Manual Progress
Project Summary	Duration-only	External Tasks	