



# CITY COUNCIL REGULAR MEETING CITY OF BAY CITY

Tuesday, November 28, 2023 at 6:00 PM  
COUNCIL CHAMBERS | 1901 5th Street

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## COUNCIL MEMBERS

**Mayor:** Robert K Nelson

**Mayor Pro Tem:** Blayne Finlay

**Council Members:** Benjamin Flores, Bradley Westmoreland, Becca Sitz, Jim Folse

### Vision Statement

*Through a united and collaborative effort, we seek to grow the City of Bay City with a diverse culture that is proud to call Bay City home. We envision a thriving family-centered community where citizens are involved in the future development of our city. We desire our citizens to work, play, worship and shop in the community in which we live. Visitors are welcomed and encouraged to enjoy the friendly environment and amenities the citizens and business owners have created together.*

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## AGENDA

**THE FOLLOWING ITEM WILL BE ADDRESSED AT THIS OR ANY OTHER MEETING OF THE CITY COUNCIL UPON THE REQUEST OF THE MAYOR, ANY MEMBER(S) OF COUNCIL AND/OR THE CITY ATTORNEY:**

*ANNOUNCEMENT BY THE MAYOR THAT COUNCIL WILL RETIRE INTO CLOSED SESSION FOR CONSULTATION WITH CITY ATTORNEY ON MATTERS IN WHICH THE DUTY OF THE ATTORNEY TO THE CITY COUNCIL UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THE OPEN MEETINGS ACT (TITLE 5, CHAPTER 551, SECTION 551.071(2) OF THE TEXAS GOVERNMENT CODE).*

## CALL TO ORDER AND CERTIFICATION OF QUORUM

### INVOCATION & PLEDGE

Texas State Flag Pledge: *"Honor The Texas Flag; I Pledge Allegiance To Thee, Texas, One State Under God, One And Indivisible."*

*Councilman Benjamin Flores*

### MISSION STATEMENT

*The City of Bay City is committed to fostering future economic growth by collaborating with our citizens, employers, current and future businesses, as well as the Community and Economic Development Centers. We strive to deliver superior municipal services and to invest in quality-of-life initiatives such as housing, businesses, jobs and activities for all citizens. We make a concerted effort to respond to resident's concerns in a timely and professional manner in order to achieve customer satisfaction.*

*Councilman Benjamin Flores*

**APPROVAL OF AGENDA****PUBLIC COMMENTS**

State Law prohibits any deliberation of or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff places the item on an agenda for a subsequent meeting.

**ACKNOWLEDGEMENT FROM CITY MANAGER****ITEMS / COMMENTS FROM THE MAYOR AND COUNCIL MEMBERS****REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL**

- 1. Report ~ Parks & Recreation overview of city Expenses regarding Youth Sports Associations. Kelly Penewitt, Parks & Rec Supervisor**
- 2. Contract ~ Discuss, consider, and/or approve contract Amendment No. 2 Work Authorization No. 5 to the standard contract agreement between the City of Bay City, Texas and Garver, LLC for Professional Engineering services for the Design, Bid, and Construction of the North Water Plant under the Texas Water Development Board funding for Drinking Water SRF Projects. Herbert Blomquist, Public Works Director**
- 3. Contract ~ Discuss, consider, and/or approve contract Amendment No. 2 Work Authorization No. 7 to the standard contract agreement between the City of Bay City, Texas and Garver, LLC for Professional Engineering Services for the Design, Bid, and Construction of the East Water Plant under the Texas Water Development Board funding for Drinking Water SRF Projects. Herbert Blomquist, Public Works Director**
- 4. Contract ~ Discuss, consider, and/or award the construction for the East Water Treatment Plant (WTP) project under the Texas Water Development Board funding for the Drinking Water SRF projects to LEM Construction and authorize the Mayor and/or City Manager to execute a contract approved to form by the City Attorney between the City of Bay City and LEM Construction in the amount of \$11,022,500.00. Herbert Blomquist, Public Works Director**
- 5. Contract ~ Discuss, consider, and/or approve an Engineering Contract for the Quiet Zone. Shawna Burkhardt, City Manager**

**ITEMS / COMMENTS FROM THE MAYOR, COUNCIL MEMBERS AND CITY MANAGER****ADJOURNMENT****AGENDA NOTICES:**

**Attendance By Other Elected or Appointed Officials:** It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may

constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

### **CERTIFICATION OF POSTING**

This is to certify that the above notice of a Regular Called Council Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on **Friday, November 17, 2023 before 6:00 p.m.** Any questions concerning the above items, please contact the Mayor and City Manager's office at (979) 245-2137.

# Overall

## Expenses

YSA	Water	Expenses
Swim Teams	838,300	\$60,245.92
Girls Softball	26,400	\$7,053.75
Little Dribblers		\$510.68
Little League	643,600	\$8,816.49
Youth Football	209,500	\$12,650.92
Youth Soccer	2,023,500	\$516,364.26
Subtotal	3,741,300	\$605,642.02

## Fees

YSA	
Swim Teams	\$76,500.00
Girls Softball	\$1,000.00
Little Dribblers	
Little League	\$2,334.50
Youth Football	\$1,000.00
Youth Soccer	\$51,000.00
Subtotal	\$131,834.50

## Participants

YSA	#o f youth	Ages
Swim Teams		
BCISD		
High School	20	14 - 18 yrs
Junior High	12	11 - 13 yrs
Aquacats		4 - 18 yrs
Girls Softball	156	3 - 14 yrs
Little Dribblers	111	4 - 13 yrs
Little League	200	4 - 16 yrs
Youth Football	120	6 - 12 yrs
Youth Soccer	610	3 - 16 yrs
Subtotal	1,229	

## Expenses

YSA	Consumption	Water	Sewer	Misc	Electrical	Total
<b>Aquacats</b>	838,300	\$ 8,267.57	\$ 9,460.84	\$42,517.50	\$0.00	<b>\$60,245.92</b>
<b>Girls Softball</b>	26,400	\$ 1,953.59	\$ 556.14	\$1,567.00	\$2,977.02	<b>\$7,053.75</b>
<b>Little Dribblers</b>				\$510.68		<b>\$510.68</b>
<b>Little League</b>	203,200	\$ 1,447.60	\$ 1,524.07	\$2,929.72	\$2,915.11	<b>\$8,816.49</b>
<b>Youth Football</b>	209,500	\$ 2,722.91	\$ -	\$9,928.01	\$0.00	<b>\$12,650.92</b>
<b>Youth Soccer</b>	2,023,500	\$ 13,392.68	\$ 2,246.58	\$500,725.00	\$0.00	<b>\$516,364.26</b>
<b>Total</b>	<b>3,300,900</b>	<b>\$ 27,784.34</b>	<b>\$ 13,787.64</b>	<b>\$ 558,177.91</b>	<b>\$ 5,892.13</b>	<b>\$ 605,642.02</b>

# Aquacats/BCISD

	Water						
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January	109,300	\$ 342.22	\$ 631.75	\$ 973.97	\$ 425.50	\$ 678.75	\$ 1,104.25
February	7,900	\$ 342.22	\$ 45.66	\$ 387.88	\$ 425.50	\$ 49.06	\$ 474.56
March	72,000	\$ 342.22	\$ 416.16	\$ 758.38	\$ 425.50	\$ 447.12	\$ 872.62
April	44,100	\$ 342.22	\$ 254.90	\$ 597.12	\$ 425.50	\$ 273.86	\$ 699.36
May	12,200	\$ 342.22	\$ 70.52	\$ 412.74	\$ 425.50	\$ 75.76	\$ 501.26
June	49,200	\$ 342.22	\$ 284.38	\$ 626.60	\$ 425.50	\$ 305.53	\$ 731.03
July	153,100	\$ 342.22	\$ 884.92	\$ 1,227.14	\$ 425.50	\$ 950.75	\$ 1,376.25
August	201,500	\$ 342.22	\$ 1,164.67	\$ 1,506.89	\$ 425.50	\$ 1,251.32	\$ 1,676.82
September	133,700	\$ 342.22	\$ 772.79	\$ 1,115.01	\$ 425.50	\$ 830.28	\$ 1,255.78
October	55,300	\$ 342.22	\$ 319.63	\$ 661.85	\$ 425.50	\$ 343.41	\$ 768.91
November							
December							
<b>Total</b>	<b>838,300</b>			<b>\$ 8,267.57</b>			<b>\$ 9,460.84</b>

Electrical	
January	
February	
March	
April	
May	
June	\$ -
July	
August	
September	
October	
November	
December	\$ -
<b>Total</b>	<b>\$ -</b>

Misc	
October	
Chemicals	\$ 4,150.00
Heater Motor	\$ 2,845.00
December	
	\$ 890.00
January	
Service	\$ 250.00
February	
Service	\$ 250.00
March	
Chemicals	\$ 6,128.50
April	
Service	\$ 250.00
May	
Chemicals	\$ 5,226.00
Impeller	\$ 3,580.00
June	
Service	\$ 250.00
July	
Chemicals	\$ 5,626.00
August	
Chemicals	
September	
Chemicals	\$ 6,126.00
October	
Chemicals	\$ 6,946.00
November	
Chemicals	
December	
Chemicals	
<b>Total</b>	<b>\$ 42,517.50</b>

Fees		
	Aquacats	BCISD
January		
February		
March		
April		
May	\$ 750.00	
June		\$ -
July		\$ -
August		
September	\$ 750.00	
October		
November		
December		\$ -
Permit	\$ 1,500.00	\$ 75,000.00

<b>Expenses</b>	<b>\$ 60,245.92</b>
<b>Fees</b>	<b>\$ 76,500.00</b>
<b>Net</b>	<b>\$ 16,254.08</b>

Notes
Mows and trims property weekly
Vacuums/Brushes pool weekly
Chemical checks - 5 days per week
Maintains pump/motor, filters and chemical system
sprayed for mosquitoes and bugs

ACCOUNT #	ADDRESS	METER #	METER SIZE
25-203200-00	2624 16TH ST	220023742	4"

# Girls Softball

ITEM #1.

Water							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January	1,400	\$ 34.22	\$ 8.09	\$ 42.31	\$ 39.22	\$ 8.69	\$ 47.91
February	1,900	\$ 34.22	\$ 10.98	\$ 45.20	\$ 39.22	\$ 11.80	\$ 51.02
March	2,900	\$ 34.22	\$ 16.76	\$ 50.98	\$ 39.22	\$ 18.01	\$ 57.23
April	2,000	\$ 34.22	\$ 11.56	\$ 45.78	\$ 39.22	\$ 12.42	\$ 51.64
May	1,500	\$ 34.22	\$ 8.67	\$ 42.89	\$ 39.22	\$ 9.32	\$ 48.54
June	2,200	\$ 34.22	\$ 12.72	\$ 46.94	\$ 39.22	\$ 13.66	\$ 52.88
July	2,400	\$ 34.22	\$ 13.87	\$ 48.09	\$ 39.22	\$ 14.90	\$ 54.12
August	100	\$ 34.22	\$ 0.58	\$ 34.80	\$ 39.22	\$ 0.62	\$ 39.84
September	2,400	\$ 34.22	\$ 13.87	\$ 48.09	\$ 39.22	\$ 14.90	\$ 54.12
October	9,600	\$ 34.22	\$ 55.49	\$ 89.71	\$ 39.22	\$ 59.62	\$ 98.84
November		\$ 34.22			\$ 39.22		
December		\$ 34.22			\$ 39.22		
<b>Total</b>	<b>26,400</b>			<b>\$ 494.79</b>			<b>\$ 556.14</b>

Misc Expenses		
August	leak	\$ 1,567.00
		\$ -
		\$ -
		\$ -
<b>Total</b>		<b>\$ 1,567.00</b>

Electrical		
	Actual	Owes
<b>March</b>		
GRLSFT2	\$ 266.27	
M Unit 2	\$ 9.90	
M Stand	\$ 348.86	
Jackfld	\$ 318.18	
GRLSFT3	\$ 238.42	
	\$ 1,181.63	\$ 590.82
<b>April</b>		
GRLSFT2	\$ 261.24	
M Unit 2	\$ 9.90	
M Stand	\$ 257.48	
Jackfld	\$ 310.70	
GRLSFT3	\$ 192.18	
	\$ 1,031.50	\$ 515.75
<b>May</b>		
GRLSFT2	\$ 267.03	
M Unit 2	\$ 7.90	
M Stand	\$ 204.74	
Jackfld	\$ 270.20	
GRLSFT3	\$ 20.07	
	\$ 769.94	\$ 384.97
<b>June</b>		
GRLSFT2	\$ 261.44	
M Unit 2	\$ 7.90	
M Stand	\$ 292.83	
Jackfld	\$ 264.40	
GRLSFT3	\$ 20.20	
	\$ 846.77	\$ 423.39
<b>July</b>		
GRLSFT2	\$ 250.51	
M Unit 2	\$ 7.90	
M Stand	\$ 315.49	
Jackfld	\$ 265.84	
GRLSFT3	\$ 20.07	
	\$ 859.81	\$ 429.91
<b>August</b>		
GRLSFT2	\$ 236.13	
M Unit 2	\$ 7.90	
M Stand	\$ 199.67	
Jackfld	\$ 22.06	
GRLSFT3	\$ 20.07	
	\$ 485.83	\$ 242.92
<b>September</b>		

Water - Irrigation							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January		\$ 109.35	\$ -	\$ 109.35			\$ -
February	3,900	\$ 109.35	\$ 22.54	\$ 131.89			\$ -
March	7,500	\$ 109.35	\$ 43.35	\$ 152.70			\$ -
April		\$ 109.35	\$ -	\$ 109.35			\$ -
May		\$ 109.35	\$ -	\$ 109.35			\$ -
June		\$ 109.35	\$ -	\$ 109.35			\$ -
July		\$ 109.35	\$ -	\$ 109.35			\$ -
August	51,400	\$ 109.35	\$ 297.09	\$ 406.44			\$ -
September	400	\$ 109.35	\$ 2.31	\$ 111.66			\$ -
October		\$ 109.35	\$ -	\$ 109.35			\$ -
November							
December							
<b>Total</b>	<b>63,200</b>			<b>\$ 1,458.80</b>			<b>\$ -</b>

Fees	
October	
November	
December	
January	
February	
March	\$ -
April	\$ -
May	
June	
July	

Expenses	
<b>Water</b>	<b>\$ 1,953.59</b>
<b>Sewer</b>	<b>\$ 556.14</b>
<b>Electrical</b>	<b>\$ 1,567.00</b>
<b>Misc</b>	<b>\$ 2,977.02</b>
<b>Fees</b>	<b>\$ 1,000.00</b>
<b>Net</b>	<b>\$ 6,053.75</b>

Notes
installing new park signage
mowed areas outside of ball fields
areas along creek, Avenue M & Grace
repaired leak on field
sprayed for mosquitoes

to be addressed
Field Lights - replace poles and lights - LE
\$ s over bleachers

August	
September	\$ -
Permit	\$ 1,000.00
Total	\$ 1,000.00

ACCOUNT #	ADDRESS	METER #	METER SIZE
08-225000-00	920 AVE M PALMER ROB	211664409	1"
08-226000-00	920 AVE M IRRIGATION	220637528	2"

re-do infields
fencing
Tree trimming
upgrade lighting in buildings to LED

GRLSFT2	\$ 284.62	
M Unit 2	\$ 10	ITEM #1.
M Stand	\$ 168	
Jackfld	\$ 294.76	
GRLSFT3	\$ 20.08	
	\$ 778.56	\$ 389.28
October		
GRLSFT2		
M Unit 2		
M Stand		
Jackfld		
GRLSFT3		
	\$ -	\$ -
November		
GRLSFT2		
M Unit 2		
M Stand		
Jackfld		
GRLSFT3		
	\$ -	\$ -
December		
GRLSFT2		
M Unit 2		
M Stand		
Jackfld		
GRLSFT3		
	\$ -	\$ -
Total		\$ 2,977.02



# Little Dribblers

## Youth Basketball

Misc Expenses		
February	Tribune Ad	\$ 85.68
	Senitnel Ad	\$ 425.00
		\$ -
		\$ -
		\$ -
<b>Total</b>		<b>\$ 510.68</b>

<b>Expense s</b>	<b>\$ 510.68</b>
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Notes
promoted on Facebook and Website
paid for ads
Took photos
Booth Space at HomeTown Christmas
Created flyer for program
Drop off site for program registration

# Little League

Water - Gusman Field							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January	200	\$ 27.31	\$ 1.16	\$ 28.47	\$ 26.22	\$ 1.24	\$ 27.46
February	100	\$ 27.31	\$ 0.58	\$ 27.89	\$ 26.22	\$ 0.62	\$ 26.84
March	13,100	\$ 27.31	\$ 75.72	\$ 103.03	\$ 26.22	\$ 81.35	\$ 107.57
April	1,800	\$ 27.31	\$ 10.40	\$ 37.71	\$ 26.22	\$ 11.18	\$ 37.40
May	1,600	\$ 27.31	\$ 9.25	\$ 36.56	\$ 26.22	\$ 9.94	\$ 36.16
June	1,900	\$ 27.31	\$ 10.98	\$ 38.29	\$ 26.22	\$ 11.80	\$ 38.02
July	56,100	\$ 27.31	\$ 324.26	\$ 351.57	\$ 26.22	\$ 348.38	\$ 374.60
August	62,900	\$ 27.31	\$ 363.56	\$ 390.87	\$ 26.22	\$ 390.61	\$ 416.83
September	29,500	\$ 27.31	\$ 170.51	\$ 197.82	\$ 26.22	\$ 183.20	\$ 209.42
October	36,000	\$ 27.31	\$ 208.08	\$ 235.39	\$ 26.22	\$ 223.56	\$ 249.78
November		\$ 27.31	\$ -		\$ 26.22	\$ -	
December		\$ 27.31	\$ -		\$ 26.22	\$ -	
<b>Total</b>	<b>203,200</b>			<b>\$ 1,447.60</b>			<b>\$ 1,524.07</b>

Misc Expenses		
February	Sloan Valves	\$ 69.90
March	Urinal repairs	\$ 107.85
	Field Lights	\$ 107.46
	Field Lights	\$ 232.00
	door lock	\$ 20.97
	restroom	\$ 21.97
April	electrical	\$ 348.00
	Field Lights	\$ 62.49
	leak	\$ 1,830.00
May	concession	\$ 62.49
August	Bleachers	\$ 39.60
		\$ 26.99
		\$ -
<b>Total</b>		<b>\$ 2,929.72</b>

Electrical		
	Actual	Owes
<b>March</b>		
Gusman LTS	\$ 407.23	
GUSLFD	\$ 143.43	
LLL	\$ 424.75	
M Final	\$ 299.44	
16th	\$ 27.15	
	\$ 1,302.00	\$ 651.00
<b>April</b>		
Gusman LTS	\$ 404.99	
GUSLFD	\$ 214.85	
LLL	\$ 392.69	
M Final	\$ 324.02	
16th	\$ 30.45	
	\$ 1,367.00	\$ 683.50
<b>May</b>		
GRLSFT2	\$ 389.75	
M Unit 2	\$ 244.66	
M Stand	\$ 397.60	
Jackfld	\$ 315.86	
GRLSFT3	\$ 27.53	
	\$ 1,375.40	\$ 687.70
<b>June</b>		
Gusman LTS	\$ 359.59	
GUSLFD	\$ 143.50	
LLL	\$ 388.91	
M Final	\$ 292.68	
16th	\$ 23.36	
	\$ 1,208.04	\$ 604.02
<b>July</b>		
GRLSFT2	\$ 24.77	
M Unit 2	\$ 115.09	
M Stand	\$ 23.96	
Jackfld	\$ 22.39	
GRLSFT3	\$ 23.04	
	\$ 209.25	\$ 104.63
<b>August</b>		
Gusman LTS	\$ 24.77	
GUSLFD	\$ 103.37	
LLL	\$ 23.96	
M Final	\$ 22.34	
16th	\$ 22.96	
	\$ 197.40	\$ 98.70

Water - Jack Young							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January		\$ 109.35	\$ -	\$ 109.35			
February		\$ 109.35	\$ -	\$ 109.35			
March	9,100	\$ 109.35	\$ 52.60	\$ 161.95			
April	1,100	\$ 109.35	\$ 6.36	\$ 115.71			
May	100	\$ 109.35	\$ 0.58	\$ 109.93			
June		\$ 109.35	\$ -	\$ 109.35			
July	400	\$ 109.35	\$ 2.31	\$ 111.66			
August	85,400	\$ 109.35	\$ 493.61	\$ 602.96			
September	250,500	\$ 109.35	\$ 1,447.89	\$ 1,557.24			
October	57,900	\$ 109.35	\$ 334.66	\$ 444.01			
November		\$ 109.35	\$ -				
December		\$ 109.35	\$ -				
<b>Total</b>	<b>404,500</b>			<b>\$ 3,431.51</b>			<b>\$ -</b>

Water - Jack Young							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January		\$ 27.31	\$ -	\$ 27.31	\$ 26.22	\$ -	\$ 26.22
February	100	\$ 27.31	\$ 0.58	\$ 27.89	\$ 26.22	\$ 0.62	\$ 26.84
March		\$ 27.31	\$ -	\$ 27.31	\$ 26.22	\$ -	\$ 26.22
April		\$ 27.31	\$ -	\$ 27.31	\$ 26.22	\$ -	\$ 26.22
May		\$ 27.31	\$ -	\$ 27.31	\$ 26.22	\$ -	\$ 26.22
June		\$ 27.31	\$ -	\$ 27.31	\$ 26.22	\$ -	\$ 26.22
July		\$ 27.31	\$ -	\$ 27.31	\$ 26.22	\$ -	\$ 26.22
August		\$ 27.31	\$ -	\$ 27.31	\$ 26.22	\$ -	\$ 26.22

September		\$ 27.31	\$ -	\$ 27.31	\$ 26.22	\$ -	\$ 26.22
October		\$ 27.31	\$ -	\$ 27.31	\$ 26.22	\$ -	\$ 26.22
November		\$ 27.31	\$ -		\$ 26.22	\$ -	
December		\$ 27.31	\$ -		\$ 26.22	\$ -	
<b>Total</b>	<b>100</b>			\$ 273.68			\$ 262.82

Water - Jack Field							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January		\$ 109.35	\$ -	\$ 109.35	\$ 116.15	\$ -	\$ 116.15
February		\$ 109.35	\$ -	\$ 109.35	\$ 116.15	\$ -	\$ 116.15
March	1,200	\$ 109.35	\$ 6.94	\$ 116.29	\$ 116.15	\$ 7.45	\$ 123.60
April	6,200	\$ 109.35	\$ 35.84	\$ 145.19	\$ 116.15	\$ 38.50	\$ 154.65
May	6,300	\$ 109.35	\$ 36.41	\$ 145.76	\$ 116.15	\$ 39.12	\$ 155.27
June	5,700	\$ 109.35	\$ 32.95	\$ 142.30	\$ 116.15	\$ 35.40	\$ 151.55
July	5,100	\$ 109.35	\$ 29.48	\$ 138.83	\$ 116.15	\$ 31.67	\$ 147.82
August	4,200	\$ 109.35	\$ 24.28	\$ 133.63	\$ 116.15	\$ 26.08	\$ 142.23
September	3,700	\$ 109.35	\$ 21.39	\$ 130.74	\$ 116.15	\$ 22.98	\$ 139.13
October	3,400	\$ 109.35	\$ 19.65	\$ 129.00	\$ 116.15	\$ 21.11	\$ 137.26
November		\$ 109.35	\$ -		\$ 116.15	\$ -	
December		\$ 109.35	\$ -		\$ 116.15	\$ -	
<b>Total</b>	<b>35,800</b>			\$ 1,300.42			\$ 1,383.82

Fees	
October	
November	
December	
January	
February	
March	\$ 651.00
April	\$ 683.50
May	
June	
July	
August	
September	\$ -
Permit	\$ 1,000.00
<b>Total</b>	<b>\$ 2,334.50</b>

Expenses	\$ 15,468.74
Fees	\$ 2,334.50
<b>Net</b>	<b>\$ (13,134.24)</b>

Notes
installing new park signage
mowed areas outside of fence on property
trimmed trees
replaced rotten bleachers on T-Ball Field
recycled wood from other bleachers to replace
Repaired press box stairs
repaired toilet in concession restroom
repaired backflow irrigation valve
installed new breaker on field lights
Repaired lighting in restrooms
inspected electrical in concession
repaired hole in roof of main restroom
inspected all water spickets
leak in chaseway - repaired
Sidewalk repair
promoted on Facebook and website
Replace outside lights on building
Sprayed for mosquitoes

Items to be Addressed
Field Lights - replace poles and lights - LED
Electrical - concessions
Shade covers over bleachers
re-do infields
fencing
Tree trimming
upgrade lighting in buildings to LED

<b>September</b>		
GRLSFT2	\$ 24.77	
M Unit 2	\$ 76.40	
M Stand	\$ 23.97	
Jackfld	\$ 22.45	
GRLSFT3	\$ 23.53	
	\$ 171.12	\$ 85.56
<b>October</b>		
Gusman LTS		
GUSLFD		
LLL		
M Final		
16th		
	\$ -	\$ -
<b>November</b>		
GRLSFT2		
M Unit 2		
M Stand		
Jackfld		
GRLSFT3		
	\$ -	\$ -
<b>December</b>		
Gusman LTS		
GUSLFD		
LLL		
M Final		
16th		
	\$ -	\$ -
<b>Total</b>		<b>\$ 2,915.11</b>

ACCOUNT #	ADDRESS	METER #	METER SIZE
08-222000-00	1220 AVE M - GUSMAN	221932713	5/8"
08-223000-00	2201 16TH ST SWEENY	220637556	2"
08-224000-00	2201 16TH ST JACK R	221415834	5/8"
08-219200-00	16TH ST JACK Y FIELD	221413149	2"

# Youth Football

ITEM #1.

	Water				Sewer		
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January	21,000	\$ 34.22	\$ 121.38	\$ 155.60			
February	600	\$ 34.22	\$ 3.47	\$ 37.69			
March	4,300	\$ 34.22	\$ 24.85	\$ 59.07			
April	3,700	\$ 34.22	\$ 21.39	\$ 55.61			
May	7,200	\$ 34.22	\$ 41.62	\$ 75.84			
June	6,700	\$ 34.22	\$ 38.73	\$ 72.95			
July	10,600	\$ 34.22	\$ 61.27	\$ 95.49			
August	7,900	\$ 34.22	\$ 45.66	\$ 79.88			
September	71,300	\$ 34.22	\$ 412.11	\$ 446.33			
October	76,200	\$ 34.22	\$ 440.44	\$ 474.66			
November		\$ 34.22	\$ -				
December		\$ 34.22	\$ -				
<b>Total</b>	<b>209,500</b>			<b>\$ 1,553.11</b>			<b>\$ -</b>

Electrical	
October	
November	
December	
January	
February	
March	\$ -
April	\$ -
May	
June	
July	
August	
September	\$ -
<b>Total</b>	<b>\$ -</b>

Misc Expenses		
February	dirt work	\$ 4,900.00
	Site prep	\$ 1,000.00
	seeding	\$ 1,100.00
March	Fence	\$ 2,800.00
August	bleachers - level	\$ 80.28
	bleachers - level	\$ 7.59
	bleachers - level	\$ 40.14
		\$ -
<b>Total</b>		<b>\$ 9,928.01</b>

	Water				Sewer		
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January	13,200	\$ 109.35	\$ 76.30	\$ 185.65			
February		\$ 109.35	\$ -	\$ 109.35			
March		\$ 109.35	\$ -	\$ 109.35			
April		\$ 109.35	\$ -	\$ 109.35			
May		\$ 109.35	\$ -	\$ 109.35			
June		\$ 109.35	\$ -	\$ 109.35			
July		\$ 109.35	\$ -	\$ 109.35			
August		\$ 109.35	\$ -	\$ 109.35			
September		\$ 109.35	\$ -	\$ 109.35			
October		\$ 109.35	\$ -	\$ 109.35			
November			\$ -				
December			\$ -				
<b>Total</b>	<b>13200</b>			<b>\$ 1,169.80</b>			<b>\$ -</b>

Fees	
October	
November	
December	
January	
February	
March	\$ -
April	\$ -
May	
June	
July	
August	
September	\$ -
Permit	\$ 1,000.00
<b>Total</b>	<b>\$ 1,000.00</b>

Expenses	\$ 12,650.92
Fees	\$ 1,000.00
<b>Net</b>	<b>\$ (11,650.92)</b>

Notes
installing new park signage
created new field
installed bleachers (relocation of bleachers from city field)
installed fence
mowing field after season ends (December - June)
promoted Youth Football and Cheer on Facebook and Website
supplied with trash barrels
Sprayed for mosquitoes

Items to be Addressed
Restrooms
Sewer
Water
Field lights
Parking Area - resurface and light

ACCOUNT #	ADDRESS	METER #	METER SIZE
44-081900	2414 FM 3156	211664414	1"
44-081800	56 - SPORTS	211552731	2"

# Youth Soccer

ITEM #1.

Water - Frahm's Field							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January	4,900	\$ 34.22	\$ 28.32	\$ 62.54	\$ 39.22	\$ 30.43	\$ 69.65
February	3,100	\$ 34.22	\$ 17.92	\$ 52.14	\$ 39.22	\$ 19.25	\$ 58.47
March	2,300	\$ 34.22	\$ 13.29	\$ 47.51	\$ 39.22	\$ 14.28	\$ 53.50
April	5,000	\$ 34.22	\$ 28.90	\$ 63.12	\$ 39.22	\$ 31.05	\$ 70.27
May	5,500	\$ 34.22	\$ 31.79	\$ 66.01	\$ 39.22	\$ 34.16	\$ 73.38
June	5,500	\$ 34.22	\$ 31.79	\$ 66.01	\$ 39.22	\$ 34.16	\$ 73.38
July	6,400	\$ 34.22	\$ 36.99	\$ 71.21	\$ 39.22	\$ 39.74	\$ 78.96
August	13,400	\$ 34.22	\$ 77.45	\$ 111.67	\$ 39.22	\$ 83.21	\$ 122.43
September	107,600	\$ 34.22	\$ 621.93	\$ 656.15	\$ 39.22	\$ 668.20	\$ 707.42
October	14,100	\$ 34.22	\$ 81.50	\$ 115.72	\$ 39.22	\$ 87.56	\$ 126.78
November		\$ 34.22	\$ -		\$ 39.22	\$ -	
December		\$ 34.22	\$ -		\$ 39.22	\$ -	
<b>Total</b>	<b>167,800</b>			<b>\$ 1,312.08</b>			<b>\$ 1,434.24</b>

Electrical	
October	
November	
December	
January	
February	
March	\$ -
April	\$ -
May	
June	
July	
August	
September	\$ -
<b>Total</b>	<b>\$ -</b>

Misc Expenses		
August	leak	\$ 1,525.00
	Lights	\$ 499,200.00
		\$ -
		\$ -
		\$ -
<b>Total</b>		<b>\$ 500,725.00</b>

Water - Hardeman Park							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January	300	\$ 34.22	\$ 1.73	\$ 35.95	\$ 39.22	\$ 1.86	\$ 41.08
February	300	\$ 34.22	\$ 1.73	\$ 35.95	\$ 39.22	\$ 1.86	\$ 41.08
March	300	\$ 34.22	\$ 1.73	\$ 35.95	\$ 39.22	\$ 1.86	\$ 41.08
April	600	\$ 34.22	\$ 3.47	\$ 37.69	\$ 39.22	\$ 3.73	\$ 42.95
May	400	\$ 34.22	\$ 2.31	\$ 36.53	\$ 39.22	\$ 2.48	\$ 41.70
June	500	\$ 34.22	\$ 2.89	\$ 37.11	\$ 39.22	\$ 3.11	\$ 42.33
July	400	\$ 34.22	\$ 2.31	\$ 36.53	\$ 39.22	\$ 2.48	\$ 41.70
August	600	\$ 34.22	\$ 3.47	\$ 37.69	\$ 39.22	\$ 3.73	\$ 42.95
September	500	\$ 34.22	\$ 2.89	\$ 37.11	\$ 39.22	\$ 3.11	\$ 42.33
October	300	\$ 34.22	\$ 1.73	\$ 35.95	\$ 39.22	\$ 1.86	\$ 41.08
November		\$ 34.22	\$ -		\$ 39.22	\$ -	
December		\$ 34.22	\$ -		\$ 39.22	\$ -	
<b>Total</b>	<b>4,200</b>			<b>\$ 366.48</b>			<b>\$ 418.28</b>

Fees	
October	
November	
December	
January	
February	
March	\$ -
April	\$ -
May	
June	
July	
August	
September	\$ -
Permit	\$ 1,000.00
LCRA Grant	\$ 50,000.00
<b>Total</b>	<b>\$ 51,000.00</b>

Expenses	\$ 516,364.26
Fees	\$ 51,000.00
Net	\$ (465,364.26)

Water - Hardeman Park - Irrigation							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January		\$ 34.22	\$ -	\$ 34.22			
February		\$ 34.22	\$ -	\$ 34.22			
March	500	\$ 34.22	\$ 2.89	\$ 37.11			
April	71,000	\$ 34.22	\$ 410.38	\$ 444.60			
May	77,000	\$ 34.22	\$ 445.06	\$ 479.28			
June	2,200	\$ 34.22	\$ 12.72	\$ 46.94			
July	1,106,600	\$ 34.22	\$ 6,396.15	\$ 6,430.37			
August	366,400	\$ 34.22	\$ 2,117.79	\$ 2,152.01			
September	216,000	\$ 34.22	\$ 1,248.48	\$ 1,282.70			
October		\$ 34.22	\$ -	\$ 34.22			
November		\$ 34.22	\$ -				
December		\$ 34.22	\$ -				
<b>Total</b>	<b>1,839,700</b>			<b>\$ 10,975.67</b>			

ACCOUNT #	ADDRESS	METER #	METER SIZE
39-078010-0	1000 WHITSON	211664467	1"
33-696000-0	600 12TH ST	211664412	1"
33-697000-0	12TH ST IRRIGA	221432299	3"
33-698000-0	600 12TH ST	211664410	1"
33-699000-0	12TH ST SOCC	230840730	2"

Water - Hardeman Park							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January		\$ 34.22	\$ -	\$ 34.22	\$ 39.22	\$ -	\$ 39.22
February		\$ 34.22	\$ -	\$ 34.22	\$ 39.22	\$ -	\$ 39.22
March		\$ 34.22	\$ -	\$ 34.22	\$ 39.22	\$ -	\$ 39.22
April		\$ 34.22	\$ -	\$ 34.22	\$ 39.22	\$ -	\$ 39.22
May		\$ 34.22	\$ -	\$ 34.22	\$ 39.22	\$ -	\$ 39.22
June	100	\$ 34.22	\$ 0.58	\$ 34.80	\$ 39.22	\$ 0.62	\$ 39.84
July	0	\$ 34.22	\$ -	\$ 34.22	\$ 39.22	\$ -	\$ 39.22
August	100	\$ 34.22	\$ 0.58	\$ 34.80	\$ 39.22	\$ 0.62	\$ 39.84
September	0	\$ 34.22	\$ -	\$ 34.22	\$ 39.22	\$ -	\$ 39.22
October	100	\$ 34.22	\$ 0.58	\$ 34.80	\$ 39.22	\$ 0.62	\$ 39.84
November		\$ 34.22	\$ -		\$ 39.22	\$ -	
December		\$ 34.22	\$ -		\$ 39.22	\$ -	
<b>Total</b>	<b>300</b>			<b>\$ 343.93</b>			<b>\$ 394.06</b>

Water - Hardeman Park - Soccer							
	Consumption	Water Base	Volume	Total Water	Sewer Base	Volume	Total Sewer
January			\$ -	\$ -			
February			\$ -	\$ -			
March			\$ -	\$ -			
April			\$ -	\$ -			
May			\$ -	\$ -			
June			\$ -	\$ -			
July			\$ -	\$ -			
August		\$ 109.35	\$ -	\$ 109.35			
September	11,500	\$ 109.35	\$ 66.47	\$ 175.82			
October		\$ 109.35	\$ -	\$ 109.35			
November		\$ 109.35	\$ -				
December		\$ 109.35	\$ -				
<b>Total</b>	<b>11,500</b>			<b>\$ 394.52</b>			<b>\$ -</b>

Notes
installing new park signage
\$50,000 grant from LCRA for lights
ARPA funds for lights
repaired leak at Frahms field
Agreement for usage of Teen Center
Maintains the front edge of the park, skate park & restroom area
New lights will be paid in full by BCYS
Sprayed Frahms for mosquitoes
Re-keyed teen center - key to BCYS
repaired leak in sink at Frahms
promoted on Facebook and Website

Items to be Addressed
Hardeman
Roads
Lights on the back fields



**CITY OF BAY CITY**  
 1901 FIFTH STREET  
 BAY CITY, TEXAS 77414  
 (979) 245-2137  
 FAX: (979) 323-1626

## AGENDA ITEM SUBMISSION FORM

Any item(s) to be considered for action by the City Council must be included on this form and be submitted along with any supporting documentation. Completed Agenda Item Submission forms must be submitted to the City Secretary's Office no later than 4:00 p.m. on the Monday of the week prior to the Regular Council meeting.

<b>Requestor Name:</b>	<u>Blomquist, Herbert</u> <i>Last, First</i>	<b>Date Submitted:</b>	<u>11/17/2023</u> <i>MM/DD/YYYY</i>
<b>Requestor Type:</b>	<u>City Staff</u> <i>Citizen/City Staff/Council Member</i>	<b>Meeting Date:</b>	<u>11/28/2023</u> <i>MM/DD/YYYY</i>
<b>Position Title</b>	<u>Director of Public Works</u> <i>For City Staff Only</i>		
<b>Agenda Location:</b>	<u>Discussion Item</u> <i>(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)</i>		

### Agenda Content:

**Discuss, consider, and/or approve contract Amendment No.2 Work Authorization No. 5 to the standard contract agreement between the City of Bay City, Texas and Garver, LLC for Professional Engineering services for the Design, Bid, and Construction of the North Water Plant under the Texas Water Development Board funding for Drinking Water SRF Projects.**

### Executive Summary of Item:

The Drinking Water State Revolving Fund, authorized by the Safe Water Drinking Act, provides low-cost financial assistance for planning, acquisition, design, and construction of water infrastructure. Eligible applicants for the DWSRF include publicly and privately-owned community water systems, including nonprofit water supply corporations and non-profit non-community public water systems.

The City of Bay City was awarded \$21,278,000 in funding from the Texas Water Development Board (TWDB) to make critical improvements to the City's water systems. These improvements will include upgrades to our existing water plants, water distribution system, and a new water plant.

This agenda item is to remove \$248,908.00 in work originally approved for the North Water Treatment Plant (WTP) Project. The North Water Treatment Plant was removed from the overall new well project plan for construction due to lack of funding available. Therefore, the scope of services for the construction phase for the North WTP is no longer needed.

It is the staff's recommendation to approve Contract Amendment No. 2 to Work Authorization No. 5 so the City can move forward with the East Water Plant Project.



**AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES  
CITY OF BAY CITY  
Bay City, Texas  
Project No. 20W09161**

**CONTRACT AMENDMENT NO. 2**

This Contract Amendment No. 2 ("Amendment"), effective on the date last written below, shall amend the original contract between Bay City ("Owner") and Garver, LLC ("Garver"), dated October 27<sup>th</sup>, 2020 referred to in the following paragraphs as the "Agreement."

This Amendment modifies professional services for **Work Order No. 5 - North Water Plant Design and Construction Phase Services.**

The Agreement is hereby modified as follows:

**SECTION A – Scope of Services and Payment Schedule**

The attached **Appendix A.1** is hereby added to Section A of the Agreement

The parties hereby affirm, no other changes or modification are applicable to the terms of the Agreement, all other provisions are binding and effective as provided for in said Agreement.

This Agreement may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

*[Signature Page to Follow]*





IN WITNESS WHEREOF, City of Bay City and Garver have executed this Amendment effective as of the date last written below.

CITY OF BAY CITY

GARVER, LLC

By: \_\_\_\_\_  
*Signature*

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Printed Name*

Name: Daniel N. Olson, P.E.  
*Printed Name*

Title: \_\_\_\_\_

Title: Vice President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_



## APPENDIX A.1 – SCOPE OF SERVICES AND FEE SCHEDULE

### 1. General

Bay City has requested Garver to modify the bidding phase services and remove the Construction Phase Services for the North WTP. The following sections provide the detail scope of work.

### 2. Project Location:

The North WTP plant was to be located at 1702 State Hwy 60 N., Bay City, Texas 77414

### 3. Scope of Work

Provide modified bidding phase services and remove the Construction Phase Services for the North WTP.

Bidding phase services modifications include additional proposal alternates, evaluation interviews, TWDB coordination, and post-proposal value engineering services.

As a result of the selection of proposal alternate N-5, the construction of the North WTP is no longer anticipated. As such, the construction phase scope of work is to be removed from the project.

### 4. Fee Schedule

An estimated total lump sum fee of -\$248,908.00. Details on the level of efforts for cost on each parcel work are shown below.

Task	Cost
TASK I - Program Management and DWSRF Funding Support	\$0.00
TASK II - Project Administration	\$0.00
TASK III - 60% Design Deliverable	\$0.00
TASK IV - 90% Design Deliverable	\$0.00
TASK V - Package Permitting Set	\$0.00
TASK VI - Bid-Ready Design Deliverable	\$0.00
TASK VII - Bidding Services	\$34,812.00
TASK VIII - TWDB Coordination	\$0.00
TASK IX - Construction Phase	-\$283,720.00
<b>Total Cost</b>	<b>-\$248,908.00</b>

## Appendix A

### SCOPE OF SERVICES AMENDMENT 2

#### CITY OF BAY CITY, TEXAS North Water Plant Near SH-60 Detailed Design and Construction Phase Services

##### I. Background

The City of Bay City ("COBC") has requested Garver ("Garver") to modify the bidding phase services and remove the Construction Phase North WTP. The project was intended to provide additional water supply, storage, and flows to match that of the East WTP.

##### II. Scope of Work

The following scope of work describes the services to be provided.

###### A. Task I – NOT USED

###### B. Task II – NOT USED

###### C. Task III – NOT USED

###### D. Task IV – NOT USED

###### E. Task V – NOT USED

###### F. Task VI – NOT USED

###### G. Task VII – Bidding Services

1. During the bidding phases of the project, Garver added five proposal alternates to the North WTP project to facilitate budget flexibility, including removal of generators, removal of ground storage tanks, alternate paving details, removal of pumps, and removal of the North WTP from the project.
2. Scheduled and participated in evaluation interviews with offerors to assist in the project evaluation.
3. Coordinate with Offerors to secure additional pricing for Alternate N-5 after interview evaluation.
4. Conduct proposal evaluations for the Competitive Sealed Proposal (CSP) evaluation.
5. Document adjustments to the bidding process to competitive sealed proposals and post-bid day value engineering with the Texas Water Development Board (TWDB).
6. Evaluate any value engineering or cost savings proposals provided by offerors for the North WTP. Incorporate acceptance of Alternate N-5 to remove the North WTP scope into Change Order No 1.

###### H. Task VIII – NOT USED

# Appendix A

ITEM #2.

## I. Task IX – Construction Phase

1. Remove all construction phase services associated with the construction of the North WTP.

## III. Additional Services (NOT USED)

## IV. Extra Work (NOT USED)

## V. Schedule

1. Garver shall complete this work within 20 working days of Amendment authorization.



**CITY OF BAY CITY**  
 1901 FIFTH STREET  
 BAY CITY, TEXAS 77414  
 (979) 245-2137  
 FAX: (979) 323-1626

## AGENDA ITEM SUBMISSION FORM

Any item(s) to be considered for action by the City Council must be included on this form and be submitted along with any supporting documentation. Completed Agenda Item Submission forms must be submitted to the City Secretary's Office no later than 4:00 p.m. on the Monday of the week prior to the Regular Council meeting.

**Requestor Name:** Blomquist, Herbert **Date Submitted:** 11/17/2023  
*Last, First* *MM/DD/YYYY*

**Requestor Type:** City Staff **Meeting Date:** 11/28/2023  
*Citizen/City Staff/Council Member* *MM/DD/YYYY*

**Position Title** Director of Public Works  
*For City Staff Only*

**Agenda Location:** Discussion Item  
*(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)*

### Agenda Content:

**Discuss, consider, and/or approve contract Amendment No.2 Work Authorization No. 7 to the standard contract agreement between the City of Bay City, Texas and Garver, LLC for Professional Engineering Services for the Design, Bid, and Construction of the East Water Plant under the Texas Water Development Board funding for Drinking Water SRF Projects.**

### Executive Summary of Item:

The Drinking Water State Revolving Fund, authorized by the Safe Water Drinking Act, provides low-cost financial assistance for planning, acquisition, design, and construction of water infrastructure. Eligible applicants for the DWSRF include publicly and privately-owned community water systems, including nonprofit water supply corporations and non-profit non-community public water systems.

The City of Bay City was awarded \$21,278,000 in funding from the Texas Water Development Board (TWDB) to make critical improvements to the City's water systems. These improvements will include upgrades to our existing water plants, water distribution system, and a new water plant.

This agenda item is to approve \$96,336.00 in additional work modifications to the existing contract between the City of Bay City and Garver to assist the City with design, bidding, and construction management services for the East Water Plant project. The additional work includes additional proposal alternatives, evaluation interviews, TWDB coordination, post proposal value engineering services and preparation of Change Order No. 1 and includes the extension of the construction period and enhancement of work caused by removal of the North WTP.

It is the staff's recommendation to approve Contract Amendment No. 2 to Work Authorization No. 7 so the City can move forward with the East Water Plant Project.



**AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES  
CITY OF BAY CITY  
Bay City, Texas  
Project No. 20W09162**

**CONTRACT AMENDMENT NO. 2**

This Contract Amendment No. 2 ("Amendment"), effective on the date last written below, shall amend the original contract between Bay City ("Owner") and Garver, LLC ("Garver"), dated October 27<sup>th</sup>, 2020 referred to in the following paragraphs as the "Agreement."

This Amendment modifies professional services for **Work Order No. 7 – SH 35 East Water Plant, Well No. 12 & Bay City Regional Airport Water Well Technical Support Design and Construction Phase Services.**

The Agreement is hereby modified as follows:

**SECTION A – Scope of Services and Payment Schedule**

The attached **Appendix A.1** is hereby added to Section A of the Agreement

The parties hereby affirm, no other changes or modification are applicable to the terms of the Agreement, all other provisions are binding and effective as provided for in said Agreement.

This Agreement may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

*[Signature Page to Follow]*



IN WITNESS WHEREOF, City of Bay City and Garver have executed this Amendment effective as of the date last written below.

CITY OF BAY CITY

GARVER, LLC

By: \_\_\_\_\_  
*Signature*

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Printed Name*

Name: Daniel N. Olson, P.E.  
*Printed Name*

Title: \_\_\_\_\_

Title: Vice President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_



## APPENDIX A.1 – SCOPE OF SERVICES AND FEE SCHEDULE

### 1. General

Bay City has requested Garver to modify the bidding phase services and the Construction Phase Services for the East WTP based on the removal of the North WTP Project. The following sections provide the detail scope of work.

### 2. Project Location:

The East WTP plant will be located along State Hwy 35, Bay City, Texas 77414.

### 3. Scope of Work

Provide modified bidding phase services and enhance the Construction Phase Services for the East WTP.

Bidding phase services modifications include additional proposal alternates, evaluation interviews, TWDB coordination, and post-proposal value engineering services, including preparation of the Change Order No. 1.

The construction phase scope of work enhancements include the extension of the construction period and enhancement of work caused by the removal of the North WTP.

### 4. Fee Schedule

An estimated total lump sum fee of \$96,336.00. Details on the level of efforts for cost on each parcel work are shown below.

Task	Cost
TASK I - Program Management and Funding Support	\$0.00
TASK II - Project Administration	\$0.00
TASK III - 60% Design Deliverable	\$0.00
TASK IV - 90% Design Deliverable	\$0.00
TASK V - Package Permitting Set	\$0.00
TASK VI - Bid-Ready Design Deliverable	\$0.00
TASK VII - Bidding Services	\$0.00
TASK VIII - TWDB Coordination	\$0.00
TASK IX - Construction Phase	\$96,336.00
<del>TASK X - Airport Water System Hydraulic Modeling</del>	<del>Previously Removed</del>
<del>TASK XI - Airport Water System Technical Support</del>	<del>Previously Removed</del>
<b>Total Cost</b>	<b>\$96,336.00</b>



**5. Project Deliverable:**

Deliverables will be finalized Change Order No 1 and ongoing construction support.

**6. Project Schedule:**

Change Order No. 1 to be completed within 20 working days upon authorization from the City.

## Appendix A

### SCOPE OF SERVICES AMENDMENT

#### CITY OF BAY CITY, TEXAS SH 35 East Water Plant, Well No. 12 Detailed Design and Construction Phase Services

##### I. Background

The City of Bay City ("COBC") has requested Garver ("Garver") to modify the Construction Phase Services for the construction of the East Water Treatment Plant. This includes adjustments for cost mitigation purposes and extension of the construction period.

##### II. Scope of Work

The following scope of work describes the services to be provided.

**A. Task I – NOT USED**

**B. Task II – NOT USED**

**C. Task III – NOT USED**

**D. Task IV – NOT USED**

**E. Task V – NOT USED**

**F. Task VI – NOT USED**

**G. Task VII – NOT USED**

**H. Task VII – NOT USED**

**I. Task VIII – NOT USED**

**J. Task IX – Construction Phase**

1. Develop Change Order No. 1 for the combined project documents, incorporating the accepted cost savings items per value engineering. Respond to up to one (1) Request for Information (RFI) associated with the value engineering items.
2. Attend up to eight (8) additional monthly progress/coordination meetings with the COBC/Contractor.
3. Adjust the Construction Phase Services from 365 calendar-day construction contract performance time to 696 calendar days.

**K. Task X – PREVIOUSLY REMOVED**

**L. TASK XI – PREVIOUSLY REMOVED**

##### III. Additional Services (NOT USED)

# Appendix A

ITEM #3.

## IV. Extra Work (NOT USED)

## V. Schedule

1. Garver shall complete this work within 20 working days of Amendment authorization.



**CITY OF BAY CITY**  
 1901 FIFTH STREET  
 BAY CITY, TEXAS 77414  
 (979) 245-2137  
 FAX: (979) 323-1626

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**Requestor Name:** Blomquist, Herbert **Date Submitted:** 11/17/2023  
*Last, First* *MM/DD/YYYY*

**Requestor Type:** City Staff **Meeting Date:** 11/28/2023  
*Citizen/City Staff/Council Member* *MM/DD/YYYY*

**Position Title** Director of Public Works  
*For City Staff Only*

**Agenda Location:** Discussion Item  
*(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)*

### Agenda Content:

**Discuss, consider, and/or award the construction for the East Water Treatment Plant (WTP) project under the Texas Water Development Board funding for the Drinking Water SRF projects to LEM Construction and authorize the Mayor and/or City Manager to execute a contract approved to form by the City Attorney between the City of Bay City and LEM Construction in the amount of \$11,022,500.**

### Executive Summary of Item:

The Drinking Water State Revolving Fund, authorized by the Safe Water Drinking Act, provides low-cost financial assistance for planning, acquisition, design, and construction of water infrastructure. Eligible applicants for the DWSRF include publicly and privately-owned community water systems, including nonprofit water supply corporations and non-profit non-community public water systems.

The City of Bay City was awarded \$21,278,000 in funding from the Texas Water Development Board (TWDB) to make critical improvements to the City's water systems. These improvements will include upgrades to our existing water plants, water distribution system, and a new water plant. \$12,000,000 is allocated to Water Treatment Plant improvements.

This agenda item is to award the construction bid based on value engineering to refine the scope of the project for construction of the East Water Treatment Plant (WTP) Project.

As a result of the contractor selection process, it is City staff's recommendation to award the construction bid to LEM Construction for \$11,022,500.



12141 Wickchester Lane  
Suite 200  
Houston, TX 77079  
TEL 713.491.8333  
FAX 713.395.5486  
[www.GarverUSA.com](http://www.GarverUSA.com)

November 17, 2023

City of Bay City  
1901 5<sup>th</sup> St  
Bay City, Texas 77414

Subject: Bay City North and East WTP Improvement Recommendation of Award

Dear Mr. Blomquist:

This letter serves as Garver's recommendation to proceed with LEM Construction for the Bay City North and East Water Treatment Plant (WTP) Project. This recommendation is based on the completed evaluation of the Competitive Sealed Proposal (CSP) process.

Proposals were received for the "Bay City North and East WTP Improvements" project on August 31<sup>st</sup>, 2023. A total of two (2) proposals were received on the project. The proposals have been checked for accuracy and for compliance with the contract documents. Using the CSP process, the two proposals were evaluated based on Cost, Offerors' experience with similar projects, Offerors' key personal experience, Offerors' major subcontractors experience, and the Offerors' approach and project schedule. A tabulation of the cost portion of the proposals received is enclosed with this letter, along with the overall evaluation conducted by the City's scoring team.

During the CSP evaluation, cost scoring was based upon the Overall Project Adjusted Base Proposal values indicated in the attached Proposal Tabulation. For this evaluation and Adjusted Base Proposal, none of the original Proposal Alternates were accepted. Thus, the evaluated pricing for LEM was \$21,382,250.00.

Garver recommends further adjustments (cost reductions) to this evaluated pricing during proposal negotiations. First, Garver recommends that the City ultimately include the removal of the North WTP scope from the project (including acceptance of LEM's Proposal Alternate N-5). Pricing for this alternate was provided by both offerors on October 12, 2023, and LEM indicated an overall pricing reduction of \$9,966,750. Additionally, further reductions are warranted of the Cash and Contingency Allowances specifically associated with the North WTP construction (Cash Allowance No. 1 for \$50,000 for the electrical service to the North WTP site; Contingency Allowance No. 3 for \$75,000 for the North WTP Utility Relocation). Finally, LEM has proposed additional cost mitigation items (such as generator modifications, aluminum conduits, piping embedment detail modifications, etc.) that the City and Garver have evaluated and accepted. Items accepted include the following (with deductions):

- Item 1A: Modified Generator Enclosure for a reduction of \$150,000.
- Item 2: CPVC and 50-gallon tank water heater for a reduction of \$24,000.
- Item 3: Bank Sand Embedment for a reduction of \$15,000.

Mr. Blomquist  
November 17, 2023  
Page 2 of 2

- Item 4: Cement Lined DI Fittings and Corten MJ Hardware for a reduction of \$20,000.
- Item 5 Modified: Aluminum Conduit in lieu of PVC-Coated for a reduction of \$14,000.
- Item 6: Lab Testing via Contingency Allowance for a reduction of \$45,000.

In summary, the anticipated contract value is \$11,022,. Prior to issuance of the Notice of Award, Garver anticipates the development of Change Order No. 1 (CO1) to formally modify the Contract Documents with the post-Proposal period modifications to the project scope. This Change Order would be provided as part of the Notice of Award to LEM for authorization as part of the Agreement.

Through the CSP process, the evaluation committee determined that LEM Construction submitted the best value proposal for the project.

Please call me if you have any questions.

Sincerely,

GARVER, LLC



Tyson Hann, D. Eng., P.E.  
Project Manager

Attachments: Bid Tabulation  
CSP Evaluation Rating

CC: Shawna Burkhart, COBC  
Scotty Jones, COBC  
Krystal Mason, COBC  
Gabriel Lopez, COBC  
Dan Olson, P.E., Garver  
Wade Parks, P.E., Garver



November 13, 2023

Ms. Shawna Burkhart  
City Manager  
City of Bay City  
1901 Fifth Street  
Bay City, Texas 77414

**Re: Proposal for Professional Engineering Services: City Wide Quiet Zone**

Dear Ms. Burkhart:

HDR Engineering, Inc. (HDR) is pleased to submit this proposal for the for the above referenced project. This proposal provides a general overview of the project, proposed scope of services, and a fee summary.

**GENERAL OVERVIEW:**

The City of Bay City currently has two independent railroad companies that traverse through the City's jurisdiction. The Burlington Northern Sante Fe Railway (BNSF) runs north/south and Union Pacific Railroad (UPRR) runs west/east. The following are the two identified rail Routes:

**UPRR's Angleton Subdivision**

This main line between Avenue A and TxDOT's FM 457 traverses through the City from east to west. Lane and North Industrial Road. The CP/DME Railroad also maintains trackage rights on this segment. This rail segment includes eleven (11) public rail crossings and no other types of rail crossings. Based on this information gathered, all of the public crossings on the UP Angleton Subdivision meet the minimum warning device requirements for a quiet zone.

**BNSF's Bay City Subdivision**

This main line between Grace Street and Nichols Avenue traverses through the City from north to south and intersects with UP's Angleton Subdivision. Just south of this intersection, the mainline turns east towards Nichols Avenue. This rail segment has fifteen (15) grade crossings, thirteen (13) public and two (2) private. Only one public crossing on the BNSF Bay City Subdivision (4<sup>th</sup> Street, 023380Y) is currently equipped with the minimum warning devices requirements. The other crossings in the corridor will need to be updated accordingly.

The City has request HDR to provide a proposal to coordinate with both railroad companies, identify improvement required to meet the identified supplementary safety measures (SSM) required to establish the city wide quiet zone and provide the necessary documentation to the Federal Railroad administration (FRA) to establish a City wide quiet zone in the City limits.

HDR (“Consultant”) proposes to complete the study using the tasks described in the following scope of work. Quiet zone requirements as well as the review and implementation process are outlined in the FRA’s Quiet Zone Rule.

### **SCOPE OF SERVICES:**

HDR will perform the following Scope of Services on this Project:

#### **Task 1: Initiate Study**

- **Online Kick-off Meeting:** Consultant will hold a kickoff meeting with the City and other interested stakeholders to discuss the overall study process, key deliverables, and study timeline. Consultant will prepare an MS PowerPoint summary including a base map of the proposed crossing locations, a summary of the relevant FRA grade crossing inventory information, and a summary of the FRA accident/incident reports for the past five years (accidents within this time frame are included in the FRA’s quiet zone risk calculations).
- **Project Management Plan (PMP):** Consultant will develop a PMP to summarize the scope of work, key deliverable due dates, public engagement timelines, and review/revision periods.
- **Project Management Team (PMT):** Consultant will work with the city to establish a PMT consisting of stakeholders from the City of Bay City and other agencies. The PMT will guide the overall development of the study. Monthly PMT check-in meetings will be held via teleconference to provide updates on study progress and to receive comments on draft materials.
- **Contact Stakeholders:** Early communication with relevant stakeholders will be critical to study success. Consultant will establish contact with representatives from the FRA, UP, BNSF, TxDOT, and other partner agencies to inform them of the study and request information needed to complete the study.

#### **Task 2: Preliminary Investigation/Risk Index Update and Review**

- **Data Collection:** Consultant will collect grade crossing inventory forms and accident/incident reports for each grade crossing in the study corridor. Data in the inventory will be compared and confirmed against the TxDOT grade crossing database and or the railroad’s internal records. Confirm inventory traffic counts with City and collect updated traffic counts from the City if available. Traffic counts should be within one to three years for the FRA risk calculations. Grade crossing information will be summarized to highlight which crossings will need to be upgraded to meet the minimum requirements for quiet zone implementation.
- **Map/Layout Development:** Consultant will prepare base map showing crossing locations and type. Prepare individual crossing aerials to highlight layout and characteristics of each crossing.



- **Initial Risk Calculations:** Consultant will conduct preliminary risk calculation using FRA's online risk calculator. The inputs for each crossing will be updated based on the collected data. This calculation of the current risk levels will highlight the relative risk from crossing to crossing. Safety improvements at high-risk crossings will be more effective than improvements at low-risk crossings.

### Task 3: Preliminary Design Stage and Agency Input

- **Field Diagnostic Meetings:** Consultant will coordinate and facilitate an on-site meeting with representatives from FRA, TxDOT, UPRR, BNSF, the City, and other partner stakeholders. The purpose of the meeting is to conduct a crossing-by-crossing walkthrough to determine existing conditions and identify relevant safety issues that should be addressed. Appropriate supplementary safety measures (SSMs) and alternative safety measures (ASMs) will be identified by the diagnostic team. Consultant will prepare diagnostic meeting packets for the participants including:
  - a. Evaluation form and aerial image of each crossing to record findings and discussion
  - b. Overview map of the corridor
  - c. FRA grade crossing inventory forms for each crossing
  - d. Accident/incident reports for each crossing (within past five years).

Consultant will prepare and distribute meeting minutes documenting the discussion and recommendations of the group. Draft minutes will be submitted to attendees for review and comment prior to being finalized.

### Task 4: Concept Development and Evaluation

- **Improvement Scenario Development:** Consultant will develop up to five quiet zone implementation scenarios based on the SSM and ASM improvements recommended during the diagnostic meeting. Consultant will work with the City to develop a range of scenarios with specific focuses including: 1) providing the greatest reduction in risk level, 2) identifying the lowest cost option that allows for implementation, and 3) identifying the scenario with the smallest impact to access to properties adjacent to the crossings. For this task, consultant will use a custom spreadsheet tool to mix and match improvement options at each crossing. This will allow the consultant to quickly develop improvement scenarios and immediately see their impact on estimated risk levels and their relation to the risk thresholds required for quiet zone implementation.

Consultant will work to create improvement scenarios that result in a quiet zone risk level below the Risk Index With Horns (RIWH) threshold as calculated by the FRA quiet zone calculator. Meeting this threshold will allow for easier implementation and substantially reduce the potential that the quiet zone would be revoked in the future. Improvement scenarios that result in a quiet zone risk level below the Nationwide Significant Risk Threshold (NSRT) will also be considered.

- **Open House:** Coordinate and facilitate a public open house to present the findings of the study, outline the various improvement scenarios developed for the corridor, and

describe the benefits and costs of each. The open house will also provide an overview of the quiet zone review and implementation process.

#### **Task 5: Final Report and Presentation to City Council**

- **Draft and Final Report:** Consultant will prepare draft final report summarizing the quiet zone evaluation process including the diagnostic review recommendations, the proposed improvement scenarios (with planning-level layouts and cost estimates), and a discussion of the next steps required for quiet zone implementation. The final report will include detailed implementation plan and the following information:
  - a. Recommended prioritization of crossing safety improvements.
  - b. Planning-level layouts and cost estimates for proposed improvements.
  - c. Estimated timeline for implementation including construction, document review time by the FRA and railroad, and a final date for quiet zone establishment.
  - d. Summary of quiet zone risk levels used to establish quiet zone designation.
  - e. Identification of potential funding sources. Potential sources of funding include TxDOT Section 130 funds and Federal Consolidated Rail Infrastructure and Safety improvements (CRISI) program funding. In some cases, railroads may also provide incentive funding in exchange for crossing closure, consolidation, or other similar efforts.

The report will be finalized after incorporating feedback from City staff and the Bay City Council

- **Presentation to City Council:** Consultant will develop and present a PowerPoint presentation summarizing the findings of the draft report to the City Council to discuss the proposed improvement options and the benefits and costs of each. It is assumed that this meeting will be held in person.

#### **Task 6: Quiet Zone Implementation**

- **Documents for Quiet Zone Implementation:** Consultant will prepare and submit documents to relevant stakeholders to allow for quiet zone implementation as required by the FRA Quiet Zone Rule. Note that in the case of a preliminary feasibility study option, these documents would be prepared and provided to the City, but not submitted. Potential submittal documents include the following:
  - a. Consultant will prepare and submit a Quiet Zone Notice of Intent (NOI) to the FRA, railroad, and other stakeholders.
  - b. Additional documentation to implement the quiet zone may include a Quiet Zone Application, CWT Waiver Request, and Notice of Establishment (NOE). The specific documentation required will not be known until the preferred implementation scenario is selected by the City. Services for developing and submitting these documents and any additional quiet zone implementation services will be negotiated under a separate agreement.

### **Other Additional Services**

Other Additional Services are those services that are beyond the Scope of Services section of this proposal. Additional Services shall only be performed when directed by the City to HDR. These services are not considered normal or customary engineering services and may include, but not be limited to, the following:

- Services resulting from significant changes in the extent of the project or its design including but not limited to changes in size, complexity, schedule, or character of construction or method of financing; and revising previously accepted studies, reports design documents or Contract Documents when such revisions are due to causes beyond HDR's control.
- Preparing documents for alternate bids outside of the original scope requested by the City or documents for out of sequence work.
- Preparing to serve, or serving as a consultant, or witness for the City in any litigation, public hearing or other legal or administrative proceedings involving the Project.

HDR will endeavor to appraise the City of any potential additional or extended services that may result from the above listed items, prior to HDR's expenditure of time on such services. As previously noted, any such extended or additional services shall only be performed when directed by the City to HDR. Any appropriate engineering fee for these additional services will be negotiated with the City as an amendment to HDR's contract, as required.

### **FEES:**

Task 1 Initiate Study (Lump Sum):	\$ 8,800.00
Task 2 Preliminary Investigation/Risk Index Update and Review (Lump Sum):	\$ 11,500.00
Task 3 Preliminary Design Stage and Agency Input (Lump Sum):	\$ 18,200.00
Task 4 Concept Development and Evaluation (Lump Sum):	\$ 25,700.00
Task 5 Final Report and Presentation to City Council (Lump Sum):	\$ 14,200.00
<u>Certified Mailing (Lump Sum):</u>	<u>\$ 100.00</u>
<b>Total Fee:</b>	<b>\$ 78,500.00</b>

### **SCHEDULE:**

The anticipated project schedule will take 7 Months to complete.

### **TERMS AND CONDITIONS:**

The terms and conditions between the City and the HDR for this proposed project are attached as Attachment "A".

HDR will invoice monthly. The invoice package will include the percentage of the project complete.

We appreciate the opportunity to be of service on this project. If you have any questions, please do not hesitate to contact me at (713)-622-9264.

Sincerely,

HDR ENGINEERING, INC.



David Weston  
Vice President/ Area Manager

ACCEPTANCE: City of Bay City

\_\_\_\_\_  
City of Bay City  
Robert K. Nelson, Mayor

\_\_\_\_\_  
Date

Attachments

- Terms and Conditions

# Attachment "A"

## HDR Engineering, Inc. Terms and Conditions for Professional Services for City of Meadows Place, Texas

### 1. STANDARD OF PERFORMANCE

The standard of care for all professional engineering, consulting and related services performed or furnished by ENGINEER and its employees under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under the same or similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

### 2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. If flying an Unmanned Aerial System (UAS or drone), ENGINEER will procure and maintain aircraft unmanned aerial systems insurance of \$1,000,000 per occurrence.

OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for third party personal injury and property damage claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; and/or fines or penalties), loss of profits or revenue arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract.

### 3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

### 4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be entitled to review all construction contract documents and to require

that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement.

### 5. CONTROLLING LAW

This Agreement is to be governed by the law of the state where ENGINEER's services are performed.

### 6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

OWNER will furnish the services of soils/geotechnical engineers or other consultants that include reports and appropriate professional recommendations when such services are deemed necessary by ENGINEER. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents and services.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

### 7. SUCCESSORS, ASSIGNS AND BENEFICIARIES

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other. No third party beneficiaries are intended under this Agreement.

### 8. RE-USE OF DOCUMENTS

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the project. ENGINEER retains ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are intended or represented to be suitable for reuse by OWNER or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER.

### 9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving seven (7) days written notice to the other party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable

adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

#### 10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

#### 11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make payments to ENGINEER within thirty (30) days of OWNER's receipt of ENGINEER's invoice.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date OWNER receives ENGINEER's invoice. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

#### 12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

#### 13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

#### 14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

#### 15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice.

#### 16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

#### 17. LITIGATION SUPPORT

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

#### 18. NO THIRD PARTY BENEFICIARIES

No third party beneficiaries are intended under this Agreement. In the event a reliance letter or certification is required under the scope of services, the parties agree to use a form that is mutually acceptable to both parties.

#### 19. UTILITY LOCATION

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition,

OWNER shall notify ENGINEER of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. ENGINEER shall take reasonable precautions to avoid damaging underground utilities that are properly marked. The OWNER agrees to waive any claim against ENGINEER and will indemnify and hold ENGINEER harmless from any claim of liability, injury or loss caused by or allegedly caused by ENGINEER's damaging of underground utilities that are not properly marked or are not called to ENGINEER's attention prior to beginning the underground sampling/testing.

## **20. UNMANNED AERIAL SYSTEMS**

If operating UAS, ENGINEER will obtain all permits or exemptions required by law to operate any UAS included in the services. ENGINEER's operators have completed the training, certifications and licensure as required by the applicable jurisdiction in which the UAS will be operated. OWNER will obtain any necessary permissions for ENGINEER to operate over private property, and assist, as necessary, with all other necessary permissions for operations.

## **21. OPERATIONAL TECHNOLOGY SYSTEMS**

OWNER agrees that the effectiveness of operational technology systems ("OT Systems") and features designed, recommended or assessed by ENGINEER are dependent upon OWNER's continued operation and maintenance of the OT Systems in accordance with all standards, best practices, laws, and regulations that govern the operation and maintenance of the OT Systems. OWNER shall be solely responsible for operating and maintaining the OT System in accordance with applicable industry standards (i.e. ISA, NIST, etc.) and best practices, which generally include but are not limited to, cyber security policies and procedures, documentation and training requirements, continuous monitoring of assets for tampering and intrusion, periodic evaluation for asset vulnerabilities, implementation and update of appropriate technical, physical, and operational standards, and offline testing of all software/firmware patches/updates prior to placing updates into production. Additionally, OWNER recognizes and agrees that OT Systems are subject to internal and external breach, compromise, and similar incidents. Security features designed, recommended or assessed by ENGINEER are intended to reduce the likelihood that OT Systems will be compromised by such incidents. However, ENGINEER does not guarantee that OWNER's OT Systems are impenetrable and OWNER agrees to waive any claims against ENGINEER resulting from any such incidents that relate to or affect OWNER's OT Systems.

## **22. FORCE MAJEURE**

ENGINEER shall not be responsible for delays caused by factors beyond ENGINEER's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, government ordered industry shutdowns, power or server outages, acts of nature, widespread infectious disease outbreaks (including, but not limited to epidemics and pandemics), failure of any governmental or other regulatory authority to act in a timely manner, failure of the OWNER to furnish timely information or approve or disapprove of ENGINEER's services or work product, or delays caused by faulty performance by the OWNER's or by contractors of any level or any other events or circumstances not within the reasonable control of the party affected, whether similar or dissimilar to any of the foregoing. When such delays beyond ENGINEER's reasonable control occur, the OWNER agrees that ENGINEER shall not be responsible for damages, nor shall ENGINEER be deemed in default of this Agreement, and the parties will negotiate an equitable adjustment to ENGINEER's schedule and/or compensation if impacted by the force majeure event or condition.