



SPECIAL CITY COUNCIL MEETING

Monday, May 29, 2023 at 2:00 PM

CITY COUNCIL CHAMBERS - 120 Paint Rock Street, Eden, TX

Off: 325-869-2111 | Fax: 325-869-5075

AGENDA

1. CALL TO ORDER AND ROLL CALL

2. EXECUTIVE SESSION

The City Council for the City of Eden has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices, and 551.086 (Economic Development).

3. CONSENT ITEMS

The following items may be acted upon in one motion. No separate discussion or action is necessary unless requested by a Council Member, in which event those items will be pulled from the consent agenda for separate consideration.

A. Consider approval of Construction Contract Change Order 3 for the USDA North Water System Improvements project

B. Consider approval of the final project acceptance and release of retainage for the USDA North Water System Improvements project

4. BUSINESS

Consideration and Possible Action On:

A. Discussion and possible action on potential road developments at Industrial Park

B. Consideration and possible action on appointing candidate for vacant City Council position to include swearing in of said candidate

C. Discussion and possible action on new hire candidate for City Administrator/Secretary position

D. Discussion and possible action on making hiring offer and filling vacant City Administrator/Secretary position

5. ADJOURN

Notice is posted in accordance with Chapter 551 Government Code, Vernon's Texas Codes, Annotated. I certify that the above notice of meeting was posted on the bulletin board located at City of Eden City Hall May 26, 2023 on or before 2:00 pm.

Agapito Torres, Mayor

All agenda items listed above are eligible for discussion and action unless otherwise specifically noted. This facility is wheelchair accessible. Accessible parking spaces are available. Requests for auxiliary aids and services must be made 48 hours prior to this meeting by calling (325) 869-2211.

Change Order No. 03

Date of Issuance: May 25, 2023	Effective Date: May 29, 2023
Owner: City of Eden	Owner's Contract No.: N/A
Contractor: Darnell Construction	Contractor's Project No.: N/A
Engineer: Enprotec / Hibbs & Todd, Inc.	Engineer's Project No.: 7300
Project: North Water System Improvements	Contract Name: North Water System Improvements

The Contract is modified as follows upon execution of this Change Order:

Description:

A previously unidentified fire flow line supplying protection to medical/nursing facility on Eaker Street was discovered after abandonment of the existing water main. Additional work was necessary to reconnect the existing fire line to the newly installed main.

- Addition of \$8,772.00 due to field discovered items during construction.

Attachments: Attachment A – Quantities Rectification Spreadsheet

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: <u>\$ 2,095,427.18</u>	Original Contract Times (days): Substantial Completion: <u>180</u> Ready for Final Payment: <u>210</u>
[Increase] [Decrease] from previously approved Change Orders No. <u>0</u> to No. <u>2</u> : <u>\$ 89,354.51</u>	[Increase] [Decrease] from previously approved Change Orders No. <u>0</u> to No. <u>2</u> : Substantial Completion: <u>210 days</u> Ready for Final Payment: <u>210 days</u>
Contract Price prior to this Change Order: <u>\$ 2,184,781.69</u>	Contract Times prior to this Change Order (days): Substantial Completion: <u>390</u> Ready for Final Payment: <u>420</u>
[Increase] [Decrease] of this Change Order: <u>\$ 8,772.00</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: <u>175 days</u> Ready for Final Payment: <u>175 days</u>
Contract Price incorporating this Change Order: <u>\$ 2,193,553.69</u>	Contract Times with all approved Change Orders (days): Substantial Completion: <u>565</u> Ready for Final Payment: <u>595</u>

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: _____ Engineer (if required)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: _____	Title _____	Title _____
Date: _____	Date _____	Date _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

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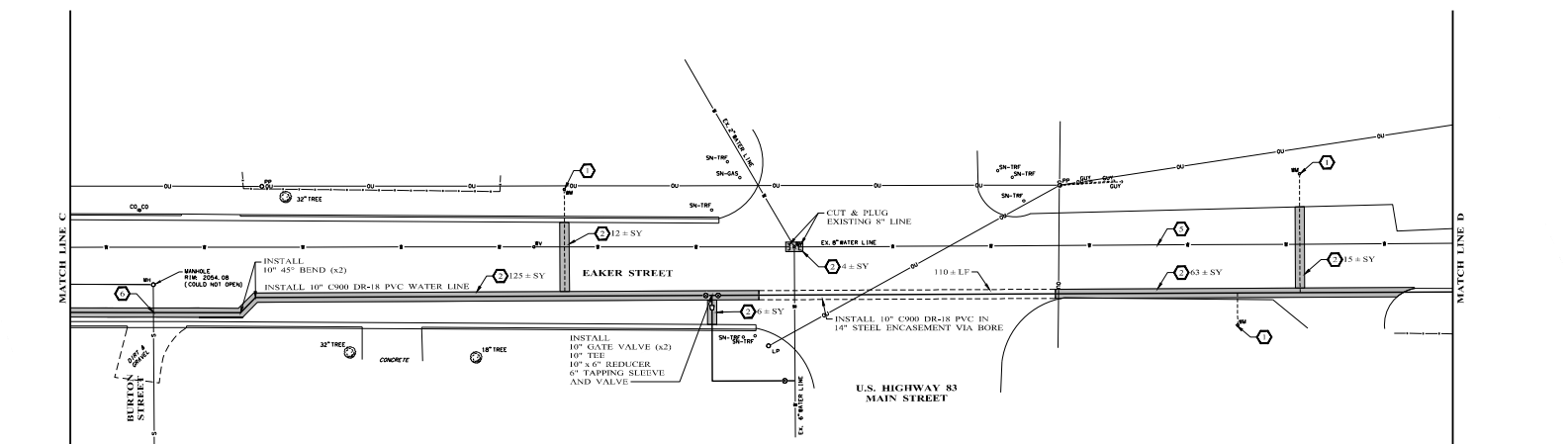
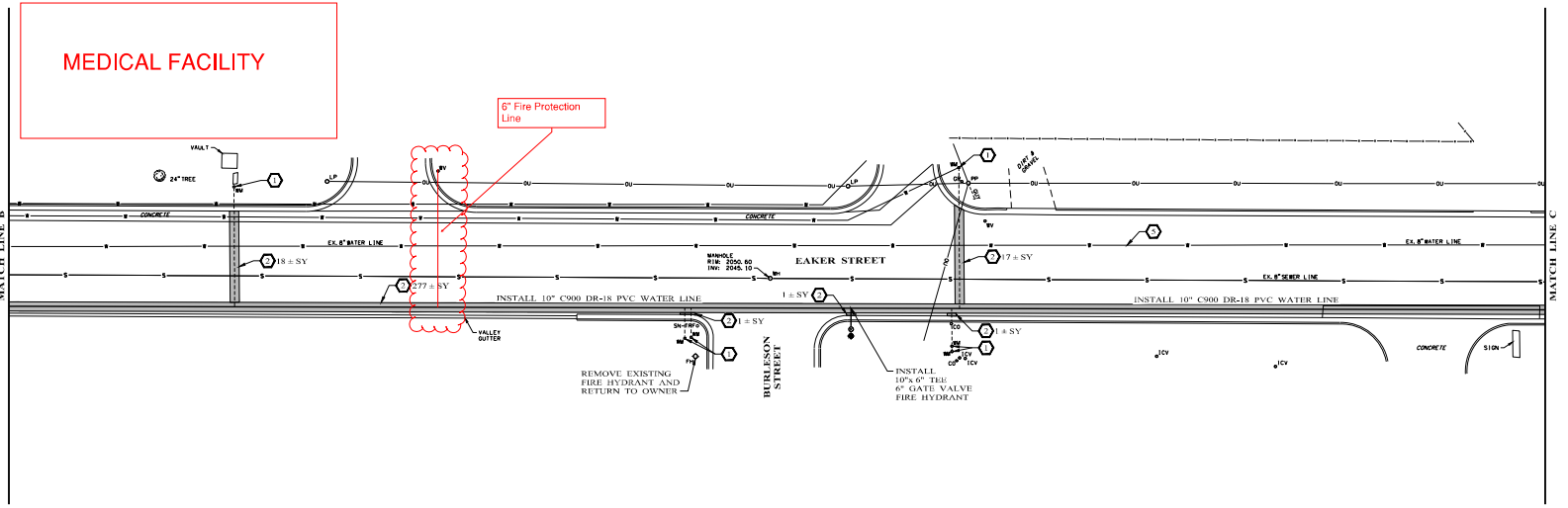
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Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

City of Eden USDA RD North Water System Improvements - Change Order 3					
<u>Item</u>	<u>Description</u>	<u>Unit Price</u>	<u>Units</u>	<u>Quantity Adjustment</u>	<u>Total</u>
CO-3	Re-connect fire line for facility				
	Material and Hot Shot Fee	\$ 3,046.24	LS	1	\$ 3,046.24
	Equipment: Cat 315 Hammer	\$ 1,500.00	LS	1	\$ 1,500.00
	Equipment: 420 Backhoe	\$ 750.00	LS	1	\$ 750.00
	Mobilization	\$ 675.76	LS	1	\$ 675.76
	Labor	\$ 2,800.00	LF	1	\$ 2,800.00

Total Added Amount \$ 8,772.00



LEGEND

● ^{18"}	SANITARY SEWER MANHOLE	● ^{18"}	TELEPHONE PULL-BOX	●	PROPOSED FIRE HYDRANT
● ^{20"}	SANITARY SEWER CLEANOUT	○ ^{18"}	SIGN	○	PROPOSED GATE VALVE
● ^{18"}	FIRE HYDRANT	○ ^{18"}	SIGN - TRAFFIC	○	PROPOSED PLUG
● ^{18"}	WATER METER	○ ^{18"}	SIGN - BURIED GAS LINE	○	RECONNECT METER SERVICE
● ^{18"}	WATER VALVE	○ ^{18"}	PIPE BOLLAR	○	INSTALL ASPHALT PAVEMENT REPLACEMENT
● ^{18"}	GAS METER	○ ^{18"}	MAILBOX	○	INSTALL CONCRETE PAVEMENT REPLACEMENT
● ^{18"}	GAS VALVE	○ ^{18"}	CLY ANCHOR	○	INSTALL GRAVEL REPLACEMENT
● ^{18"}	GAS RISER	○ ^{18"}	GAS LINE	○	ABANDON EXISTING WATER LINE IN PLACE
● ^{18"}	ELECTRIC METER	○ ^{18"}	WATER LINE	○	CONTRACTOR TO INSTALL WATERSEWER CROSSING IN ACCORDANCE WITH 93 EAC 290.04-6.4.8. IF APPLICABLE, PAYMENT FOR ENCASEMENT WILL BE SUBSIDIARY TO PROJECT COST.
● ^{18"}	LIGHT POLE	○ ^{18"}	OVERHEAD UTILITY	○	
● ^{18"}	POWER POLE	○ ^{18"}	PROPOSED WATER LINE	○	
		○ ^{18"}	PROPOSED SERVICE LINE	○	

CHANGE ORDER 3

ENPROTEC/HIBBS & TODD, INC. ENVIRONMENTAL AND CIVIL ENGINEERS 411 South Street, Suite 1000 Edin, Texas 79120 P.O. Box 290444, No. 1010 P.O. Box 290444, No. 1010 Edin, Texas 79120	PROJECT NO. 06034-2021
	DATE E.A.T.
CONSTRUCTION PLANS FOR NORTH WATER SYSTEM IMPROVEMENTS EDEN, CONCHO COUNTY, TEXAS	
C.E.T. DESIGNED BY J.B.H. DRAWN BY S.D.	CHECKED BY: 13 OF 34



May 25, 2023

City of Eden
120 Paint Rock Street
Eden, Texas 76837
Attn: Mayor Agapito Torres

**Re: USDA RD North Water System Improvements
City of Eden, Texas
Recommendation of Project Acceptance**

Dear Mayor Torres:

To the best of my knowledge, information, and belief, the referenced project is complete in accordance with the approved Contract Documents, Drawings, Technical Specifications, and Change Orders. The date of substantial completion is November 28, 2023. The Contractor warrants the work for a period of 1 year from the date of Substantial Completion. The Contractor has provided the closeout documents outlined in Section 01700 of the Contract Documents.

In accordance with the Contract Documents, final project acceptance and release of retainage funds is recommended once the Contractor provides the remaining closeout documents.

Sincerely,

Enprotec / Hibbs & Todd, Inc.

Sage Diller, PE

SD/jd

Attachments: Closeout Documents Provided by Contractor

c: City Council
City Attorney
Todd Powell, USDA-RD
Project File: 7300

P:\Projects\Eden, City of\7300 USDA-RD 2019 Water & WW System Improvements\5. Construction Phase\Close-out Documents\North Water

Environmental, Civil & Geotechnical Engineers

Abilene Office
402 Cedar
Abilene, Texas 79601
P.O. Box 3097
Abilene, Texas 79604
325.698.5560 | 325.690.3240 fax

Lubbock Office
6310 Genoa Avenue, Suite E
Lubbock, Texas 79424
806.794.1100 | 806.794.0778 fax

www.e-ht.com

Granbury Office
1310 Weatherford Highway, Suite 116
Granbury, Texas 76048
682.498.6000 | 682.498.6293 fax

PE Firm Registration No. 1151
PG Firm Registration No. 50103
RPLS Firm Registration No. 10011900

FINAL BILLS PAID AFFIDAVIT
BY CONTRACTOR

BEFORE ME, the undersigned authority, personally appeared as Jody Darnell, known to me to be a credible person, and after
(Name)
being by me duly sworn, upon oath stated and affirmed that: "My name is Jody Darnell and I am the Owner
(Name) (Title)
of Darnell Construction, hereafter referred to in this affidavit as
(Firm)
"Contractor". Contractor's business address is 4750 S. Chadbourne St, San Angelo
(Address)
Texas, 76904. The undersigned Contractor has personal knowledge of the facts
(Zip)
stated herein and has full authority to make the agreements in this affidavit on behalf of
Contractor.

Pursuant to and in accordance with a written contract between Contractor and
City of Eden, Tx, collectively referred to as Owner, Contractor furnished
(Owner)
materials and labor for the construction, renovation, installation or repair of certain
improvements (the "Improvements") as indicated in City of Eden Permit No.
Contract 7300.
(Permit No. e.g. SDP1200-0000)

All work provided for under said written construction contract, together with all changes and supplements thereto, has been fully completed in accordance with the terms and provisions of said contract.

Contractor has paid each of its subcontractors, laborers, suppliers and materialmen in full for all labor and materials provided to Contractor for or in connection with the construction, renovation, or repair of the Improvements.

Contractor is not aware of any unpaid bills, claims, demands, or causes of action by any of its subcontractors, laborers, manufacturers, suppliers, or materialmen for or in connection with the furnishing of labor materials, or both, for the construction, renovation, or repair of the Improvements.

Contractor further understands that this Final Bills Paid Affidavit is being given pursuant to and in accordance with Section 53.085 of the Texas Property Code and that the

intentional, knowing, or reckless making of a false or misleading statement in this Affidavit constitutes an offense under said Section and is a Class A misdemeanor.

Contractor hereby indemnifies and holds harmless the City of Round Rock from any and all claims, demands or causes of action, and any costs, expenses, and attorney's fees incurred in connection therewith, arising from or connected with, the statements and representations contained herein.

EXECUTED this 22nd day of May, 2023.

CONTRACTOR:

By: [Signature]

Name: Jody Darnell

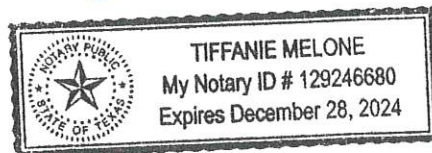
Title: Owner

Notary's Acknowledgement

Before me, the undersigned authority, on this day personally appeared Jody Darnell, who first being duly sworn by me to be the person whose name is subscribed to the foregoing Final Bills Paid Affidavit, acknowledged that he/she has the authority to make this Final Bills Paid Affidavit, and further acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 22nd day of May, 2023.

[Signature]





SureTec INSURANCE COMPANY

CONSENT OF SURETY TO FINAL PAYMENT

- OWNER
- ARCHITECT
- CONTRACTOR
- SURETY
- OTHER

BOND NO.: 4440578

TO OBLIGEE:

(Name and Address)

City of Eden
120 Paint Rock Road, Eden, TX 76837

CONTRACT FOR:

North Water System Improvements

PROJECT:

(Name and Address)

North Water System Improvements, Eden, TX

CONTRACT DATED:

08/30/2021

PRINCIPAL: Darnell Construction, LLC

4750 S. Chadbourne Street, San Angelo, TX 76904

At the request of the Obligee and the Principal indicated above, *(Insert name and address of Surety)*

SureTec Insurance Company, 2103 CityWest Blvd, Suite 1300, Houston, TX 77042,

SURETY,

on bond of *(Insert name and address of Contractor)*

Darnell Construction, LLC
4750 S. Chadbourne Street, San Angelo, TX 76904

, **CONTRACTOR,**

and conditioned on the representation by Obligee that all Contract provisions relating to the payment of final payment under the Contract have been satisfied by Principal as of the date of final payment, and that no claims by Obligee or any third party are known or believed by Obligee or its representatives to exist as of the date of final payment, representations as to the truth and accuracy of the foregoing conditions being deemed to have been made by Obligee in connection with this request for Consent of Surety, hereby approves of the final payment to the Principal, and agrees that final payment in accordance with the terms hereof shall not relieve the Surety of its obligations to *(Insert name and address of Obligee)*

City of Eden
120 Paint Rock Road, Eden, TX 76837

, **OBLIGEE,**

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: May 19, 2023
(Insert in writing the month followed by the numeric date and year.)

SureTec Insurance Company *(Surety)*

(Signature of authorized representative)

Tammy A. Friddle, Attorney-in-Fact



POA# 4221025

JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Marke Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

Paul G. Adam, Peter S. Batjer, Joseph P. O'Connor, Lisa W. Friend, Susan D.B. Muniz, Alan N. Sisk, Marci James, Shannon Dunaway, Tammy A. Friddle, Amy Taylor


Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Ten Million and 00/100 Dollars (\$10,000,000.00)

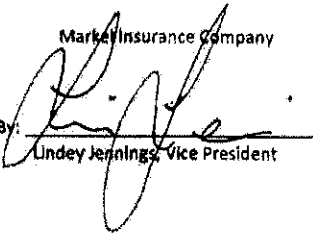
This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Marke Insurance Company:

"RESOLVED, That the President, any Senior Vice President, Vice President, Assistant Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Marke Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Marke Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 18th day of February, 2023.

SureTec Insurance Company
By: 
Michael C. Keimig, President

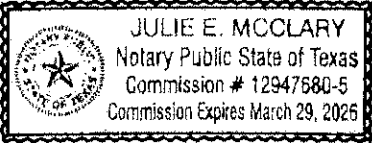


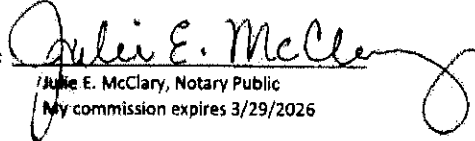
Marke Insurance Company
By: 
Undey Jennings, Vice President

State of Texas
County of Harris:

On this 18th day of February, 2023 A. D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the proceeding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

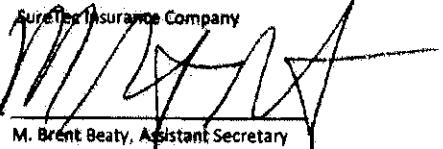
IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.




By: 
Julie E. McClary, Notary Public
My commission expires 3/29/2026

We, the undersigned Officers of SureTec Insurance Company and Marke Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 19th day of May, 2023.

SureTec Insurance Company
By: 
M. Brent Beaty, Assistant Secretary

Marke Insurance Company
By: 
Andrew Matquis, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity. 4221025
For verification of the authority of this Power you may call (713)812-0800 on any business day between 8:30 AM and 5:00 PM CST.

SureTec Insurance Company

IMPORTANT NOTICE

Statutory Complaint Notice/Filing of Claims

To obtain information or make a complaint: You may call the Surety's toll free telephone number for information or to make a complaint or file a claim at: 1-866-732-0099. You may also write to the Surety at:

SureTec Insurance Company
9500 Arboretum Blvd., Suite
400
Austin, TX 78759

You may contact the Texas Department of Insurance to obtain information on companies, coverage, rights or complaints at 1-800-252- 3439. You may write the Texas Department of Insurance at:

PO Box 149104
Austin, TX 78714-
9104
Fax#: 512-490-1007
Web: <http://www.tdi.state.tx.us>
Email: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIMS DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.
