



**GREATER TEXOMA UTILITY AUTHORITY
BOARD MEETING
NOVEMBER 11, 2024**

**GTUA BOARD ROOM
5100 AIRPORT DRIVE
DENISON, TEXAS 75020**



AGENDA
GREATER TEXOMA UTILITY AUTHORITY
BOARD OF DIRECTORS MEETING
GTUA BOARD ROOM
5100 AIRPORT DRIVE
DENISON, TEXAS 75020
Monday, November 11, 2024, 12:00 p.m.

Notice is hereby given that a meeting of the Board of Directors of the Greater Texoma Utility Authority will be held on the 11th day of November 2024, at 12:00 p.m. in the Administrative Offices of the Greater Texoma Utility Authority, 5100 Airport Drive, Denison TX, 75020, at which time the following items may be discussed, considered, and acted upon, including the expenditure of funds.

Agenda:

- I. Call to Order.
- II. Pledge of Allegiance.
- III. Consent Agenda
 - * Items marked with an asterisk (*) are considered routine by the Board of Directors and will be enacted in one motion without discussion unless a Board Member or a Citizen requests a specific item to be discussed and voted on separately.
- IV. * Consider and act upon approval of Minutes October 21, 2024, Meeting.
- V. * Consider and act upon approval of accrued liabilities for October 2024.
- VI. Citizens to be Heard.
- VII. Executive Session
 - Pursuant to Government Code, Sections 551.129 the Board of Directors may adjourn into closed Executive Session to discuss the following:
 - a. Consultations Between Governmental Body and Its Attorney
 - i. Consider GTUA contract negotiations
- VIII. Regular Session
- IX. Receive Quarterly Investment Report.
- X. Consider and act upon the requested amendment to Article 9 and Article 15 of the Kiewit Water Facilities South Co. Contract for the City of Sherman's South Wastewater Treatment Plant Project, converting the contract from a Construction Manager-at-Risk to a Lump Sum Contract.

- XI. Consider and act upon Amendment Number 7 (Final Guaranteed Maximum Price) for Kiewit Water Facilities South Co. for the City of Sherman's South Wastewater Treatment Plant Project.
- XII. Consider and act upon the award of contract for the City of Sherman WTP Sedimentation Basin Mechanism Replacement Project.
- XIII. Consider and act upon the award of contract for the City of Sherman Stephens PS and GST Facility Improvements Project.
- XIV. Consider and act upon Change Order No. 1 with Elliott Electric Supply for the City of Sherman Post Oak Pad Mounted Transformer Project.
- XV. Consider and act upon a Resolution by the Board of Directors of the Greaser Texoma Utility Authority accepting the contract with Red River Construction Co. for the City of Sherman Post Oak Wastewater Treatment Plant Primary Clarifier No.1 Equipment Replacement and Sludge Transfer Station Rehab Project as Complete.
- XVI. Consider and act upon the award of contract for Northwest Grayson County Water Control & Improvements District (NWGCWCID) Elevated Storage Tank No. 2.
- XVII. Consider and act upon Administrative Service Contract with the Red River Groundwater Conservation District.
- XVIII. Consider and act upon a Policy on covered applications and prohibited technology.
- XIX. Receive General Manager's Report: The General Manager will update the Board on operational and other activities of the Authority.
- XX. Adjourn.

¹The Board may vote and/or act upon each of the items listed in this agenda.

²At any time during the meeting or work session and in compliance with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes, Annotated, the Greater Texoma Utility Authority Board may meet in executive session on any of the above agenda items or other lawful items for consultation concerning attorney-client matters (§551.071); deliberation regarding real property (§551.072); deliberation regarding prospective gifts (§551.073); personnel matters (§551.074); and deliberation regarding security devices (§551.076). Any subject discussed in executive session may be subject to action during an open meeting.

³PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THIS MEETING, AND WHO MAY NEED ASSISTANCE, ARE REQUESTED TO CONTACT VELMA STARKS AT (903) 786-4433 TWO (2) WORKING DAYS PRIOR TO THE MEETING, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

AGENDA ITEM IV

**MINUTES OF THE BOARD OF DIRECTORS' SPECIAL MEETING
GREATER TEXOMA UTILITY AUTHORITY**

MONDAY, OCTOBER 21, 2024

**AT THE ADMINISTRATIVE OFFICES
5100 AIRPORT DRIVE
DENISON TX 75020**

Members Present: Stanley Thomas, Matt Brown, Scott Blackerby, Henry Koehler, Robert Hallberg, Donald Johnston, Brad Morgan, Kristofor Spiegel and Ken Brawley

Visitors: Robby Hefton, City of Sherman, City Manager

Staff: Paul Sigle, Stacy Patrick, Tasha Hamilton, Debi Atkins, Billie Jo Tiner and Nichole Murphy

General Counsel: Mike Wynne, Wynne and Smith-Absent

Bond Counsel: Kristen Savant, Norton Rose Fulbright

Financial Advisor Garry Kimball, Specialized Public Finance-Absent

I. Call to Order

Board President Brad Morgan called the meeting to order at 12:00 p.m.

II. Pledge of Allegiance

Board President Brad Morgan led the group in the Pledge of Allegiance.

III. Consent Agenda

Items marked with an asterisk () are considered routine by the Board of Directors and are enacted in one motion without discussion unless a Board Member or a Citizen requests a specific item to be discussed and voted on separately.

IV. * Consider and act upon approval of Minutes of September 16, 2024, Meeting.

V. * Consider and act upon approval of accrued liabilities for September 2024.

VI. * Consider and act upon Change Order No. 2 for City of Bells WWTP Rehabilitation Contract with Urban Infraconstruction.

VII. * Consider and act upon updated Change Order No. 6 for City of Whitewright Water Lines Improvement Project with Underwood, Inc.

Board Member Scott Blackerby made the motion to approve the Consent Agenda. Board Member Stanley Thomas seconded the motion. Motion passed unanimously.

VIII. Citizens to be Heard.

No citizens wished to be heard.

IX. Executive Session

Pursuant to Government Code, Sections 551.129 the Board of Directors may adjourn into closed Executive Session to discuss the following:

- a. Consultations Between Governmental Body and Its Attorney
 - i. Consider GTUA contract negotiations

Board Member Ken Brawley made the motion to go into Executive Session at 12:04 P.M. Board Member Robert Hallberg seconded the motion. Motion passed unanimously.

X. Regular Session

Board meeting reconvened into regular session at 1:00 P.M.
No action was taken.

XI. Consider and act upon the award of contract for City of Sherman Miscellaneous Water Line Improvements

General Manager Paul Sigle provided background information for the Board. Nine bids were received by GTUA and the City of Sherman. Kitching & Co., LLC. is the lowest responsive bidder with a base bid amount of \$685,365.08. Board Member Scott Blackerby made the motion to approve contingent upon the City of Sherman's approval. Board Member Ken Brawley seconded the motion. Motion passed unanimously.

XII. Consider and act upon the award of contract for the City of Sherman Laboratory Services Building Addition & Remodel Project.

General Manager Paul Sigle provided background information for the Board. Four bids were received by the City of Sherman from Freeman-Millican, Inc. Hawk Builders, LLC. is the lowest responsive bidder with a base bid amount of \$2,679,183.00. Board Member Donald Johnston made the motion to approve contingent upon the City of Sherman's approval. Board Member Stanley Thomas seconded the motion. Motion passed unanimously.

XIII. Consider and act upon the award of Contract for the City of Sherman Shephard Drive Sewer Extension Project.

General Manager Paul Sigle provided background information for the Board. Three bids were received by the City of Sherman from Birkhoff, Hendricks & Carter, L.L.P. Professional Engineers. Hayes Construction, LLC. is the lowest responsive bidder with a base bid amount of \$668,730.00. Board Member Scott Blackerby made the motion to approve contingent upon the City of Sherman's approval. Board Member Matt Brown seconded the motion. Motion passed unanimously.

- XIV. Consider and act upon a Resolution by the Board of Directors of The Greater Texoma Utility Authority accepting the contract with Lynn Vessels Construction, LLC for the City of Sherman Hickory Hill Offsite Water and Sanitary Sewer Improvements Project as complete.

General Manager Paul Sigle provided background information for the Board. Lynn Vessels Construction, LLC., has completed the City of Sherman Hickory Hill Offsite Water and Sanitary Sewer Improvements Project. Accepting the project as complete will allow the Authority to process the final payment and release the retainage to Lynn Vessels Construction, LLC. Board Member Ken Brawley made the motion to accept the project as complete. Board Member Matt Brown seconded the motion. Motion passed unanimously.

- XV. Consider and act upon approval of the Investment Policy.

General Manager Paul Sigle provided background information for the Board.
No discussion was needed. Board Member Matt Brown made a motion to approve the Investment Policy. Board Member Kristofor Spiegel seconded the motion. Motion passed unanimously.

- XVI. Discussion and possible action on November Board of Director Meeting.

Board Members discussed moving the date of the November Board Meeting.
The GTUA board meeting has been moved to November 11, 2024, at 12:00 P.M.

- XVII. Receive General Manager's Report: The General Manager will update the Board on operational and other activities of the Authority.

- CGMA motor replacement or repair.
- Red River boundary that was recently approved.
- GTUA to file 12 funding applications with TWDB.

- XVIII. Adjourn

Board Member Ken Brawley made the motion to adjourn. Board Member Henry Koehler seconded the motion. Board President Brad Morgan declared the meeting adjourned at 1:16.

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Recording Secretary

Secretary-Treasurer

AGENDA ITEM V

RESOLUTION NO. _____

**A RESOLUTION BY THE BOARD OF DIRECTORS OF THE
GREATER TEXOMA UTILITY AUTHORITY AUTHORIZING
PAYMENT OF ACCRUED LIABILITIES FOR THE MONTH OF OCTOBER**

The following liabilities are hereby presented for payment:

CURRENT	PRIOR MONTH	PRIOR YEAR	% COMPLETE
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GENERAL:

Audit

Pattillo, Brown & Hill (Interim bill for FY 2024 annual audit of GTUA)	9,000.00		
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Dues and Subscriptions

Bank of Texas Visa (State Purchasing Web Site Smart Buy, renewal)	100.00		
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Equipment

Freedom CDJR North (Purchased 2025 Dodge Ram 1500 VIN# 1C6SRECGXSN574476 to replace 2012 F150)	36,821.89		
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Fuel and Reimbursements for Mileage

Paul Sigle (Reimbursement for Mileage)	129.11		
Stacy Pactrick (Reimbursement for mileage)	84.08		
Kristi Krider (Reimbursement for mileage)	8.71		
Velma Starks (Reimbursement for mileage)	36.92		
Valero Fleet Plus (Fuel - Operations Vehicles)	1,784.15		

Insurance

TWCA Risk Management (Auto Liability insurance change for new 2025 Dodge Ram)	1,108.00		
TWCA Risk Management (Workers' compensation insurance)	498.00		

Leases/Rental Fees

Pitney-Bowes (Mailing system)	165.54		
North Texas Regional Airport (Lease - administrative offices)	2,631.96		
Wells Fargo Financial Leasing (Copier Lease)	625.34		

Legal Fees

Wynne, Smith & Young (Agenda, Board Meeting, & Review of draft lease with the NTRA, BOD for Sept meeting, telephone conf with PS and BM)	1,283.75		
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Maintenance Agreements

Novatech (Konika-Minolta copier)			
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	CURRENT	PRIOR MONTH	PRIOR YEAR	% COMPLETE
<u>Meetings and Conferences</u>				
Feast On This (BOD Lunch)	272.00			
<u>Miscellaneous</u>				
Bank of Texas Visa - (Equipment Member City - Weston WWTP supplies)	51.34			
<u>Postage</u>				
Federal Express (Postage)				
United States Postal Service (Meter Refill)				
<u>Professional Services</u>				
Final Details (Cleaning Service)	585.00			
<u>Repair & Maintenance - Building & Equipment</u>				
Diamond Computers (UPS Battery Back up APC 1500 Sure Point, Annual IT Service Contract renewal with cloud back up, server pkg, remote service)	3,318.90			
Neal Plumbing (Replaced handicap faucet in women's restroom)	389.43			
Lowe's (Pressure washer supplies to clean bldg 703 and its sidewalks)	57.96			
<u>Repair & Maintenance - Administrative and Operations Vehicles</u>				
Bank of Texas Visa (2019 F150 Inspection)	7.00			
Grason County Tax Assessor (2025 Ram Truck tag and Title)	16.75			
Sign Machine (14" Digital Printed Blue door logos for trucks)	98.00			
Whistlestop (Oil change for 2022 Ranger)	106.72			
<u>Supplies</u>				
Advantage Office Supplies (General Office Supplies)	354.30			
American Express (GoDaddy MS Office & Email Security renewals, General office supplies, Toner, Drums, Copier paper, and LogMeIn)	2,221.75			
Bank of Texas Visa (General Office Supplies)	217.87			
<u>Uniforms</u>				
Bank of Texas Visa (work boots for DT and work shirts for EK)	587.55			
<u>Utilities</u>				
ATMOS Energy (Gas)	133.15			
City of Denison (Water)	274.76			
Shell Energy (Electric)	496.74			
Zutty Inc.(phone lines - local & long distance)	176.89			
Dave Tomlinson (Reimbursement for cell phone expenses)	25.00			

	CURRENT	PRIOR MONTH	PRIOR YEAR	% COMPLETE
Eric Kyukendall (Reimbursement for cell phone expenses)	25.00			
Nichole Murphy (Reimbursement for cell phone expences)	25.00			
Paul Sigle (Reimbursment for cell phone expense & internet change)	8.34			
Richard McCool (Reimbursement for cell phone expense)	25.00			
Stacy Patrick (Reimbursement for cell phone expenses)	25.00			
Steve White (Reimbursement for cell phone expenses)	25.00			
Wayne Eller (Reimbursement for cell phone expenses)	25.00			
TOTAL:	\$ 63,826.90	\$ 14,057.32	\$ 16,417.09	
SOLID WASTE:				
<u>Supplies</u>				
Bank of Texas Visa (Bi-Low Wholesale Dozer, fluid, oil, Hyrdolic fluid and grease (93.50), Tractor Supply - grease gun)	138.49			
<u>Utilities</u>				
Grayson-Collin Electric	277.44			
TOTAL:	\$ 415.93	\$ 590.99	\$ 265.27	
WASTEWATER:				
<u>Advertising</u>				
American Express (Sherman 2024 - Ad to bid Shepherd Drive sewer extention posted in the Gainesville Daily Register)	1,186.80			
American Express (Sherman 2024 - Ad to Bid SH Post Oak Sewer electrical upgrades posted in the Herald Democrat)	323.07			
American Express (Sherman 2024 - Ad to Bid SH Post Oak Sewer electrical upgrades posted in the McKinney Courier Gazette)	1,458.25			
American Epress (Sherman 2024 - Ad to Bid Post Oak Sewer electrical upgrades)	1,231.60			
<u>Construction Contracts</u>				
ANA Site Const. (Sherman 2022 - Downtown Wastewater Improvements PH 1 Pay App #3)	823,868.84			51%
City of Sherman (Sherman 2019 REF - Rosedale to First St. Sewer Line for Citibank)	99.99			
City of Sherman (Sherman 2021 - Southside Industrial Sewer for Grayson Co. TX Clerk Real Property Recordings for Citibank)	48.00			
City of Sherman (Sherman 2022 - Exp Shepherd Dr. Sewer Line Ext. for Birkhoff, Hendricks, & Carter LLP)	118.80			
City of Sherman (Sherman 2023 - Post Oak Creek Sanitary Sewer Imp for Grayson Cty Tx Real Property Rec & AMTEK INFO for Citibank)	139.99			
City of Sherman (Sherman 2023A - Exp Misc Water & WW line improvements Amtek Informaton services for Citibank)	199.98			
Kiewit (Sherman 2024 - WWTP MBR Pay App # 13)	22,196,501.75			46%
Western Municipal Const. (Sherman 2024 - Post Oak Swr PH 1)	571,907.53			24%
<u>Engineering Fees</u>				
City of Whitewright (Whitewright 2023 - Reimbursment for Kimley-Horn Eng Invoices for WWTP Improvements)	189,000.00			
Birkhoff, Hendricks & Carter (Sherman 2022 - Engineering services for the Shepherd Dr. Sewer Ext. PSA)	1,230.50			
Huitt-Zollars (Sherman 2021 - Post Oak Sanitary Sewer Improvements. Engineering services through 8/31/24)	2,782.50			62%

	CURRENT	PRIOR MONTH	PRIOR YEAR	% COMPLETE
<u>Legal</u>				
Wynne, Smith & Young (Sherman 2023 - GTUA & Member Cities for Water & Sewer services reviewed contract from city. Team meeting conference)	656.25			
Wynne, Smith & Young (Sherman 2023 - Reviewed project documents for Post Oak WWTP emgy generator switch gear)	487.50			
<u>Postage</u>				
Federal Express (Sherman 2024A - Shipped docs for engineering certs to Ornelas of Norton Rose Fulbright)	30.28			
TOTAL:	\$ 23,791,271.63	\$ 31,303,728.82	\$ 2,710,480.25	
WATER:				
<u>Advertising</u>				
American Express (NWG WCID 2022 - Ad to Bid NWG WCID Elevated Storage Tank #2 posted in the Gainesville Daily Register)	802.00			
American Express (NWG WCID 2022 - Ad to Bid NWG WCID Elevated Storage Tank #2 posted in the McKinney Courier Gazette)	1,024.11			
American Express (NWG WCID 2022 - Ad to Bid NWG WCID Elevated Storage Tank #2 posted in the Herald Democate)	225.06			
American Express (Sherman 2024A - Ad to bid Stephens Rd. Groundwater Storage Tank and Pump Station posted in the G'ville Daily Register)	1,170.80			
American Express (Sherman 2024A - Ad to bid Stephens Rd. Groundwater Storage Tank and Pump Station posted in the Herald Democrat)	261.36			
American Express (Sherman 2024A - Ad to bid Stephens Rd. Groundwater Storage Tank and Pump Station posted in the McKinney Courier Gazette)	1,241.18			
American Express (Sherman 2023A - Ad to bid WTP EDR Rehab Sedimentation Basin Mechanism posted in the McKinney Courier Gazette)	1,269.85			
American Express (Sherman 2023A - Ad to bid WTP EDR Rehab Sedimentation Basin Mechanism posted in the Herald Democrat)	279.51			
American Express (Sherman 2023A - Ad to bid WTP EDR Rehab Sedimentation Basin Mechanism posted in the Herald Democrat)	286.77			
American Express (Sherman 2023A - Ad to bid WTP EDR Rehab Sedimentation Basin Mechanism posted in the McKinney Courier Gazette)	1,296.99			
American Express (Sherman 2023A - Ad to bid WTP EDR Rehab Sedimentation Basin Mechanism posted in the Gainesville Daily Register)	1,203.60			
<u>Construction Costs</u>				
Bel Air Village (Sherman 2023 - Bel Air Village (KIK) Final)	112,729.15			100%
Bel Air Village (Sherman 2023 - Utilities PH2 Bel Air Blvd Pay App #13 Inv # 2024.10)	43,870.94			
City of Sherman (Sherman 2023 - ReimbursementWTP Concentrate Discharge & Outfall Design AMTEK Information Service for Citibank)	199.98			
City of Sherman (Sherman 2023A - Reimbursement Exp WTP Rehab SOLB rapid set concrete leveler for Home Depot & Floor Enamel for Sherwin Williams)	1,169.04			

	CURRENT	PRIOR MONTH	PRIOR YEAR	% COMPLETE
City of Sherman (Sherman 2024A - Reimbursement Stephens Pump Station and Ground Storage Tank Rehab for Garver LLC)	11,581.44			66%
Elliott Electric Supply (Sherman 2023A - WTP equipment and supplies)	3,509.37			
Garney Company (Sherman 2024 - CMAR 36" NW/SW water main transmission line Pay App #15)	7,138,447.23			
Machine & Valve Automation (Sherman 2023 - WTP Equipment. Electrical materials for compressor and dryer system)	44,595.00			
Sherman Machine (Sherman 2023A - WTP Rehab 9 Prop Adaptors bored)	252.00			
<u>Engineering Fees</u>				
City of Gainesville (Gainesville 2022 - Reimbursement for Kimley Horn engineering invoice 061042068-0524 through 5/31/24 Foundry Rd Water Line)	14,250.00			
City of Gainesville (Gainesville 2022 - Reimbursement for Kimley Horn engineering invoice 061042068-0524 through 6/30/24 Foundry Rd Water Line)	4,750.00			
City of Gainesville (Gainesville 2022 - Reimbursment for Kimley Horn eng. Inv 061042068-0724 through 7/31/24 Foundry Rd Wtr Line partial payment)	19,000.00			
Cohn & Gregory (Sherman 2023 - WTP Equipment, couplings, sockets, bolts, PVC, etc)	1,392.10			
Geotex (Sherman 22 OM - Multiple sample locations for 36" West Sherman Water Main testing for Sept 24)	141,126.36			
Hayter Engineering (Gober 2021 - Engineering fees for Water System Improvements)	11,000.00			
<u>Groundwater</u>				
American Express (NTGCD - GoDaddy MS365 & email security renewal for BT, GMA8 domain renewal)	191.92			
American Express (RRGCD -				
AT&T Mobility (NTGCD - W. Parkman - cell phone)	83.32			
Allen Burks (NTGCD - cell phone reimbursement)	12.50			
Allen Burks (RRGCD - cell phone reimbursement)	12.50			
Bank of Texas Visa (NTGCD - Chick-Fil-A, Well Monitoring Supplies)	671.75			
Bank of Texas Visa (RRGCD - Grayson County Postings)	6.00			
Kenneth Elliott (NTGCD - cell phone reimbursement)	12.50			
Kenneth Elliott (RRGCD - cell phone reimbursement)	12.50			
Lowe's (NTGCD - well monitoring supplies)	22.09			
Lowe's (RRGCD - well monitoring supplies)	22.10			
Paul Sigle (NTGCD - cell phone & other reimbursements)	60.59			
Paul Sigle (RRGCD - cell phone reimbursement)	8.33			
Valero Fleet Plus (NTGCD - Fuel)	241.65			
Velma Starks (NTGCD - mileage reimbursement)	26.88			
Velma Starks (RRGCD - mileage reimbursement)	22.72			
Zulty, Inc. (NTGCD - 800 line, local & long distance)	176.90			
Zulty, Inc. (RRGCD - 800 line, local & long distance)	176.90			
<u>Legal</u>				
Wynne Smith & Young (Sherman 2024 - Archer Western Construction Lake Texoma Pump Station Expansion, contract and documents review)	375.00			
<u>Miscellaneous</u>				
FAO, USACE, Tulsa Dist. (Sherman 2021 - DACW56-97-WS0003 - Water Storage O&M, RR&R Costs Lake Texoma for 10/29/24-10/28/25)	6,227.31			

	CURRENT	PRIOR MONTH	PRIOR YEAR	% COMPLETE
FAO, USACE, Tulsa Dist. (Lake Texoma 2011 - LK Texoma Oklahoma & TX Debt Service Princeipal DACW56-11-WS0001 principal)	17,445.50			
FAO, USACE, Tulsa Dist. (Lake Texoma 2011 - LK Texoma Oklahoma & TX Debt Service Princeipal DACW56-11-WS0001 interest)	10,983.16			
FAO, USACE, Tulsa Dist. (Sherman 2021 REF - LK Texoma water stoarge fee agreement DACW56-05-WS0007 principal)	140,533.55			
FAO, USACE, Tulsa Dist. (Sherman 2021 REF - LK Texoma water stoarge fee agreement DACW56-05-WS0007 interest)	53,997.75			
FAO, USACE, Tulsa Dist. (Lake Texoma 2011 - LK Texoma Water Storage fee O&M, RR&R 10/28/24-10/27/25 DACW56-11-WS0001)	1,709.46			
<u>Postage</u>				
Federal Express (Bear Creek 2024 - Cert Engineering Cert sent to Ornelas of Norton Rose Fulbright)	28.88			
<u>CGMA Equipment & Equipment Lease</u>				
American Express (CGMA - Kubota tractor rental)	6,587.60			
<u>CGMA Repair & Maintenance</u>				
Brenntag Southwest (CGMA - 8 units of Sodium Hypoclorite 10% NSF to disinfect water lines)	4,168.00			
Enviormental Monitoring Lab (CGMA - Nitrate Nitrogen, Nitrite Nitrogen Water tests, multiple test sites along water lines)				
H&H Electrical (CGMA - Electrical Repairs service tickets from 5/21/24-10/10/24. For Ana vault, & Bloomdale Pump Station motor #1 and Pump #2)	5,303.28			
Kemp Lawn Maintenance (CGMA - Bloomdale Pump Station)	380.00			
Pump Solutions (CGMA - 10/10/24 service call to Bloomdale P.S. Pump 1 leaking oil and had vibration. #1 motor to be repaired at shop. Replaced with existing motor)	4,186.00			
Murley Plumbing (CGMA - Removed hose from chlorine injector and replaced it with a dishwasher hose and stainless steel clamps)	317.16			
Texas Excavation Safety System, Inc. (CGMA - Message Fees)				
<u>Supplies</u>				
Bank of Texas Visa (CGMA - Home Depot misc. parts for maintenance)	126.50			
Lowes (CGMA - Grease, tire inflator, windex, misc. parts)	158.06			
National Wholesale Supply (CGMA - Hose clamp)	4.76			
USA Bluebook (CGMA - Chlorine, Ammonia & mono Chloramine Chemkeys, Free Ammonia Chemkey 25 pk)	876.68			
<u>CGMA Utilities</u>				
AT & T Mobility (CGMA - Emergency back up lines)	782.48			
AT & T U-Verse (CGMA - Bloomdale Pump Station, Internet)	53.76			
Frontier Waste - McKinney (CGMA - Bloomdale Pump Station trash collection)	108.61			
North Texas Municipal Water District (Water Usage)	540,865.70			
Paul Sigle (CGMA - Mileage)	50.38			
Shell Energy (Bloomdale Pump Station)	29,775.21			
Transportation (CGMA - 2023 F250 oil change)	173.20			
Valero (CGMA - Fuel for 2023 F250)	323.60			

TOTAL:	CURRENT	PRIOR MONTH	PRIOR YEAR	% COMPLETE
	\$ 8,384,236.58	\$ 10,169,481.88	\$ 7,255,140.76	
GRAND TOTAL:	\$ 32,239,751.04	\$ 41,487,859.01	\$ 9,982,303.37	

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE GREATER TEXOMA UTILITY AUTHORITY THAT the Secretary-Treasurer is hereby authorized to make payments in the amounts listed above.

On motion of _____ and

seconded by _____, the foregoing

Resolution was passed and approved on this, the _____ day of _____, _____ by the following vote:

AYE:
NAY:

At a regular meeting of the Board of Directors of the Greater Texoma Utility Authority.

President

ATTEST:

Secretary/Treasurer

AGENDA ITEM IX



Greater Texoma Utility Authority
QUARTERLY INVESTMENT REPORT

**For the Quarter Ended
September 30, 2024**

**Prepared by
Valley View Consulting, L.L.C.**

The investment portfolio of the Greater Texoma Utility Authority is in compliance with the Public Funds Investment Act and the Investment Policy and Strategies.


Paul Sigle
General Manager


Debi Atkins
Finance Officer

Disclaimer: These reports were compiled using information provided by the Authority. No procedures were performed to test the accuracy or completeness of this information. The market values included in these reports were obtained by Valley View Consulting, L.L.C. from sources believed to be accurate and represent proprietary valuation. Due to market fluctuations these levels are not necessarily reflective of current liquidation values. Yield calculations are not determined using standard performance formulas, are not representative of total return yields and do not account for investment advisor fees.

Greater Texoma Utility Authority Annual Comparison of Portfolio Performance

FYE Results by Investment Category:

Asset Type	September 30, 2023			September 30, 2024		
	Ave. Yield	Book Value	Market Value	Ave. Yield	Book Value	Market Value
Demand Accounts	0.55%	\$ 536,991	\$ 536,991	1.03%	\$ 1,303,002	\$ 1,303,002
NOW/MMA/MMF	5.38%	69,183,627	69,183,627	5.04%	60,568,534	60,568,534
Local Government Pools	5.31%	52,140,889	52,140,889	5.13%	83,326,144	83,326,144
CDs/Securities	5.26%	369,514,009	369,514,009	5.23%	360,189,815	360,189,815
Totals		\$ 491,375,517	\$ 491,375,517		\$ 505,387,496	\$ 505,387,496
Fourth Quarter-End Yield	5.27%			5.18%		

Average Quarter-End Yields (1):

	2023 Fiscal Year	2024 Fiscal Year
GTUA - Total Portfolio	4.51%	5.28%
Rolling Three Month Treasury	4.95%	5.42%
Rolling Six Month Treasury Yield	4.77%	5.34%
TexPool	4.74%	5.29%
Fiscal YTD Interest Earnings	\$ 6,943,163 Approximate	\$ 34,651,206 Approximate

(1) Average Quarterly Yield calculated using quarter-end report average yield and adjusted book value.

Summary

Quarter End Results by Investment Category:

Asset Type	June 30, 2024			September 30, 2024		
	Ave. Yield	Book Value	Market Value	Ave. Yield	Book Value	Market Value
Demand Accounts	0.74%	\$ 4,216,185	\$ 4,216,185	1.03%	\$ 1,303,002	\$ 1,303,002
NOW/MMA/MMF/ICS	5.44%	82,082,006	82,082,006	5.04%	60,568,534	60,568,534
Local Government Pools	5.31%	73,398,721	73,398,721	5.13%	83,326,144	83,326,144
CDs/Securities	5.32%	430,755,414	430,755,414	5.23%	360,189,815	360,189,815
Totals		\$ 590,452,326	\$ 590,452,326		\$ 505,387,496	\$ 505,387,496

Quarter End Average Yield (1)

Total Portfolio	5.18%
Rolling Three Month Treasury	5.24%
Rolling Six Month Treasury	5.17%
TexPool	5.16%

Interest Revenue (3)

Quarterly Interest Income	\$ 7,395,390	Approximate
Year-to-date Interest Income	\$ 34,651,206	Approximate

Fiscal Year-to-Date Average Yield (2)

Total Portfolio	5.28%
Rolling Three Month Treasury	5.42%
Rolling Six Month Treasury	5.34%
TexPool	5.29%

Bank Fee Offset

Quarterly Bank Fees Offset	\$ 3,742
Year-to-date Bank Fees Offset	\$ 21,173

(1) Average Yield calculated using quarter end report yields and adjusted book values and does not reflect a total return analysis or account for advisory fees.

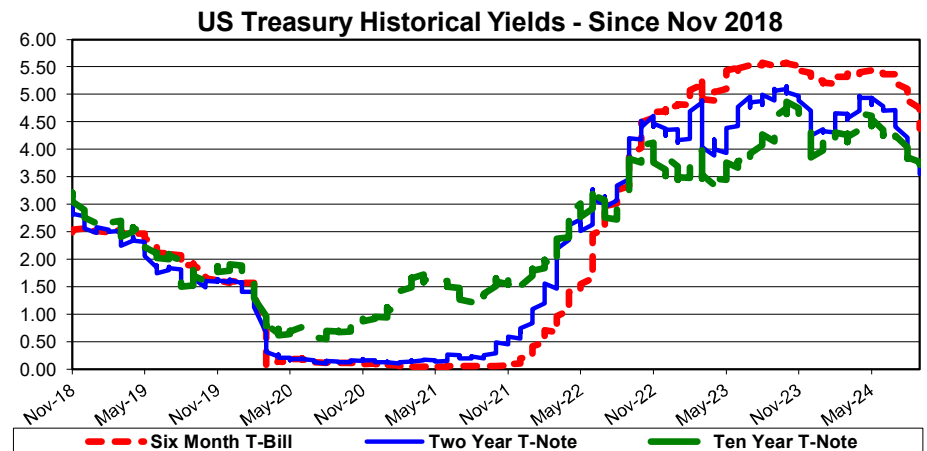
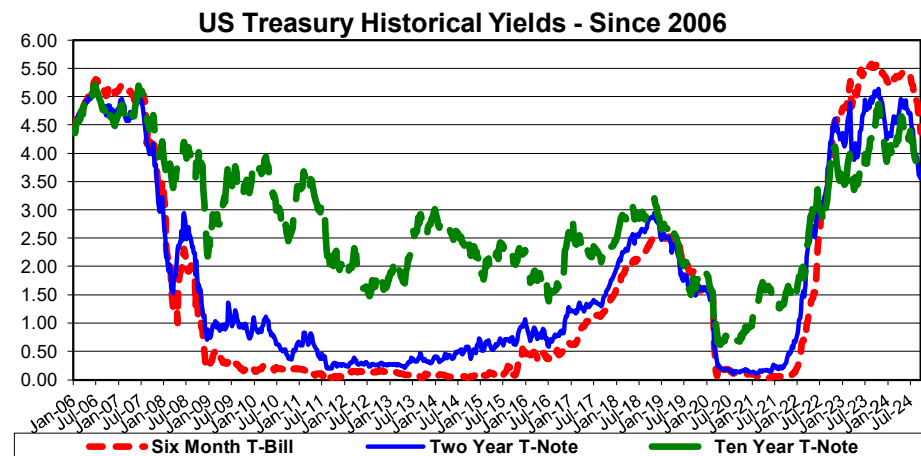
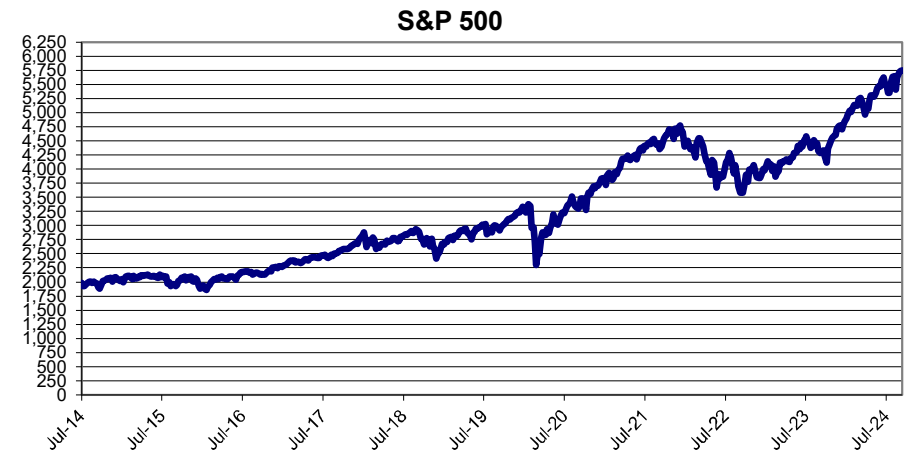
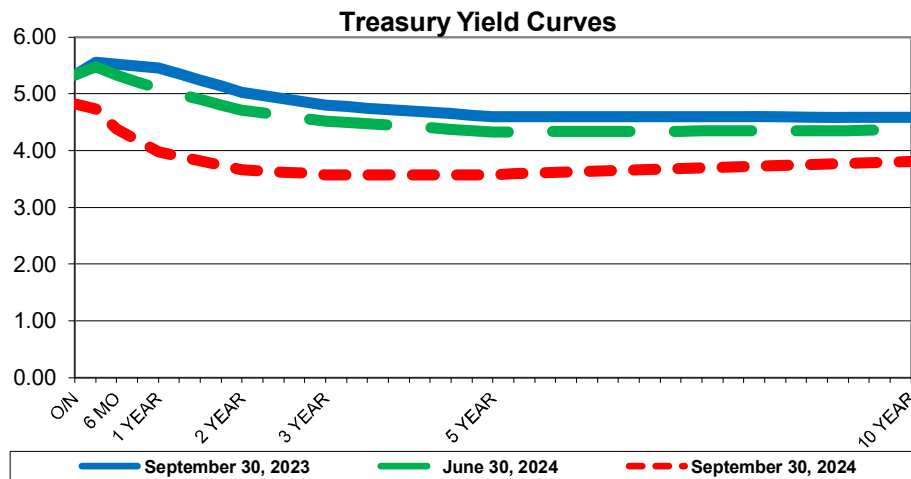
(2) Fiscal Year-to-Date Average Yields calculated using quarter end report yields and adjusted book values and does not reflect a total return analysis or account for advisory fees.

(3) Beginning with the March 31, 2024 report, interest revenue includes compound interest received on certificates of deposit.

Economic Overview

9/30/2024

The Federal Open Market Committee (FOMC) reduced the Fed Funds target range 0.50% to 4.75% - 5.00% (Effective Fed Funds trade +/-4.83%). Expectations are for two more 0.25% cuts by 12/31, although any actions will be meeting-by-meeting and "data-dependent." Sep Non-Farm Payroll surged 254k new jobs (above expectation), with the previous two months revised up boosting the Three Month Rolling Average 186k (from the previous 116k). Second Quarter 2024 GDP remained +3.0% due to increased consumer spending. The S&P 500 Stock Index exceeded 5,700 making new records. The yield curve dropped with the FOMC action and anticipated future actions. Crude Oil drifted slightly higher to +/- \$74 per barrel. Inflation remains above the FOMC 2% target (Core PCE +/-2.7% and Core CPI +/-3.2%). Declining global economic outlook, ongoing/expanding military conflicts and the domestic elections increase uncertainty.



Investment Holdings
September 30, 2024

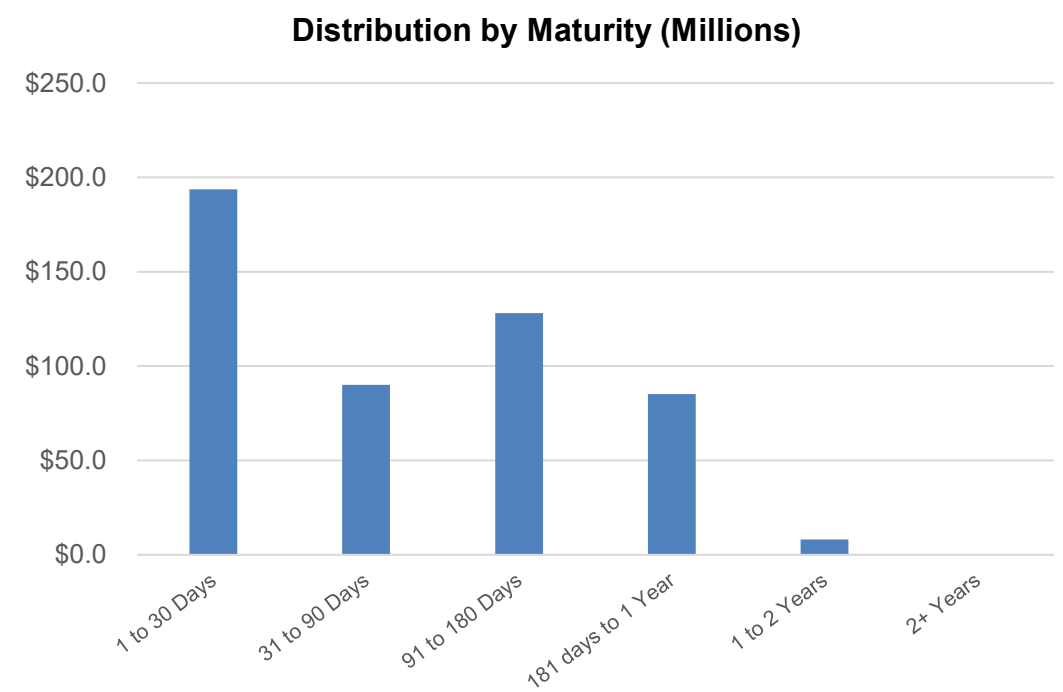
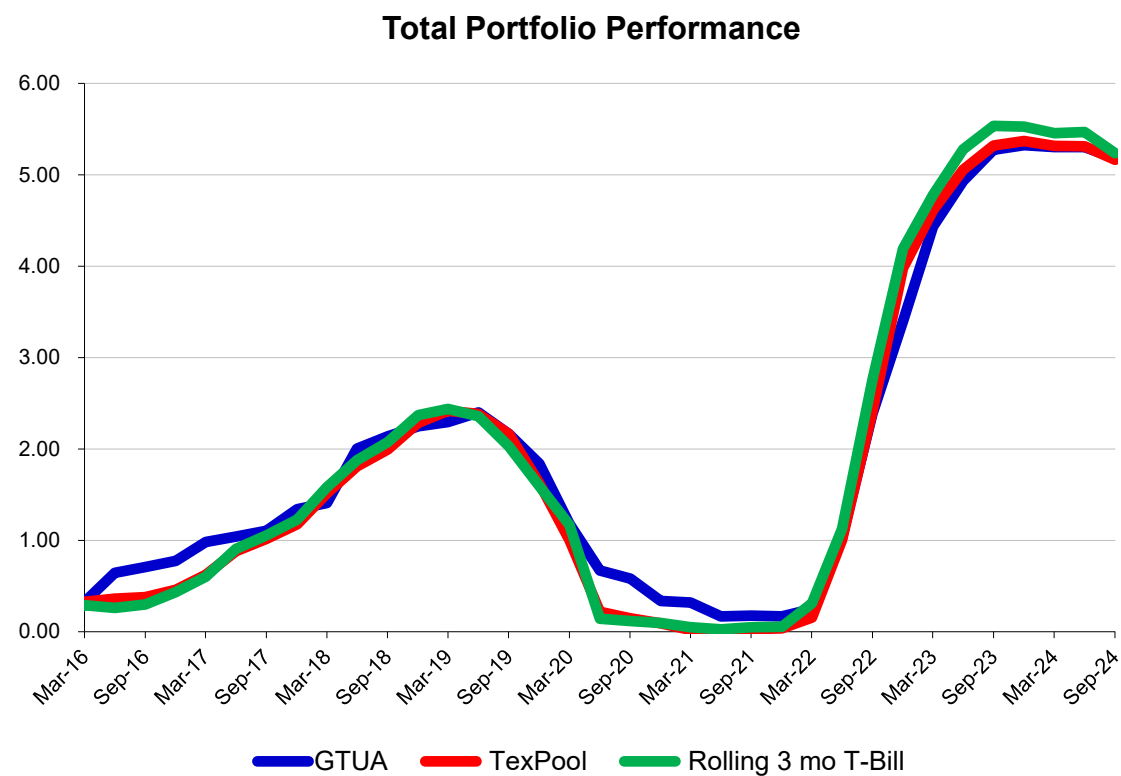
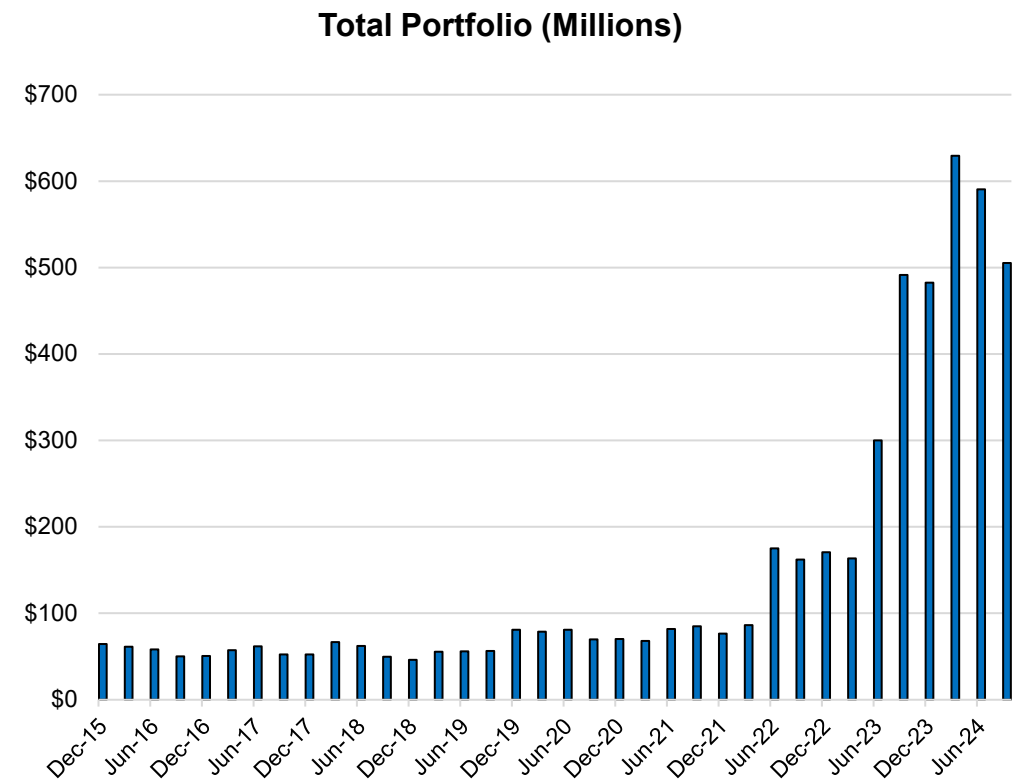
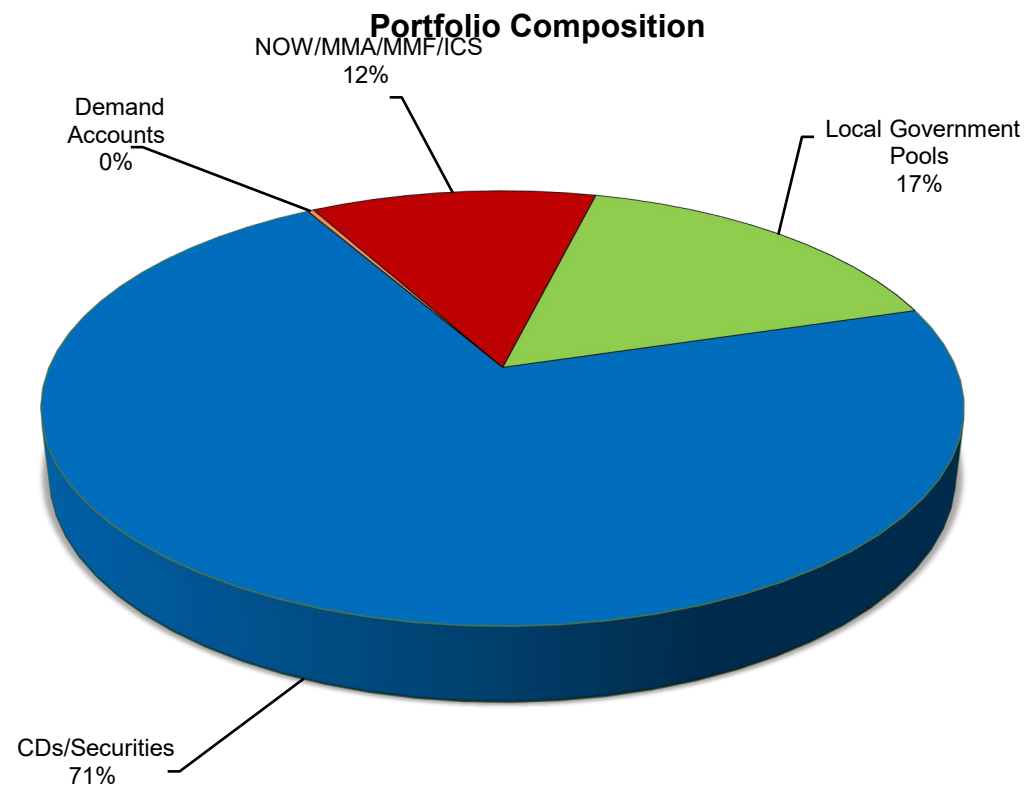
Description	Ratings	Coupon/ Discount	Maturity Date	Settlement Date	Face Amount/ Par Value	Book Value	Market Price	Market Value	Life (Day)	Yield
BOT DDA		1.033%	10/01/24	09/30/24	\$ 1,303,002	\$ 1,303,002	1.00	\$ 1,303,002	1	1.03%
BOT Escrow MMF		5.210%	10/01/24	09/30/24	10,218,797	10,218,797	1.00	10,218,797	1	5.21%
Invesco Govt & Agy Inst MMMF	AAAm	5.180%	10/01/24	09/30/24	2,456	2,456	1.00	2,456	1	5.18%
Veritex Bank MMA Escrow		5.240%	10/01/24	09/30/24	252,995	252,995	1.00	252,995	1	5.24%
NexBank ICS		5.000%	10/01/24	09/30/24	47,903,442	47,903,442	1.00	47,903,442	1	5.00%
NexBank ICS Escrow		5.000%	10/01/24	09/30/24	2,170,771	2,170,771	1.00	2,170,771	1	5.00%
InterBank MMA		5.570%	10/01/24	09/30/24	20,073	20,073	1.00	20,073	1	5.57%
TexPool	AAAm	5.164%	10/01/24	09/30/24	49,106	49,106	1.00	49,106	1	5.16%
TexSTAR	AAAm	5.132%	10/01/24	09/30/24	83,277,039	83,277,039	1.00	83,277,039	1	5.13%
East West Bank CD		5.060%	10/15/24	02/07/24	23,137,796	23,137,796	100.00	23,137,796	15	5.17%
East West Bank CD		5.500%	10/17/24	07/19/24	25,280,306	25,280,306	100.00	25,280,306	17	5.65%
East West Bank CD		5.590%	11/08/24	11/08/23	2,103,025	2,103,025	100.00	2,103,025	39	5.74%
East West Bank CD		5.590%	11/08/24	11/08/23	946,361	946,361	100.00	946,361	39	5.74%
East West Bank CD		5.590%	11/11/24	11/09/23	315,405	315,405	100.00	315,405	42	5.74%
East West Bank CD		5.590%	11/11/24	11/09/23	1,261,622	1,261,622	100.00	1,261,622	42	5.74%
East West Bank CD		5.590%	11/11/24	11/09/23	1,051,352	1,051,352	100.00	1,051,352	42	5.74%
East West Bank CD		5.590%	11/11/24	11/09/23	1,577,027	1,577,027	100.00	1,577,027	42	5.74%
East West Bank CD		5.590%	11/11/24	11/09/23	210,270	210,270	100.00	210,270	42	5.74%
East West Bank CD		5.060%	11/13/24	02/07/24	24,088,523	24,088,523	100.00	24,088,523	44	5.19%
East West Bank CD		5.500%	11/19/24	07/19/24	25,280,306	25,280,306	100.00	25,280,306	50	5.65%
East West Bank CD		5.230%	12/12/24	03/12/24	1,158,202	1,158,202	100.00	1,158,202	73	5.37%
East West Bank CD		5.230%	12/12/24	03/12/24	1,029,512	1,029,512	100.00	1,029,512	73	5.37%
East West Bank CD		5.060%	12/16/24	02/08/24	16,325,436	16,325,436	100.00	16,325,436	77	5.19%
East West Bank CD		5.470%	12/18/24	06/18/24	1,422,202	1,422,202	100.00	1,422,202	79	5.62%
East West Bank CD		5.470%	12/18/24	06/18/24	12,190,306	12,190,306	100.00	12,190,306	79	5.62%
East West Bank CD		5.470%	12/20/24	06/20/24	1,218,665	1,218,665	100.00	1,218,665	81	5.62%
East West Bank CD		5.430%	01/06/25	07/10/24	1,749,467	1,749,467	100.00	1,749,467	98	5.58%
East West Bank CD		5.310%	01/14/25	07/18/24	505,485	505,485	100.00	505,485	106	5.45%
East West Bank CD		4.830%	01/15/25	02/08/24	19,396,341	19,396,341	100.00	19,396,341	107	4.95%
East West Bank CD		5.310%	01/15/25	07/15/24	2,073,393	2,073,393	100.00	2,073,393	107	5.45%
East West Bank CD		5.050%	02/12/25	08/16/24	402,554	402,554	100.00	402,554	135	5.18%
East West Bank CD		4.830%	02/13/25	02/08/24	15,228,191	15,228,191	100.00	15,228,191	136	4.95%
East West Bank CD		4.410%	03/03/25	08/30/24	1,154,991	1,154,991	100.00	1,154,991	154	5.06%
East West Bank CD		4.940%	03/03/25	08/30/24	301,302	301,302	100.00	301,302	154	5.06%
Veritex Bank CD		5.330%	03/08/25	08/09/23	5,245,410	5,245,410	100.00	5,245,410	159	5.46%
Veritex Bank CD		5.330%	03/10/25	08/09/23	28,078,065	28,078,065	100.00	28,078,065	161	5.46%
Veritex Bank CD		5.330%	03/10/25	08/09/23	14,935,662	14,935,662	100.00	14,935,662	161	5.46%
East West Bank CD		5.020%	03/12/25	03/12/24	1,028,311	1,028,311	100.00	1,028,311	163	5.15%
Origin Bank CD		4.560%	03/13/25	02/08/24	4,582,750	4,582,750	100.00	4,582,750	164	4.64%
Origin Bank CD		4.560%	03/13/25	02/08/24	13,962,131	13,962,131	100.00	13,962,131	164	4.64%
BOK Financial CDARS		5.098%	03/13/25	03/14/24	1,157,030	1,157,030	100.00	1,157,030	164	5.23%
East West Bank CD		5.360%	03/18/25	06/18/24	1,523,306	1,523,306	100.00	1,523,306	169	5.51%
East West Bank CD		5.360%	03/18/25	06/18/24	12,186,450	12,186,450	100.00	12,186,450	169	5.51%
East West Bank CD		5.360%	03/21/25	06/21/24	609,054	609,054	100.00	609,054	172	5.51%

Investment Holdings
September 30, 2024

Description	Ratings	Coupon/ Discount	Maturity Date	Settlement Date	Face Amount/ Par Value	Book Value	Market Price	Market Value	Life (Day)	Yield
East West Bank CD		5.360%	03/21/25	06/21/24	2,030,180	2,030,180	100.00	2,030,180	172	5.51%
East West Bank CD		5.360%	03/21/25	06/21/24	761,318	761,318	100.00	761,318	172	5.51%
East West Bank CD		5.360%	03/21/25	06/21/24	1,218,108	1,218,108	100.00	1,218,108	172	5.51%
East West Bank CD		5.310%	04/10/25	07/10/24	1,008,098	1,008,098	100.00	1,008,098	192	5.45%
East West Bank CD		5.310%	04/10/25	07/10/24	740,892	740,892	100.00	740,892	192	5.45%
Origin Bank CD		4.550%	04/15/25	02/08/24	9,450,823	9,450,823	100.00	9,450,823	197	4.63%
East West Bank CD		5.250%	04/30/25	04/30/24	613,438	613,438	100.00	613,438	212	5.39%
East West Bank CD		5.250%	04/30/25	04/30/24	4,831,845	4,831,845	100.00	4,831,845	212	5.39%
Origin Bank CD		4.480%	05/15/25	02/08/24	7,300,388	7,300,388	100.00	7,300,388	227	4.56%
Origin Bank CD		4.440%	06/13/25	02/08/24	5,867,782	5,867,782	100.00	5,867,782	256	4.56%
Origin Bank CD		4.440%	06/13/25	02/08/24	10,354,489	10,354,489	100.00	10,354,489	256	4.52%
East West Bank CD		5.250%	06/18/25	06/18/24	12,182,596	12,182,596	100.00	12,182,596	261	5.39%
Cornerstone Bank CDARS		5.336%	06/20/25	06/20/24	9,449,969	9,449,969	100.00	9,449,969	263	5.48%
East West Bank CD		5.250%	06/24/25	06/24/24	760,755	760,755	100.00	760,755	267	5.39%
East West Bank CD		5.250%	06/24/25	06/24/24	1,217,209	1,217,209	100.00	1,217,209	267	5.39%
East West Bank CD		5.250%	06/24/25	06/24/24	535,572	535,572	100.00	535,572	267	5.39%
East West Bank CD		5.250%	06/24/25	06/24/24	2,840,154	2,840,154	100.00	2,840,154	267	5.39%
Credit Union of Texas CD		5.260%	07/10/25	07/10/24	253,441	253,441	100.00	253,441	283	5.40%
East West Bank CD		5.200%	07/10/25	07/10/24	1,748,553	1,748,553	100.00	1,748,553	283	5.34%
East West Bank CD		4.950%	07/18/25	07/18/24	505,111	505,111	100.00	505,111	291	5.07%
East West Bank CD		4.950%	07/18/25	07/18/24	707,156	707,156	100.00	707,156	291	5.07%
East West Bank CD		4.950%	07/18/25	07/18/24	505,111	505,111	100.00	505,111	291	5.07%
American Nat'l B&T CDARS		5.000%	08/14/25	09/01/24	10,474,607	10,474,607	100.00	10,474,607	318	5.13%
Credit Union of Texas		4.860%	08/21/25	08/16/24	502,733	502,733	100.00	502,733	325	5.18%
East West Bank CD		4.410%	08/28/25	08/28/24	204,840	204,840	100.00	204,840	332	4.51%
East West Bank CD		4.410%	09/02/25	08/30/24	702,711	702,711	100.00	702,711	337	4.51%
East West Bank CD		4.410%	09/02/25	08/30/24	1,154,455	1,154,455	100.00	1,154,455	337	4.51%
East West Bank CD		4.230%	09/11/25	09/11/24	1,057,448	1,057,448	100.00	1,057,448	346	4.32%
East West Bank CD		5.230%	09/16/25	09/16/24	300,522	300,522	100.00	300,522	351	5.32%
BOK Financial CDARS		4.631%	03/12/26	03/14/24	1,025,829	1,025,829	100.00	1,025,829	528	4.74%
BOK Financial CDARS		4.631%	03/19/26	03/21/24	717,443	717,443	100.00	717,443	535	4.74%
BOK Financial CDARS		4.631%	03/19/26	03/21/24	1,537,377	1,537,377	100.00	1,537,377	535	4.74%
BOK Financial CDARS		4.631%	03/26/26	03/28/24	1,024,008	1,024,008	100.00	1,024,008	542	4.74%
BOK Financial CDARS		4.631%	03/26/26	03/28/24	1,024,009	1,024,009	100.00	1,024,009	542	4.74%
BOK Financial CDARS		4.631%	04/02/26	04/04/24	2,813,528	2,813,528	100.00	2,813,528	549	4.74%
BOK Financial CDARS		4.631%	04/09/26	04/11/24	51,110	51,110	100.00	51,110	556	4.74%
					<u>\$ 505,387,496</u>	<u>\$ 505,387,496</u>		<u>\$ 505,387,496</u>	<u>102</u>	<u>5.18%</u>
									(1)	(2)

(1) **Weighted average life** - For purposes of calculating weighted average life, bank accounts, pools and money market funds are assumed to have an one day maturity.

(2) **Weighted average yield to maturity** - The weighted average yield to maturity is based on adjusted book value, realized and unrealized gains/losses and investment advisory fees are not considered. The yield for the reporting month is used for bank accounts, pools, and money market funds.
balances.



Book & Market Value Comparison

Issuer/Description	Yield	Maturity Date	Book Value 06/30/24	Increases	Decreases	Book Value 09/30/24	Market Value 06/30/24	Change in Market Value	Market Value 09/30/24
BOT DDA	1.03%	10/01/24	\$ 4,216,185	\$ —	\$ (2,913,184)	\$ 1,303,002	\$ 4,216,185	\$ (2,913,184)	\$ 1,303,002
BOT Escrow MMF	5.21%	10/01/24	9,793,108	425,689	—	10,218,797	9,793,108	425,689	10,218,797
Invesco Govt & Agy Inst MMMF	5.18%	10/01/24	2,424	32	—	2,456	2,424	32	2,456
Veritex Bank MMA Escrow	5.24%	10/01/24	249,668	3,328	—	252,995	249,668	3,328	252,995
NexBank ICS	5.00%	10/01/24	59,210,386	—	(11,306,944)	47,903,442	59,210,386	(11,306,944)	47,903,442
NexBank ICS Escrow	5.00%	10/01/24	2,188,018	—	(17,247)	2,170,771	2,188,018	(17,247)	2,170,771
InterBank MMA	5.57%	10/01/24	19,794	279	—	20,073	19,794	279	20,073
East West Bank MMA	0.00%	10/01/24	10,618,609	—	(10,618,609)	—	10,618,609	(10,618,609)	—
TexPool	5.16%	10/01/24	36,687	12,419	—	49,106	36,687	12,419	49,106
TexSTAR	5.13%	10/01/24	73,362,034	9,915,005	—	83,277,039	73,362,034	9,915,005	83,277,039
East West Bank CD	5.66%	07/08/24	36,660,066	—	(36,660,066)	—	36,660,066	(36,660,066)	—
Veritex Bank CD	5.66%	07/08/24	36,648,334	—	(36,648,334)	—	36,648,334	(36,648,334)	—
East West Bank CD	5.66%	07/08/24	735,419	—	(735,419)	—	735,419	(735,419)	—
East West Bank CD	5.66%	07/08/24	1,050,598	—	(1,050,598)	—	1,050,598	(1,050,598)	—
Texas Capital Bank CD	3.41%	07/13/24	500,000	—	(500,000)	—	500,000	(500,000)	—
East West Bank CD	5.42%	07/15/24	2,093,753	—	(2,093,753)	—	2,093,753	(2,093,753)	—
East West Bank CD	5.83%	08/05/24	10,381,440	—	(10,381,440)	—	10,381,440	(10,381,440)	—
East West Bank CD	5.83%	08/08/24	518,669	—	(518,669)	—	518,669	(518,669)	—
Texas Capital Bank CD	3.43%	08/13/24	400,000	—	(400,000)	—	400,000	(400,000)	—
American Nat'l B&T CDARS	5.13%	08/15/24	10,343,436	—	(10,343,436)	—	10,343,436	(10,343,436)	—
East West Bank CD	5.42%	08/15/24	2,236,741	—	(2,236,741)	—	2,236,741	(2,236,741)	—
East West Bank CD	5.75%	08/30/24	1,047,976	—	(1,047,976)	—	1,047,976	(1,047,976)	—
Veritex Bank CD	5.75%	09/03/24	1,047,632	—	(1,047,632)	—	1,047,632	(1,047,632)	—
Texas Capital Bank CD	3.43%	09/09/24	1,372,000	—	(1,372,000)	—	1,372,000	(1,372,000)	—
Veritex Bank CD	5.77%	09/09/24	5,188,066	—	(5,188,066)	—	5,188,066	(5,188,066)	—
Veritex Bank CD	5.77%	09/09/24	26,199,164	—	(26,199,164)	—	26,199,164	(26,199,164)	—
East West Bank CD	5.58%	09/11/24	1,143,900	—	(1,143,900)	—	1,143,900	(1,143,900)	—
East West Bank CD	5.58%	09/11/24	2,542,001	—	(2,542,001)	—	2,542,001	(2,542,001)	—
Texas Capital Bank CD	4.33%	09/13/24	300,000	—	(300,000)	—	300,000	(300,000)	—
East West Bank CD	5.42%	09/16/24	5,248,944	—	(5,248,944)	—	5,248,944	(5,248,944)	—
East West Bank CD	5.42%	09/16/24	6,277,288	—	(6,277,288)	—	6,277,288	(6,277,288)	—
East West Bank CD	5.17%	10/15/24	22,844,591	293,204	—	23,137,796	22,844,591	293,204	23,137,796
East West Bank CD	5.65%	10/17/24	—	25,280,306	—	25,280,306	—	25,280,306	25,280,306
East West Bank CD	5.74%	11/08/24	2,073,604	29,421	—	2,103,025	2,073,604	29,421	2,103,025
East West Bank CD	5.74%	11/08/24	933,122	13,240	—	946,361	933,122	13,240	946,361
East West Bank CD	5.74%	11/11/24	310,993	4,413	—	315,405	310,993	4,413	315,405
East West Bank CD	5.74%	11/11/24	1,243,972	17,650	—	1,261,622	1,243,972	17,650	1,261,622
East West Bank CD	5.74%	11/11/24	1,036,643	14,708	—	1,051,352	1,036,643	14,708	1,051,352
East West Bank CD	5.74%	11/11/24	1,554,965	22,063	—	1,577,027	1,554,965	22,063	1,577,027
East West Bank CD	5.74%	11/11/24	207,329	2,942	—	210,270	207,329	2,942	210,270
East West Bank CD	5.19%	11/13/24	23,783,270	305,252	—	24,088,523	23,783,270	305,252	24,088,523
East West Bank CD	5.65%	11/19/24	—	25,280,306	—	25,280,306	—	25,280,306	25,280,306
East West Bank CD	5.37%	12/12/24	1,143,035	15,167	—	1,158,202	1,143,035	15,167	1,158,202
East West Bank CD	5.37%	12/12/24	1,016,031	13,482	—	1,029,512	1,016,031	13,482	1,029,512
East West Bank CD	5.19%	12/16/24	16,118,558	206,878	—	16,325,436	16,118,558	206,878	16,325,436

Book & Market Value Comparison

Issuer/Description	Yield	Maturity Date	Book Value 06/30/24	Increases	Decreases	Book Value 09/30/24	Market Value 06/30/24	Change in Market Value	Market Value 09/30/24
East West Bank CD	5.62%	12/18/24	225,353	1,196,850	—	1,422,202	225,353	1,196,850	1,422,202
East West Bank CD	5.62%	12/18/24	12,023,400	166,907	—	12,190,306	12,023,400	166,907	12,190,306
East West Bank CD	5.62%	12/20/24	1,201,980	16,686	—	1,218,665	1,201,980	16,686	1,218,665
East West Bank CD	5.58%	01/06/25	—	1,749,467	—	1,749,467	—	1,749,467	1,749,467
East West Bank CD	5.45%	01/14/25	—	505,485	—	505,485	—	505,485	505,485
East West Bank CD	4.95%	01/15/25	19,161,652	234,689	—	19,396,341	19,161,652	234,689	19,396,341
East West Bank CD	5.45%	01/15/25	—	2,073,393	—	2,073,393	—	2,073,393	2,073,393
East West Bank CD	5.18%	02/12/25	—	402,554	—	402,554	—	402,554	402,554
East West Bank CD	4.95%	02/13/25	15,043,935	184,256	—	15,228,191	15,043,935	184,256	15,228,191
East West Bank CD	5.06%	03/03/25	—	1,154,991	—	1,154,991	—	1,154,991	1,154,991
East West Bank CD	5.06%	03/03/25	—	301,302	—	301,302	—	301,302	301,302
Veritex Bank CD	5.46%	03/08/25	5,175,567	69,843	—	5,245,410	5,175,567	69,843	5,245,410
Veritex Bank CD	5.46%	03/10/25	27,704,203	373,862	—	28,078,065	27,704,203	373,862	28,078,065
Veritex Bank CD	5.46%	03/10/25	14,736,792	198,870	—	14,935,662	14,736,792	198,870	14,935,662
East West Bank CD	5.15%	03/12/25	1,015,382	12,928	—	1,028,311	1,015,382	12,928	1,028,311
Origin Bank CD	4.64%	03/13/25	4,530,676	52,074	—	4,582,750	4,530,676	52,074	4,582,750
Origin Bank CD	4.64%	03/13/25	13,803,478	158,653	—	13,962,131	13,803,478	158,653	13,962,131
BOK Financial CDARS	5.23%	03/13/25	1,142,258	14,772	—	1,157,030	1,142,258	14,772	1,157,030
East West Bank CD	5.51%	03/18/25	1,502,866	20,440	—	1,523,306	1,502,866	20,440	1,523,306
East West Bank CD	5.51%	03/18/25	12,022,929	163,521	—	12,186,450	12,022,929	163,521	12,186,450
East West Bank CD	5.51%	03/21/25	600,882	8,172	—	609,054	600,882	8,172	609,054
East West Bank CD	5.51%	03/21/25	2,002,939	27,242	—	2,030,180	2,002,939	27,242	2,030,180
East West Bank CD	5.51%	03/21/25	751,102	10,216	—	761,318	751,102	10,216	761,318
East West Bank CD	5.51%	03/21/25	1,201,763	16,345	—	1,218,108	1,201,763	16,345	1,218,108
East West Bank CD	5.45%	04/10/25	—	1,008,098	—	1,008,098	—	1,008,098	1,008,098
East West Bank CD	5.45%	04/10/25	—	740,892	—	740,892	—	740,892	740,892
Origin Bank CD	4.63%	04/15/25	9,343,665	107,158	—	9,450,823	9,343,665	107,158	9,450,823
East West Bank CD	5.39%	04/30/25	605,374	8,064	—	613,438	605,374	8,064	613,438
East West Bank CD	5.39%	04/30/25	4,768,331	63,514	—	4,831,845	4,768,331	63,514	4,831,845
Origin Bank CD	4.56%	05/15/25	7,218,873	81,516	—	7,300,388	7,218,873	81,516	7,300,388
Origin Bank CD	4.56%	06/13/25	5,802,841	64,941	—	5,867,782	5,802,841	64,941	5,867,782
Origin Bank CD	4.52%	06/13/25	10,239,892	114,597	—	10,354,489	10,239,892	114,597	10,354,489
East West Bank CD	5.39%	06/18/25	12,022,458	160,138	—	12,182,596	12,022,458	160,138	12,182,596
Cornerstone Bank CDARS	5.48%	06/20/25	9,323,741	126,228	—	9,449,969	9,323,741	126,228	9,449,969
East West Bank CD	5.39%	06/24/25	750,755	10,000	—	760,755	750,755	10,000	760,755
East West Bank CD	5.39%	06/24/25	1,201,209	16,000	—	1,217,209	1,201,209	16,000	1,217,209
East West Bank CD	5.39%	06/24/25	528,532	7,040	—	535,572	528,532	7,040	535,572
East West Bank CD	5.39%	06/24/25	2,802,820	37,333	—	2,840,154	2,802,820	37,333	2,840,154
Credit Union of Texas CD	5.40%	07/10/25	—	253,441	—	253,441	—	253,441	253,441
East West Bank CD	5.34%	07/10/25	—	1,748,553	—	1,748,553	—	1,748,553	1,748,553
East West Bank CD	5.07%	07/18/25	—	505,111	—	505,111	—	505,111	505,111
East West Bank CD	5.07%	07/18/25	—	707,156	—	707,156	—	707,156	707,156
East West Bank CD	5.07%	07/18/25	—	505,111	—	505,111	—	505,111	505,111
American Nat'l B&T CDARS	5.13%	08/14/25	—	10,474,607	—	10,474,607	—	10,474,607	10,474,607
Credit Union of Texas	5.18%	08/21/25	—	502,733	—	502,733	—	502,733	502,733
East West Bank CD	4.51%	08/28/25	—	204,840	—	204,840	—	204,840	204,840

Book & Market Value Comparison

Issuer/Description	Yield	Maturity Date	Book Value 06/30/24	Increases	Decreases	Book Value 09/30/24	Market Value 06/30/24	Change in Market Value	Market Value 09/30/24
East West Bank CD	4.51%	09/02/25	—	702,711	—	702,711	—	702,711	702,711
East West Bank CD	4.51%	09/02/25	—	1,154,455	—	1,154,455	—	1,154,455	1,154,455
East West Bank CD	4.32%	09/11/25	—	1,057,448	—	1,057,448	—	1,057,448	1,057,448
East West Bank CD	5.32%	09/16/25	—	300,522	—	300,522	—	300,522	300,522
BOK Financial CDARS	4.74%	03/12/26	1,013,925	11,904	—	1,025,829	1,013,925	11,904	1,025,829
BOK Financial CDARS	4.74%	03/19/26	709,117	8,325	—	717,443	709,117	8,325	717,443
BOK Financial CDARS	4.74%	03/19/26	1,519,537	17,840	—	1,537,377	1,519,537	17,840	1,537,377
BOK Financial CDARS	4.74%	03/26/26	1,012,125	11,883	—	1,024,008	1,012,125	11,883	1,024,008
BOK Financial CDARS	4.74%	03/26/26	1,012,126	11,883	—	1,024,009	1,012,126	11,883	1,024,009
BOK Financial CDARS	4.74%	04/02/26	2,780,877	32,651	—	2,813,528	2,780,877	32,651	2,813,528
BOK Financial CDARS	4.74%	04/09/26	50,517	593	—	51,110	50,517	593	51,110
TOTAL / AVERAGE	5.18%		\$ 590,452,326	\$ 91,726,583	\$ (176,791,413)	\$ 505,387,496	\$ 590,452,326	\$ (85,064,830)	\$ 505,387,496

**Allocation by Fund
Book & Market Value**

September 30, 2024

		Investment					
	Maturity	Total	General	Construction	Bond I&S	Revenue	Reserve
BOT DDA	10/01/24	\$ 1,303,002	\$ 1,303,002	\$ —	\$ —	\$ —	\$ —
BOT Escrow MMF	10/01/24	10,218,797	—	10,218,797	—	—	—
Invesco Govt & Agy Inst MMMF	10/01/24	2,456	2,456	—	—	—	—
Veritex Bank MMA Escrow	10/01/24	252,995	—	252,995	—	—	—
NexBank ICS	10/01/24	47,903,442	—	36,845,223	10,702,844	355,374	—
NexBank ICS Escrow	10/01/24	2,170,771	—	2,170,771	—	—	—
InterBank MMA	10/01/24	20,073	—	20,073	—	—	—
TexPool	10/01/24	49,106	49,106	—	—	—	—
TexSTAR	10/01/24	83,277,039	20,006	58,419,087	8,293,882	16,238,807	305,256
East West Bank CD	10/15/24	23,137,796	—	23,137,796	—	—	—
East West Bank CD	10/17/24	25,280,306	—	25,280,306	—	—	—
East West Bank CD	11/08/24	2,103,025	—	2,103,025	—	—	—
East West Bank CD	11/08/24	946,361	—	946,361	—	—	—
East West Bank CD	11/11/24	315,405	—	315,405	—	—	—
East West Bank CD	11/11/24	1,261,622	—	1,261,622	—	—	—
East West Bank CD	11/11/24	1,051,352	—	1,051,352	—	—	—
East West Bank CD	11/11/24	1,577,027	—	1,577,027	—	—	—
East West Bank CD	11/11/24	210,270	—	210,270	—	—	—
East West Bank CD	11/13/24	24,088,523	—	24,088,523	—	—	—
East West Bank CD	11/19/24	25,280,306	—	25,280,306	—	—	—
East West Bank CD	12/12/24	1,158,202	—	1,158,202	—	—	—
East West Bank CD	12/12/24	1,029,512	—	1,029,512	—	—	—
East West Bank CD	12/16/24	16,325,436	—	16,325,436	—	—	—
East West Bank CD	12/18/24	1,422,202	—	1,422,202	—	—	—
East West Bank CD	12/18/24	12,190,306	—	12,190,306	—	—	—
East West Bank CD	12/20/24	1,218,665	—	1,218,665	—	—	—
East West Bank CD	01/06/25	1,749,467	—	1,749,467	—	—	—
East West Bank CD	01/14/25	505,485	—	505,485	—	—	—
East West Bank CD	01/15/25	19,396,341	—	19,396,341	—	—	—
East West Bank CD	01/15/25	2,073,393	—	2,073,393	—	—	—
East West Bank CD	02/12/25	402,554	—	402,554	—	—	—
East West Bank CD	02/13/25	15,228,191	—	15,228,191	—	—	—
East West Bank CD	03/03/25	1,154,991	—	1,154,991	—	—	—
East West Bank CD	03/03/25	301,302	—	301,302	—	—	—
Veritex Bank CD	03/08/25	5,245,410	—	—	5,245,410	—	—

**Allocation by Fund
Book & Market Value**

September 30, 2024

		Investment					
	Maturity	Total	General	Construction	Bond I&S	Revenue	Reserve
Veritex Bank CD	03/10/25	28,078,065	—	28,078,065	—	—	—
Veritex Bank CD	03/10/25	14,935,662	—	—	—	—	14,935,662
East West Bank CD	03/12/25	1,028,311	—	1,028,311	—	—	—
Origin Bank CD	03/13/25	4,582,750	—	4,582,750	—	—	—
Origin Bank CD	03/13/25	13,962,131	—	13,962,131	—	—	—
BOK Financial CDARS	03/13/25	1,157,030	—	1,157,030	—	—	—
East West Bank CD	03/18/25	1,523,306	—	1,523,306	—	—	—
East West Bank CD	03/18/25	12,186,450	—	12,186,450	—	—	—
East West Bank CD	03/21/25	609,054	—	609,054	—	—	—
East West Bank CD	03/21/25	2,030,180	—	2,030,180	—	—	—
East West Bank CD	03/21/25	761,318	—	761,318	—	—	—
East West Bank CD	03/21/25	1,218,108	—	1,218,108	—	—	—
East West Bank CD	04/10/25	1,008,098	—	1,008,098	—	—	—
East West Bank CD	04/10/25	740,892	—	740,892	—	—	—
Origin Bank CD	04/15/25	9,450,823	—	9,450,823	—	—	—
East West Bank CD	04/30/25	613,438	—	613,438	—	—	—
East West Bank CD	04/30/25	4,831,845	—	—	—	—	4,831,845
Origin Bank CD	05/15/25	7,300,388	—	7,300,388	—	—	—
Origin Bank CD	06/13/25	5,867,782	—	5,867,782	—	—	—
Origin Bank CD	06/13/25	10,354,489	—	—	—	—	10,354,489
East West Bank CD	06/18/25	12,182,596	—	12,182,596	—	—	—
Cornerstone Bank CDARS	06/20/25	9,449,969	—	—	—	—	9,449,969
East West Bank CD	06/24/25	760,755	—	760,755	—	—	—
East West Bank CD	06/24/25	1,217,209	—	1,217,209	—	—	—
East West Bank CD	06/24/25	535,572	—	535,572	—	—	—
East West Bank CD	06/24/25	2,840,154	—	2,840,154	—	—	—
Credit Union of Texas CD	07/10/25	253,441	—	—	—	—	253,441
East West Bank CD	07/10/25	1,748,553	—	1,748,553	—	—	—
East West Bank CD	07/18/25	505,111	—	505,111	—	—	—
East West Bank CD	07/18/25	707,156	—	707,156	—	—	—
East West Bank CD	07/18/25	505,111	—	505,111	—	—	—
American Nat'l B&T CDARS	08/14/25	10,474,607	—	10,474,607	—	—	—
Credit Union of Texas	08/21/25	502,733	—	502,733	—	—	—
East West Bank CD	08/28/25	204,840	—	—	—	—	204,840
East West Bank CD	09/02/25	702,711	—	702,711	—	—	—
East West Bank CD	09/02/25	1,154,455	—	1,154,455	—	—	—

**Allocation by Fund
Book & Market Value**

September 30, 2024

		Investment					
	Maturity	Total	General	Construction	Bond I&S	Revenue	Reserve
East West Bank CD	09/11/25	1,057,448	—	—	—	—	1,057,448
East West Bank CD	09/16/25	300,522	—	300,522	—	—	—
BOK Financial CDARS	03/12/26	1,025,829	—	—	—	—	1,025,829
BOK Financial CDARS	03/19/26	717,443	—	—	—	—	717,443
BOK Financial CDARS	03/19/26	1,537,377	—	—	—	—	1,537,377
BOK Financial CDARS	03/26/26	1,024,008	—	—	—	—	1,024,008
BOK Financial CDARS	03/26/26	1,024,009	—	—	—	—	1,024,009
BOK Financial CDARS	04/02/26	2,813,528	—	—	—	—	2,813,528
BOK Financial CDARS	04/09/26	51,110	—	—	—	—	51,110
Totals		\$ 505,387,496	\$ 1,374,569	\$ 413,590,358	\$ 24,242,136	\$ 16,594,181	\$ 49,586,251

**Allocation by Fund
Book & Market Value**

June 30, 2024

		Investment					
	Maturity	Total	General	Construction	Bond I&S	Revenue	Reserve
BOT DDA	07/01/24	\$ 4,216,185	\$ 4,216,185	\$ —	\$ —	\$ —	\$ —
BOT Escrow MMF	07/01/24	9,793,108	—	9,793,108	—	—	—
Invesco Govt & Agy Inst MMMF	07/01/24	2,424	2,424	—	—	—	—
Veritex Bank MMA Escrow	07/01/24	249,668	—	249,668	—	—	—
NexBank ICS	07/01/24	59,210,386	—	36,561,002	22,299,229	350,155	—
NexBank ICS Escrow	07/01/24	2,188,018	—	2,188,018	—	—	—
InterBank MMA	07/01/24	19,794	—	19,794	—	—	—
East West Bank MMA	07/01/24	10,618,609	—	10,618,609	—	—	—
TexPool	07/01/24	36,687	36,687	—	—	—	—
TexSTAR	07/01/24	73,362,034	30,378	53,234,002	7,791,824	11,608,270	697,560
East West Bank CD	07/08/24	36,660,066	—	36,660,066	—	—	—
Veritex Bank CD	07/08/24	36,648,334	—	36,648,334	—	—	—
East West Bank CD	07/08/24	735,419	—	735,419	—	—	—
East West Bank CD	07/08/24	1,050,598	—	1,050,598	—	—	—
Texas Capital Bank CD	07/13/24	500,000	—	500,000	—	—	—
East West Bank CD	07/15/24	2,093,753	—	2,093,753	—	—	—
East West Bank CD	08/05/24	10,381,440	—	10,381,440	—	—	—
East West Bank CD	08/08/24	518,669	—	518,669	—	—	—
Texas Capital Bank CD	08/13/24	400,000	—	400,000	—	—	—
American Nat'l B&T CDARS	08/15/24	10,343,436	—	—	10,343,436	—	—
East West Bank CD	08/15/24	2,236,741	—	2,236,741	—	—	—
East West Bank CD	08/30/24	1,047,976	—	1,047,976	—	—	—
Veritex Bank CD	09/03/24	1,047,632	—	—	—	—	1,047,632
Texas Capital Bank CD	09/09/24	1,372,000	—	—	1,372,000	—	—
Veritex Bank CD	09/09/24	5,188,066	—	—	5,188,066	—	—
Veritex Bank CD	09/09/24	26,199,164	—	26,199,164	—	—	—
East West Bank CD	09/11/24	1,143,900	—	1,143,900	—	—	—
East West Bank CD	09/11/24	2,542,001	—	2,542,001	—	—	—
Texas Capital Bank CD	09/13/24	300,000	—	300,000	—	—	—
East West Bank CD	09/16/24	5,248,944	—	5,248,944	—	—	—
East West Bank CD	09/16/24	6,277,288	—	6,277,288	—	—	—
East West Bank CD	10/15/24	22,844,591	—	22,844,591	—	—	—
East West Bank CD	11/08/24	2,073,604	—	2,073,604	—	—	—
East West Bank CD	11/08/24	933,122	—	933,122	—	—	—
East West Bank CD	11/11/24	310,993	—	310,993	—	—	—

**Allocation by Fund
Book & Market Value**

June 30, 2024

		Investment					
	Maturity	Total	General	Construction	Bond I&S	Revenue	Reserve
East West Bank CD	11/11/24	1,243,972	—	1,243,972	—	—	—
East West Bank CD	11/11/24	1,036,643	—	1,036,643	—	—	—
East West Bank CD	11/11/24	1,554,965	—	1,554,965	—	—	—
East West Bank CD	11/11/24	207,329	—	207,329	—	—	—
East West Bank CD	11/13/24	23,783,270	—	23,783,270	—	—	—
East West Bank CD	12/12/24	1,143,035	—	1,143,035	—	—	—
East West Bank CD	12/12/24	1,016,031	—	1,016,031	—	—	—
East West Bank CD	12/16/24	16,118,558	—	16,118,558	—	—	—
East West Bank CD	12/18/24	225,353	—	225,353	—	—	—
East West Bank CD	12/18/24	12,023,400	—	12,023,400	—	—	—
East West Bank CD	12/20/24	1,201,980	—	1,201,980	—	—	—
East West Bank CD	01/15/25	19,161,652	—	19,161,652	—	—	—
East West Bank CD	02/13/25	15,043,935	—	15,043,935	—	—	—
Veritex Bank CD	03/08/25	5,175,567	—	—	5,175,567	—	—
Veritex Bank CD	03/10/25	27,704,203	—	27,704,203	—	—	—
Veritex Bank CD	03/10/25	14,736,792	—	—	—	—	14,736,792
East West Bank CD	03/12/25	1,015,382	—	1,015,382	—	—	—
Origin Bank CD	03/13/25	4,530,676	—	4,530,676	—	—	—
Origin Bank CD	03/13/25	13,803,478	—	13,803,478	—	—	—
BOK Financial CDARS	03/13/25	1,142,258	—	1,142,258	—	—	—
East West Bank CD	03/18/25	1,502,866	—	1,502,866	—	—	—
East West Bank CD	03/18/25	12,022,929	—	12,022,929	—	—	—
East West Bank CD	03/21/25	600,882	—	600,882	—	—	—
East West Bank CD	03/21/25	2,002,939	—	2,002,939	—	—	—
East West Bank CD	03/21/25	751,102	—	751,102	—	—	—
East West Bank CD	03/21/25	1,201,763	—	1,201,763	—	—	—
Origin Bank CD	04/15/25	9,343,665	—	9,343,665	—	—	—
East West Bank CD	04/30/25	605,374	—	605,374	—	—	—
East West Bank CD	04/30/25	4,768,331	—	—	—	—	4,768,331
Origin Bank CD	05/15/25	7,218,873	—	7,218,873	—	—	—
Origin Bank CD	06/13/25	5,802,841	—	5,802,841	—	—	—
Origin Bank CD	06/13/25	10,239,892	—	—	—	—	10,239,892
East West Bank CD	06/18/25	12,022,458	—	12,022,458	—	—	—
Cornerstone Bank CDARS	06/20/25	9,323,741	—	—	—	—	9,323,741
East West Bank CD	06/24/25	750,755	—	750,755	—	—	—
East West Bank CD	06/24/25	1,201,209	—	1,201,209	—	—	—

**Allocation by Fund
Book & Market Value**

June 30, 2024

	Maturity	Investment Total	General	Construction	Bond I&S	Revenue	Reserve
East West Bank CD	06/24/25	528,532	—	528,532	—	—	—
East West Bank CD	06/24/25	2,802,820	—	2,802,820	—	—	—
BOK Financial CDARS	03/12/26	1,013,925	—	—	—	—	1,013,925
BOK Financial CDARS	03/19/26	709,117	—	—	—	—	709,117
BOK Financial CDARS	03/19/26	1,519,537	—	—	—	—	1,519,537
BOK Financial CDARS	03/26/26	1,012,125	—	—	—	—	1,012,125
BOK Financial CDARS	03/26/26	1,012,126	—	—	—	—	1,012,126
BOK Financial CDARS	04/02/26	2,780,877	—	—	—	—	2,780,877
BOK Financial CDARS	04/09/26	50,517	—	—	—	—	50,517
Totals		\$ 590,452,326	\$ 4,285,674	\$ 473,125,933	\$ 52,170,121	\$ 11,958,425	\$ 48,912,173

AGENDA ITEM X



GREATER TEXOMA UTILITY AUTHORITY

AGENDA COMMUNICATION

DATE: November 6, 2024

SUBJECT: AGENDA ITEM NO. X

PREPARED AND SUBMITTED BY: Paul M. Sigle, General Manager

CONSIDER AND ACT UPON THE REQUESTED AMENDMENT TO ARTICLE 9 AND ARTICLE 15 OF THE KIEWIT WATER FACILITIES SOUTH CO. CONTRACT FOR THE CITY OF SHERMAN'S SOUTH WASTEWATER TREATMENT PLANT PROJECT, CONVERTING THE CONTRACT FROM A CONSTRUCTION MANAGER-AT-RISK TO A LUMP SUM CONTRACT.

ISSUE

Consider and act upon the requested amendment to Article 9 and Article 15 of the Kiewit Water Facilities South Co. Contract for the City of Sherman's South Wastewater Treatment Plant Project, converting the contract from a Construction Manager-at-Risk to a Lump Sum Contract.

BACKGROUND

Due to rapid industrial and municipal growth currently being experienced by the City of Sherman, the Wastewater Treatment Plant has to be expanded to meet expected flow and effluent characteristics. Given these characteristics, the engineers recommended a Membrane Biological Reactor (MBR) as the treatment method that will be required to meet the TCEQ requirements. In order to meet the abbreviated timeline, the method of construction delivery chosen was Construction Manager at Risk, or CMAR. Requests for Qualifications (RFQ's) were submitted with three construction firms submitting Statement of Qualifications (SOQ's). The contractor chosen to undertake the new Wastewater Treatment Plant – MBR was Kiewit Water Facilities South, Co. The engineers have undertaken pre-selection of various long-leading equipment to save as much time as possible. Further, the contractor, now procured, is also undertaking pre-procurement to expedite the time of delivery.

CONSIDERATIONS

The City of Sherman is requesting the Authority approve contract language revision to Kiewit Water Facilities South Co. Contract for the South Wastewater Treatment Plant Project. The purpose of the contract language revision is to allow the contract to be converted from CMAR contract to a Lump-Sum contract. City Staff, Pape-Dawson and Kiewit have agreed to the language to convert the project from a Guaranteed Maximum Price (GMP) to a Lump-Sum amount. This conversion will provide the most efficient method of completing the project within the agreed cost and schedule. The language changes provided in the revised contract are based on the accepted EJCDC recommendation for this event in a standard CMAR contract.

The Final Lump-Sum request is on a separate agenda item for approval at this meeting.

STAFF RECOMMENDATIONS

The Authority Staff recommends approving the amended contract language for Kiewit Water Facilities South Co for the South Wastewater Treatment Plant Project. The City of Sherman's Council has approved these changes at the November 4th Council Meeting.

ATTACHMENT

Engineer's Letter of Recommendation
Amended Contract
Project Update

10/30/224

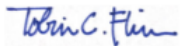
GTUA/City of Sherman
220 W Mulberry St.
P.O. Box 1106
Sherman, TX 75091
(903) 892-7208

Re: COSK South Wastewater Treatment Plant - MBR Project
Contract Language Change – Lump Sum

Dear GTUA/City of Sherman:

For the South Wastewater Treatment Plant – MBR Project, all parties have agreed to convert the project contract from a Guaranteed Maximum Price to a Lump Sum amount. The Program Management team recommends this change because it provides the most efficient method of completing the project within the agreed cost and schedule. In order to make this contract conversion, contract language is needed. The Engineers Joint Contract Documents Committee (EJCDC) have provided language for this event in a standard CMAR contract. We have utilized this language to develop the recommended changes which are included the attached markup of *Section 00 52 23 – Construction Management at Risk Services Agreement*.

Respectfully,



Toby Flinn, PE
Vice President

Attachments:

1. Markup of Section 00 52 23 Construction Management at Risk Services Agreement

THIS CONSTRUCTION MANAGEMENT AT RISK SERVICES AGREEMENT, hereinafter referred to as the "Agreement," is made and dated as of September 18, 2023, between the Greater Texoma Utility Authority on the behalf of the City of Sherman, having its principal office at Dennison, Texas, hereinafter referred to as "GTUA/City of Sherman " and , Kiewit Water Facilities South Co., a Corporation organized and operating under the laws of the State of Delaware, having an office at Westlake, Texas, hereinafter referred to as "CMAR," (each also hereinafter referred to as "Party" individually or "Parties" collectively), for construction management at risk services in connection with the Major Infrastructure Improvements Program, Wastewater Treatment Plant South- MBR.

Recitals

- GTUA has determined to implement a program for the construction of Major Infrastructure Improvements Program. The Wastewater Treatment Plant South-MBR Work primarily consists of 4MGD Wastewater treatment plant, complete with lift station/ force main, equalization basin, headworks, fine screens, blowers, membrane basins (MBR), RAS/WAS pumping equipment, electrical, site grading, and all necessary equipment, pre- procurement bid packages, and oversight as maybe needed to treat municipal and industrial wastes, including installation commissioning, start up and testing, permitting and final, completion.

The Wastewater Treatment Plant South-MBR project will be completed using the construction manager-at- risk ("CMAR") project delivery method in accordance with Chapter 2269 of the Texas Government Code.

GTUA has determined to contract with a construction manager-at-risk to perform the preconstruction, procurement and construction services. The services will include working and coordinating with the design engineers selected pursuant to one or more separate procurements.

GTUA issued a Request for Qualifications (the "RFQ") on June 6, 2023. Statements of Qualifications ("SOQs") submitted in response to the RFQ were received on July 10th, 2023 from 3 proposers.

The SOQs were reviewed by GTUA and assigned a score based on the evaluation criteria and weighting set forth in the RFQ.

Based on the evaluations and scoring of the SOQs, the 3 highest ranked Proposers ("Short Listed Proposers") were short-listed to receive the Request for Proposals ("RFP").

The RFP was released to the Short Listed Proposers on July 20, 2023

The proposals submitted in response to the RFP ("Proposals") were received on August 11, 2023

The Proposals were reviewed by GTUA and assigned a score based on the evaluation criteria and weighting set forth in the RFP.

Agreement

City of Sherman Major Infrastructure Improvements Program -
WWTP South - MBR

Based on the evaluations and scoring of the Proposals, the highest ranked Proposer provided the best value Proposal for the performance of the services among the Short Listed Proposers responding to the RFP.

In August of 2023, GTUA initiated negotiations with Kiewit Water Facilities South Co. for performance of the services, which have concluded with this Agreement.

On September 18, 2023, the governing body of GTUA authorized the execution and delivery of this Agreement.

In consideration of the mutual covenants herein contained, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE 1: REPRESENTATIONS AND WARRANTIES

1.01 Representations and Warranties of the CMAR.

A. The CMAR hereby represents and warrants that:

1. Existence and Powers. The CMAR is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, with the full legal right, power and authority to enter into and perform its obligations under this Agreement.
2. Due Authorization and Binding Obligation. This Agreement has been duly authorized, executed and delivered by all necessary corporate action of the CMAR and constitutes the legal, valid and binding obligation of the CMAR, enforceable against the CMAR in accordance with the terms contained herein and pursuant to applicable law.
3. Information Supplied by the CMAR. The information supplied and representations and warranties made by the CMAR in all submittals made in response to the RFP with respect to the CMAR (and to the best of its knowledge after due inquiry, all information supplied in such submittals with respect to any CMAR Team Member) are true, correct and complete in all material respects.
4. No Conflict of Interest. The CMAR understands that as a political subdivision of Texas, the laws governing GTUA/City of Sherman's Board, employees, and agents may prohibit certain persons from having a financial interest, directly or indirectly, in any contract with the GTUA/City of Sherman ("Prohibited Persons"). The CMAR represents and certifies that its GTUA/City of Sherman's, officers, employees and agents are not Prohibited Persons and that it has tendered to the GTUA/City of Sherman all necessary disclosures and other documents in compliance with the GTUA/City of Sherman's policies and governing laws, including, without limitation, a discretionary contracts disclosure statement and a Conflict of Interest Questionnaire.
5. No Commitments Limiting Ability to Perform CMAR Services. The CMAR has no

commitments, obligations, or impediments of any kind that would have a material and adverse impact on the ability of the CMAR to perform the Services in accordance with the Agreement. The CMAR covenants that it will not enter into any such commitment throughout the period of the performance of the Services.

6. No approvals required. No approval, authorization, order of consent or declaration of, or registration of filing with any governmental body is required for the valid execution and delivery of the Agreement by the CMAR except as such have been duly obtained or made.
7. Licensing and Registration Requirements. The CMAR possesses all licenses required under Laws and Regulations to perform all services required of the CMAR under this Agreement and is not in violation of any of the terms or conditions of such licenses. The CMAR is registered with all appropriate governmental bodies to the extent necessary to perform all of the Services. The CMAR has the authority to do business in the State of Texas.
8. No Litigation. Except as disclosed in writing to GTUA/City of Sherman, there is no legal proceeding, at law or in equity, before or by any court, arbitral tribunal or other governmental body pending or, to the best of the CMAR's knowledge after due inquiry, overtly threatened or publicly announced against the CMAR, in which an unfavorable decision, ruling or finding could reasonably be expected to have a material and adverse effect on the execution and delivery of this Agreement by the CMAR or the validity, legality or enforceability of this Agreement against the CMAR, or any other agreement or instrument entered into by the CMAR in connection with the transactions contemplated hereby, or on the ability of the CMAR to perform its obligations hereunder or under any such other agreements or instruments. For the purposes of this section only, "material" is defined to be an effect in excess of \$1M.
9. Claims and demands. Except as disclosed in writing to GTUA/City of Sherman, there are no material and adverse claims or demands based in environmental, contract or tort law pending or threatened against the CMAR or any of its affiliates that would have a material and adverse effect upon the ability of the CMAR to perform the Services. For the purposes of this section only, "material" is defined to be an effect in excess of \$1M.
10. Laws and Regulations Compliance. Neither the CMAR nor any of its affiliates has any knowledge of any material violation of any law, order, rule or regulation with respect to any facilities or structures constructed by the CMAR or any of its affiliates. For the purposes of this section only, "material" is defined to be an effect in excess of \$1M.
11. The CMAR represents that it is familiar with the ethics requirements of the GTUA/City of Sherman and agrees to comply with such requirements.

ARTICLE 2: WORK, SERVICES AND THE PROJECT

- 2.01 CMAR shall complete all Work as specified or indicated in the Contract Documents. The "Work" is generally described as follows, and includes (but is not limited to) all Construction Management at Risk Services (the "Services") as specified or indicated in the Contract Documents Section 01 01 01, as well as the following:

Wastewater Treatment Plant South-MBR Project ("Project"). The Project consists of:

4MGD Wastewater treatment plant, complete with lift station/ force main, equalization basin, headworks, fine screens, blowers, membrane basins (MBR), RAS/WAS pumping equipment, electrical, site grading, and all necessary equipment, pre- procurement bid packages, and oversight as maybe needed to treat municipal and industrial wastes, including installation commissioning, start up and testing, permitting and final, completion.

- 2.02 The GTUA/City of Sherman's Budget for this project is \$ 155 Million. Construction could be initiated towards end of 2023 with an anticipated completion to allow the Project to be Substantially Complete by April 30, 2025.

- 2.03 This Project is commonly referred to as follows:

Wastewater Treatment Plant South-MBR

ARTICLE 3: ENGINEERS

- 3.01 GTUA/City of Sherman has retained the services of the following identified engineering firms to perform those professional services identified below.
- 3.02 Engineering design shall be performed by the following firm(s) with regard to the general scopes of work as set forth below:
- A. Plummer Associates, Inc.
- 3.03 Collectively, the engineering firms are referred to as the "Engineers." The Engineer shall mean that engineering firm that has primary responsibility for the design and any construction administration obligations over the respective scope of the Work. Each Engineer shall be legally responsible and liable for those consultants and subconsultants retained by the Engineer to provide the engineering services required in its agreement with the GTUA/City of Sherman.
- 3.04 Engineer, who is to act as GTUA/City of Sherman's representative, shall assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Services and the Work in accordance with the Contract Documents.

ARTICLE 4: CONTRACT TIMES

- 4.01 Time of the Essence: All time limits for Milestones, if any, Substantial Completion, and

completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Dates for Substantial Completion and Final Payment:

The Work will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions of the Construction Contract on or before the dates contemplated in Paragraph 2.02, above. These dates are approximate as of the time of this initial Agreement and will be fixed if and when a Guaranteed Maximum Price Amendment for the entire Work is established.

4.03 Liquidated Damages

CMAR and GTUA/City of Sherman recognize that time is of the essence in this Agreement and that GTUA/City of Sherman will suffer financial loss if the Work is not completed within the times specified in Paragraphs 2.01 and 2.02 above, plus any extensions of the Contract Times allowed in accordance with this Agreement and the General Conditions of the Construction Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by GTUA/City of Sherman if the Work is not completed on time. Accordingly, instead of requiring any such proof, GTUA/City of Sherman and CMAR agree that as liquidated damages for delay (but not as penalty), CMAR shall pay GTUA/City of Sherman the amount of (\$25,000) per day as Liquidated Damages stipulated in the Amendment establishing the Guaranteed Maximum Price for each day that expires after the time specified in Paragraphs 2.01 and 2.02 for Substantial Completion until the Work is substantially complete, not to exceed an amount equal to \$5,000,000. The achievement of Substantial Completion will be as described in Article 14 of the General Conditions. After Substantial Completion, if CMAR shall neglect, refuse, or fail to complete the remaining Work and achieve final completion within an agreed upon number of days after achieving Substantial Completion, CMAR shall pay GTUA/City of Sherman the amount of (\$20,000) per day as Liquidated Damages stipulated in the Amendment establishing the Guaranteed Maximum Price, not to exceed an amount equal to \$2,000,000. Liquidated Damages will be Owner's sole remedy for damage for CMAR's failure to achieve timely Substantial Completion and final completion. Assessment of Liquidated Damages by the GTUA/City of Sherman shall not constitute a waiver of the GTUA/City of Sherman's right to sue and collect additional damages which GTUA/City of Sherman may sustain by the failure of the CMAR to perform in accordance with the terms of its Contract.

4.04 Early Completion Bonus

GTUA/City of Sherman shall pay the CMAR at the time of Final Payment an early completion bonus ("Early Completion Bonus") of Twenty Five Thousand Dollars (\$25,000.00) per Day for each Day that Substantial Completion occurs before the date of April 30, 2025 up to a maximum bonus of Two Million Dollars (\$2,000,000). GTUA/City of Sherman shall not be liable for any Early Completion Bonus amounts in excess of Two Million Dollars (\$2,000,000), nor shall CMAR be entitled to any portion of the Early Completion Bonus if Substantial Completion does not occur before April 30, 2025.

ARTICLE 5: CONTRACT PRICE

Contract Price shall be as defined by Section 1.01 A (13) of the General Conditions of the Construction Contract, which is incorporated herein by reference.

ARTICLE 6: CMAR'S CONSTRUCTION SERVICES FEE

6.01 CMAR's construction services fee ("CMAR Fee") shall be nine-point nine five percent (9.95 %) of the Cost of the Work. CMAR Fee is intended to compensate CMAR for its profit, as well as its indirect overhead costs not compensated through reimbursement for its General Conditions, defined below and in the General Conditions of the Construction Contract.

6.02 As funds are utilized for contingency work in accordance with Article 8 of this Agreement, CMAR shall be paid nine-point nine five percent (9.95 %) of the contingency funds utilized as its fee for construction services associated with the contingency work.

ARTICLE 7: COST OF THE WORK

7.01 Cost of the Work shall be defined by Section 11.01 of the General Conditions of the Construction Contract, which is incorporated herein by reference.

ARTICLE 8: CONTINGENCY FUNDS

8.01 The contingency funds are for the exclusive use of the CMAR while executing the Work to reimburse the CMAR for Costs of Work due to unforeseen causes or details not capable of reasonable anticipation at the time of the execution of the Agreement.; such contingency funds are not intended for changes in the scope of the Work or for reimbursement of expenses and costs not otherwise recoverable as a Cost of Work under Paragraph 11.01 of the General Conditions of the Construction Contract. The contingency funds shall not be allocated to any particular line item in the Cost of Work.

8.02 The amount of the contingency funds shall be as agreed between the parties when they develop the Guaranteed Maximum Price. Contingency funds will be additive as GMPs are approved and can be used in any aspect of the Work.

8.03 Subject to prior written approval by the GTUA/City of Sherman, the contingency funds may be used for costs incurred in accordance with this Article by the CMAR. The CMAR shall prepare and submit to GTUA/City of Sherman a detailed listing and written justification as to the need to use any part of the contingency funds. GTUA/City of Sherman's approval for such use will not be unreasonably withheld. Approval or concise reasons for disapproval will be provided by GTUA/City of Sherman within 48 hours of receipt of request. Charges against the contingency funds will be tabulated and reported by the CMAR as part of the CMAR's monthly Progress Meeting. CMAR will also provide a tracking system for the measurement and transfer of contingency accounts.

8.04 It is understood that the amount of any such contingency funds is the maximum amount available to the CMAR to cover costs incurred in accordance with this Article and that all cost overruns in excess of the contingency funds will be borne by the CMAR. As an incentive, any unused CMAR Contingency funds can be shared with 60% retained by the Owner and 40% paid

to the contractor at the discretion of GTUA/City of Sherman.

ARTICLE 9: GUARANTEED MAXIMUM PRICE

- 9.01 At the time specified in Section 9.02, below, the CMAR shall prepare a Guaranteed Maximum Price proposal (the "GMP Proposal") for the GTUA/City of Sherman's review and acceptance. The Guaranteed Maximum Price in the GMP Proposal shall be the sum of the CMAR's estimate of the Cost of Work, including contingencies described in Article 8, plus the CMAR Fee described in Article 6. If signed by the GTUA/City of Sherman, this total shall be established as the Guaranteed Maximum Price in an Amendment to the Agreement and shall be subject to authorized increases or decreases for changes in the Work. By signing the Guaranteed Maximum Price Amendment, CMAR guarantees that the total Contract Price will not exceed the GMP unless the GTUA/City of Sherman authorizes an increase in accordance with the Agreement. The CMAR is responsible for all costs in excess of the GMP, unless the GMP has been increased by Change Order for a change in scope of Work by the GTUA/City of Sherman.
- 9.02 The CMAR will provide GMP Proposals per the mutually established Procurement Plan which will outline the packages and timing requirements, in such form and with such backup documentation as required herein for the GMP Proposal. Except as may otherwise be agreed by the GTUA/City of Sherman and the CMAR in advance, the GMP Proposal shall include a contingency fund of no more than is specified in Section 8.02, above.
- 9.03 Any GMP Proposal shall include the following, unless the Parties mutually agree otherwise:
- A. The proposed GMP will be developed as specified in Article 9 of this Agreement and as set out herein. The GMP Proposal shall be submitted in a binder with a title page that indicates whether the GMP Proposal is for an Early Work Package or GMP Proposal for the entire Work. If for an Early Work Package it shall be numbered and titled and dated. Binder pages shall be numbered. Binder shall include all specified items and components of a GMP as required by the Agreement. Sections must be divided by tabs for ease of reference. The GMP Proposal will be organized as follows:
 - 1. Transmittal Letter
 - 2. Table of Contents
 - 3. Tab 1 - Executive Summary- brief general summary, including the Scope of Work for the GMP Proposal.
 - 4. Tab 2 - A list of Drawings and Specifications and other Contract Documents, with the most recent revisions dates, upon which the GMP Proposal is based
 - 5. Tab 3 - Description of Variations, Substitutions proposed to the Drawings and Specifications.
 - 1. Specification listing- provide a detail listing of Specifications by division and section, which describes exclusions, substitutions, modifications, etc. If no changes are proposed for a particular section, insert "as per specifications".
 - 2. "Qualifications and Assumptions- a narrative summary of all qualifications and assumptions included in the Specifications listing.
 - 3. Exclusions- a summary of all exclusions included in the Specifications listing, plus any exclusions not related to the Specifications

4. Value Analysis recommendations - if applicable.
 5. Allowance Schedule - a list of allowances including definitions for all allowances or any open pricing terms and a statement of their basis - if applicable.
 6. A schedule of unit prices - if applicable.
 7. All other information used as the basis for the GMP Proposal.
6. Tab 4 - The proposed GMP for the designated portion of the Work -Cost of the Work Breakdown:
1. Estimated Cost of the Work shall be broken down into previously agreed divisions and such additional sections and Early Work Packages as may have been directed by GTUA/City of Sherman prior to the submission of the GMP Proposal.
 2. Cost breakdown will be a lump sum for each Division and, if applicable, a section with information on proposed subcontractors and pricing supporting such costs.
 3. Itemized listing of all proposed General Conditions costs, including all definitions of cost categories.
 4. The GMP Proposal shall provide for contingency funds in accordance with the Agreement.
 5. Allowances and unit prices shall be included
 6. It must include a description of how the estimated Cost of the Work was derived and prepared in accordance with the requirements of the Agreement.
7. Tab 5 Progress Schedule
1. The Progress Schedule for a GMP Proposal must include detailed activities for all events and Milestones included in the construction phase.
 2. Additionally, the Progress Schedule update must include detailed, logic driven activities for all construction phase activities.
 3. All paths in the Progress Schedule must lead to Milestone activities to ultimately achieve Substantial Completion on or before the Milestone for Substantial Completion.
 4. The Progress Schedule must be provided in hard copy form in the binder and also in an electronic format attached to the binder.
 5. A Schedule of Values based upon the Contract Time requirements.
8. GTUA/City of Sherman and CMAR acknowledge that information provided by CMAR as part of the GMP Proposal, or other deliverables, may contain certain confidential or proprietary information of CMAR. The parties agree to follow the process set forth in the General Conditions regarding such information.
- 9.04 Early Work Package shall be defined as a portion of Work that the Parties agree should be performed prior to the establishment of a Guaranteed Maximum Price for the Project. Prior to being provided with 90% Construction Drawings or establishment of a GMP Proposal for the entire Work, Early Work Packages may be awarded to the CMAR to facilitate the early preparation of the Site, purchase long lead time materials and equipment and otherwise accelerate certain portions of the Work in advance of an agreement between the GTUA/City of

Sherman and CMAR regarding the GMP Amendment for the entire Work.

- 9.05 Either GTUA/City of Sherman or the CMAR may propose Early Work Packages to proceed prior to that time the GMP Proposal for the entire Work is approved by the GTUA/City of Sherman. Based upon the written agreement of the Parties, the CMAR may either self-perform, if selected by the GTUA/City of Sherman as the successful Bidder, or subcontract such Early Work Packages before the GMP Proposal for the entire Work has been submitted and approved. The approved "not to exceed" amount for the scope of the Work included in any Early Work Package shall later be included within the GMP Proposal for the entire Work as an individual line item with reference made to the appropriate Early Work Package agreement. For any Early Work Package payments, the CMAR's fee shall be the same percentage of the Cost of Work set forth in Section 6.01, above. Additionally, CMAR's General Conditions costs relating to the Early Work Package shall be calculated either in the same manner and in the same percentage stated in Article 2.02 of the Cost Proposal, or per the General Conditions GMP. The CMAR will be obligated to provide payment and performance bonds in accordance with Article 5 of the General Conditions of the Construction Contract for the GMP amount of any Early Work Package.
- 9.06 The GTUA/City of Sherman may choose to accelerate the completion of certain portions of the design work so that some specific Early Work Packages may be awarded by the CMAR prior to the completion of the remaining Construction Documents or acceptance by the GTUA/City of Sherman of the GMP Proposal for the entire Work. The CMAR shall verify that the Engineer has provided the documents necessary to Bid and award any Early Work Package. Any Early Work Package shall contain language which makes those subcontracts 100% assignable to GTUA/City of Sherman at GTUA/City of Sherman's option, in the event this Agreement is terminated, and that the Subcontractors shall be obligated to accept that assignment if it should occur.
- 9.07 After submission of any Early Work Package "not to exceed" proposal, as well as after submission of the GMP Proposal for the entire Work, the CMAR and GTUA/City of Sherman shall promptly meet to discuss and review the proposals.
- A. If GTUA/City of Sherman has any comments regarding the respective proposal or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to the CMAR of such comments or findings.
- B. To the extent that the estimated Cost of the Work of the GMP Proposal exceeds the GTUA/City of Sherman's Budget, the CMAR shall exercise best efforts (as measured by its applicable standard of care under this Agreement) to propose Value Analysis solutions and other cost reduction measures to bring such construction costs within the GTUA/City of Sherman's Budget.
1. The GTUA/City of Sherman and CMAR may cooperate in the revision of the Scope of Work to reduce the cost and re-Bid those portions of the Scope of Work that were revised.
 2. The GTUA/City of Sherman may authorize the CMAR to re-bid some or all portions of the Scope of Work within a reasonable time in an attempt to reduce costs.
 3. The GTUA/City of Sherman may direct the Engineer to take such reasonable steps to revise the design such to meet the GTUA/City of Sherman's intent such that cost can be

achieved within GTUA/City of Sherman's Budget.

- C. If appropriate, the CMAR shall, upon receipt of GTUA/City of Sherman's notice to the CMAR, make appropriate adjustments to the GMP Proposal.
- D. If GTUA/City of Sherman accepts a GMP Proposal, as may be amended by GTUA/City of Sherman and the CMAR, the GMP Proposal and its basis shall be set forth in a GMP Amendment to this Agreement. Then GTUA/City of Sherman will authorize Engineer to prepare appropriate revisions to the Contract Documents to incorporate all agreed-upon assumptions, clarifications and exclusions contained in the GMP Proposal in a timeframe that supports the construction schedule.
- E. Notice to Proceed on a GMP Amendment may be issued immediately upon full approval and execution and receipt of all required bonds and insurance.
- F. The CMAR agrees that to the best of its knowledge that the Contract Documents at the time of the execution of the respective GMP Amendment are sufficient to enable it to determine the GMP for all the Work covered by such GMP Amendment and that such Work can be completed in accordance with the Contract Documents for the GMP. By agreeing to a GMP, the CMAR agrees with the GTUA/City of Sherman that the Work required by the Contract Documents for the Work covered by the respective GMP Amendment, including without limitation, construction means, methods, procedures and techniques necessary to perform the Work, will be consistent with (i) good and sound practices within the construction industry, (ii) generally prevailing and accepted industry standards applicable to the Work, and (iii) requirements of any warranties applicable to the Work.

9.08 If GTUA/City of Sherman rejects the GMP Proposal for the entire Work (which it may do in its sole discretion) or fails to notify the CMAR in writing within thirty (30) calendar days of receipt of the GMP Proposal that it accepts the GMP Proposal, the GMP Proposal shall be deemed withdrawn and of no effect. In such event, GTUA/City of Sherman and the CMAR shall meet and confer as to how the Project will proceed with GTUA/City of Sherman having the following options, the selection of which option GTUA/City of Sherman may make in its sole discretion:

- A. GTUA/City of Sherman may suggest modifications to the GMP Proposal and consider the CMAR's additional Value Analysis proposals and other suggestions for cost reduction, whereupon, if such modifications are accepted in writing by the GTUA/City of Sherman and CMAR, the GMP Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 9.07 D, E and F above; or
- B. GTUA/City of Sherman may authorize and direct, in writing, the CMAR to proceed with the specified Work on the basis of reimbursement as provided in Article 6 (CMAR's Fee) and Article 7 (Cost of the Work) hereof without a GMP, in which case all references in Agreement to the GMP will not be applicable; or
- C. GTUA/City of Sherman may terminate this Agreement in accordance with Article 18.

- 9.09 If the GTUA/City of Sherman fails to take any action within thirty (30) days of the 'meet and confer' held in accordance with Section 9.08, CMAR may terminate the Agreement. GTUA/City of Sherman will pay CMAR for Services actually rendered through the date of termination.
- 9.10 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the CMAR. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the CMAR shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them being necessary to produce the indicated results. To the extent the Drawings and Specifications are anticipated to require further development by the Engineer, the CMAR has provided in the GMP for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required shall be incorporated by Change Order.
- 9.11 **9.11 Conversion of Cost of Work to a Lump Sum Amount**
- A. If Owner and CMAR mutually agree, compensation for all Work on the Project may be converted to a lump sum (stipulated amount). If compensation for all Work on the Project is converted to a lump sum amount, this lump sum amount will include costs for Construction Support Cost, Cost of the Work, the CMAR Fee, and all other costs associated with the Contract, including any CMAR Contingency Allowance, all as if bid as a lump sum amount. CMAR will no longer have access to CMAR Contingency Allowance funds and bears all risk associated with delivering the Work for the lump sum amount.
- B. The following will continue to apply for conversions to lump sum covered in Paragraph A:
1. The Cost of the Work provisions in Article 7 will continue to apply to pricing certain Change Orders and other similar matters, as set forth in the General Conditions of the Construction Contract.
 2. Owner's Contingency Account will continue to be available per Article 8.

ARTICLE 10: CHANGES IN THE GUARANTEED MAXIMUM PRICE

- 10.01 The amount of any increases or decreases in the GMP that result from a change in the scope of Work shall be set forth in an applicable written Change Order. The amount of any such increase or decrease in the GMP shall be determined by Articles 11 and 12 of the General Conditions of the Construction Contract.

ARTICLE 11: PAYMENT PROCEDURES

- 11.01 Submittal and Processing of Payments for Services associated with the Pre-Construction Services and Procurement Services:
- A. On the first working day following the last Saturday of each month, Contractor shall submit to Engineer for review an Application for Payment completed and signed by Contractor covering the Services completed as of the date of the Application and accompanied by such documentation as may be required, use Microsoft office 365 SharePoint system to submit

the pay application per instructions set forth in the Contract Documents.

- B. Engineer will within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present Application to GTUA/City of Sherman or return the Application to CMAR indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
- C. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to GTUA/City of Sherman, based on Engineer's knowledge and review of the Services completed, that such Services were generally in accordance with the requirements of the Agreement and the Contract Documents.
- D. Twenty days after presentation of the Application for Payment to GTUA/City of Sherman with Engineer's recommendation, the amount recommended will become due, and when due will be paid by GTUA/City of Sherman to CMAR. GTUA/City of Sherman will be responsible for interest on late payment of any undisputed invoice amounts in accordance with the Texas Government Code, Chapter 2251.

11.02 Submittal and Processing of Payments for Services associated with the Construction Services: CMAR shall submit Applications for Payment of the Work in accordance with Article 14 of the General Conditions of the Construction Contract. Applications for Payment will be processed by Engineer as provided in the General Conditions of the Construction Contract.

11.03 Progress Payments and Retainage for the Work:

- A. GTUA/City of Sherman shall make progress payments on the basis of CMAR's Applications for Payment.. All such payments will be measured by the Schedule of Values established as provided in Paragraph 2.07.A of the General Conditions of the Construction Contract. The allocation of the Guaranteed Maximum Price under this Section 11.03 and the General Conditions of the Construction Contract shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.
- B. GTUA/City of Sherman shall make progress payments on the basis of CMAR's Applications for Payment within 20 days of receipt of the engineer reviewed/ approved application for payment. Payment will be less the aggregate of payments previously made and less such amounts as GTUA/City of Sherman may be entitled to withhold pursuant to the Contract Documents, including but not limited to Liquidated Damages, in accordance with Paragraph 14.02 of the General Conditions of the Construction Contract. In addition to the amount retained above, the GTUA/City of Sherman may retain additional amounts as permitted elsewhere in the Contract Documents.
- C. Retainage: No retainage will be withheld from progress payments.

- 11.04 Final Payment: Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions of the Construction Contract, GTUA/City of Sherman shall pay within thirty (30) days the remainder of the Contract Price, as modified in accordance with the Contract Documents, and as recommended by Engineer as provided in said Paragraph 14.07. In no event shall such final payment cause the total amount paid by GTUA/City of Sherman to exceed the Guaranteed Maximum Price.

ARTICLE 12: WORK SELF-PERFORMED BY CMAR OR A CMAR TEAM MEMBER

- 12.01 The CMAR may seek to perform portions of the Work itself, other than the work that may be included in the CMAR's General Conditions costs, if the CMAR submits its Bid and is awarded for those portions of the Work in the same manner as all other Subcontractors. If the CMAR intends to submit a Bid for such Work or a CMAR Team Member intends to submit a Bid, it shall notify GTUA/City of Sherman prior to soliciting Bids and all such Bids will be submitted directly to the GTUA/City of Sherman or the Engineer. If the GTUA/City of Sherman determines that the CMAR's Bid or CMAR Team Member's Bid provides the best value for GTUA/City of Sherman, the CMAR or CMAR Team Member will be awarded that portion of the Work. GTUA/City of Sherman's determination in such matters is final.

ARTICLE 13: INTEREST

- 13.01 The GTUA/City of Sherman is not obligated to pay interest on monies not paid except as provided in Chapter 2251 of the Texas Government Code.

ARTICLE 14: CMAR'S REPRESENTATIONS FOR THE WORK

- 14.01 CMAR makes the following representations as of the date of this Agreement:
- A. CMAR has examined and carefully studied the Contract Documents and the other related data identified in the Request for Proposals.
 - B. CMAR has visited the Site and become familiar with and is satisfied as to the observable general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. CMAR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. CMAR has carefully studied: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site including Underground Facilities provided in Paragraph 4.02 of the General Conditions of the Construction Contract and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in Paragraph 4.06 of the General Conditions of the Construction Contract.

- E. To the extent made available to CMAR by GTUA/City of Sherman, CMAR has obtained and carefully studied additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions including surface, subsurface, and Underground Facilities at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CMAR, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents, and safety precautions and programs incident thereto or assumes responsibility for doing so.
- F. CMAR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. CMAR is aware of the general nature of Work to be performed by GTUA/City of Sherman and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. CMAR has correlated the information known to CMAR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. CMAR has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that CMAR has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to CMAR. Notwithstanding, GTUA/City of Sherman acknowledges CMAR is not a designer, engineer or architect and has reviewed the Contract Documents for constructability purposes.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 15: ACCOUNTING RECORDS

~~15.01—Accounting Record Availability: CMAR shall keep such full and detailed accounts of materials incorporated and labor and equipment utilized for the Work consistent with the requirements of Paragraph 11.01.B of the General Conditions of the Construction Contract and as may be necessary for proper financial management under this Agreement. Subject to prior written notice, GTUA/City of Sherman shall be afforded reasonable access during normal business hours to all CMAR's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to any cost reimbursable payments made to CMAR. CMAR shall preserve all such documents for a period of 5 years after the final payment by GTUA/City of Sherman.~~

- 15.01 **Accounting Record Availability:** CMAR shall keep such full and detailed accounts of materials incorporated and labor and equipment utilized for the Work consistent with the requirements of Paragraph 11.01.B of the General Conditions of the Construction Contract and as may be necessary for proper financial management under this Agreement. Subject to prior written notice, GTUA/City of Sherman shall be afforded reasonable access during normal business hours to all CMAR's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to any payments made to CMAR after the date of Amendment 06 on the basis of cost under Section 11.01 of the General Conditions of the Construction Contract. CMAR shall preserve all such documents for a period of 5 years after the final payment by GTUA/City of Sherman.

ARTICLE 16: CONTRACT DOCUMENTS

16.01 Contents

- A. The Contract Documents consist of the following:
 - 1. Specifications
 - 2. Addenda (Numbers 00 91 00-1 to 00 91 00-4, inclusive)
 - 3. Documentation submitted by Contractor prior to Notice of Award (pages insert page numbers, inclusive).
 - 4. 00 42 23.01 Cost Proposal
 - 5. This Agreement.
 - 6. General Conditions of the Construction Contract
- B. The following are also Contract Documents which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto
 - 1. Notice to Proceed.
 - 2. Amendment(s)
 - 3. Change Order(s).
 - 4. Field Order(s)
 - 5. Work Change Directive(s).
- C. The documents listed in Paragraph 16.01.A are attached to this Agreement (except as expressly noted otherwise above).
- D. There are no Contract Documents other than those listed above in this Article 16.
- E. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions of the Construction Contract.

ARTICLE 17: NON-APPROPRIATION OF FUNDS

- 17.01 Notwithstanding any other provision of this Agreement, this Agreement may be terminated if for

Agreement

any reason there are not sufficient appropriated and available monies for the purpose of maintaining GTUA's payment obligations under this Agreement. In the event of such termination, the termination will be in accordance with Paragraph 15.03 of the General Conditions of the Construction Contract.

ARTICLE 18: TERMINATION

- 18.01 In addition to the termination terms and conditions in Article 15 of the General Conditions of the Construction Contract, CMAR's failure to provide the Key Personnel or Alternate Key Personnel will justify termination for cause by the GTUA/City of Sherman, unless such failure is due to death, disability or the personnel's voluntary separation from employment from the CMAR or its CMAR Team Members.
- 18.02 In addition to the termination terms and conditions in Article 15 of the General Conditions of the Construction Contract, upon three days written notice, GTUA/City of Sherman may, without cause and without prejudice to any other right or remedy of GTUA/City of Sherman, terminate this Agreement at the conclusion of the Pre-Construction Services or failure of the GTUA/City of Sherman and CMAR to come to an agreement on the Guaranteed Maximum Price Proposal for the entire Work. Such termination shall be subject to the confidentiality provisions set forth in the Contract. The CMAR shall be paid for Services actually rendered through the date of termination. GTUA/City of Sherman's use or alteration of any deliverable furnished prior to any termination by CMAR without CMAR's participation shall be at GTUA/City of Sherman's sole risk and without liability to CMAR.

ARTICLE 19: MISCELLANEOUS

- 19.01 Terms: Terms used in this Agreement will have the meanings stated in the General Conditions of the Construction Contract.
- 19.02 Assignment of Contract: No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 19.03 Successors and Assigns: GTUA/City of Sherman and CMAR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- 19.04 Severability: Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon GTUA/City of Sherman and CMAR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

- 19.05 Venue: CMAR agrees that venue shall lie exclusively in district courts of Grayson County, Texas for any legal action.
- 19.06 CMAR shall provide GTUA/City of Sherman with any necessary documents as required by GTUA.
- 19.07 In the execution of the contract, the Contractor must comply with all applicable local, state and federal laws, including but not limited to laws concerned with labor, safety, minimum wages, and the environment. The Contractor shall be familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances and regulations which in any manner affect the conduct of the work, and shall defend, indemnify and save harmless the GTUA/City of Sherman, Engineer, and their representatives against any claim arising from violation of any such law, ordinance or regulation by the Contractor, their Subcontractor or their employees.
- 19.08 GTUA/City of Sherman may, but is not obligated to, advance to CMAR a lump sum amount of the anticipated General Conditions to cover costs associated with CMAR's project mobilization (the "Mobilization Advance"). In exchange for the Mobilization Advance, the General Conditions percentage to be paid on all future payment applications will be reduced by an amount agreed to by GTUA/City of Sherman and CMAR until Project completion. After the true-up calculation has been performed, GTUA/City of Sherman and CMAR will make any adjustments necessary to reconcile what GTUA/City of Sherman has actually paid CMAR for General Conditions versus what GTUA/City of Sherman should have paid CMAR for General Conditions. If GTUA/City of Sherman overpaid CMAR for General Conditions, CMAR shall promptly pay (or credit) back to GTUA/City of Sherman any such overpayment.

ARTICLE 20: ENDANGERED SPECIES

- 20.01 No activity is authorized that is likely to jeopardize the continued existence of a threatened or endangered species as listed or proposed for listing under the Federal Endangered Species Act (ESA), and/or the State of Texas Parks and Wildlife Code on Endangered Species, or to destroy or adversely modify the habitat of such species.
- 20.02 If a threatened or endangered species is encountered during construction, the Contractor shall immediately cease work in the area of the encounter and notify the GTUA/City of Sherman, who will immediately implement actions in accordance with the Federal Endangered Species Act and applicable State statutes. These actions shall include reporting the encounter to the U.S. Fish and Wildlife Service, and the Texas Parks and Wildlife Department, obtaining any necessary approvals or permits to enable the work to continue, or implement other mitigation actions. The Contractor shall not resume construction in the area of the encounter until authorized to do so by the GTUA/City of Sherman. If a delay to the Work is caused by an encounter with threatened or endangered species as described above, and expressly conditioned upon such delay being on the critical path of Contractor's Work at the time of the encounter, Contractor shall be entitled to seek an extension of the Contract Time and an increase in the GMP in accordance with Article 12 of the General Conditions.

IN WITNESS WHEREOF, GTUA/City of Sherman and CMAR have signed this Agreement in duplicate. One counterpart each has been delivered to GTUA/City of Sherman and CMAR. All portions of the Contract Documents have been signed or identified by GTUA/City of Sherman and CMAR or on their behalf.

This Agreement will be effective on **Date to be inserted at the Time of Contract Execution.**

GTUA/City of Sherman: _____

CMAR: _____

typed or printed)

(typed or printed)

By: _____

(Individual's signature)

By: _____

(Individual's signature)

Name: _____

(typed or printed)

Name: _____

(typed or printed)

Attest: _____

(Individual's signature)

Attest: _____

(Individual's signature)

Address for giving notice:

Designated representative:

Name: _____

Designated representative:

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Facsimile: _____

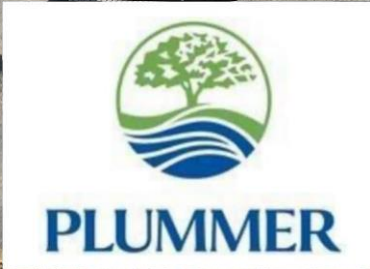
Facsimile: _____

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E-mail: _____



SOUTH WWTP – MBR PROJECT



As of April 3, 2024

- **Total Personnel Onsite:
181**

- Onsite Staff: 67
- Onsite Craft: 78
- Onsite Subcontractors: 36

- **Total Percent Complete**

- Excavation: 73%
- Backfill: 14%
- UG Pipe: 3.5%
- UG Electrical: 0%
- Concrete: 10%
- AG Pipe: 0%
- AG Electrical: 0%
- Process Mechanical: 0%

As of September 30, 2024

- **Total Personnel Onsite:
377**

- Onsite Staff: 93
- Onsite Craft: 223
- Onsite Subcontractors: 61

- **Total Percent Complete**

- Excavation: 83%
- Backfill: 40%
- UG Pipe: 58%
- UG Electrical: 68%
- Concrete: 60%
- AG Pipe: 0%
- AG Electrical: 0%
- Process Mechanical: 0%

- **Total Manhours without a Recordable**
 - 320,626 MH
 - 55,493 in September 2024
- **Total Contracts Executed**
 - 71 Total
 - 20 Subcontracts
 - 25 Service Agreements
 - 26 Material Contracts
- **Total Submittals Approved**
 - 460 Approved or Approved As Noted
 - 72 Information Only
 - 46 Currently in Review
- **Total Off Site Vendor Surveillance Inspections**
 - 2 supplier facility quality inspections
 - 14 supplier pre-fab meeting quality inspections



Oct 19, 2023

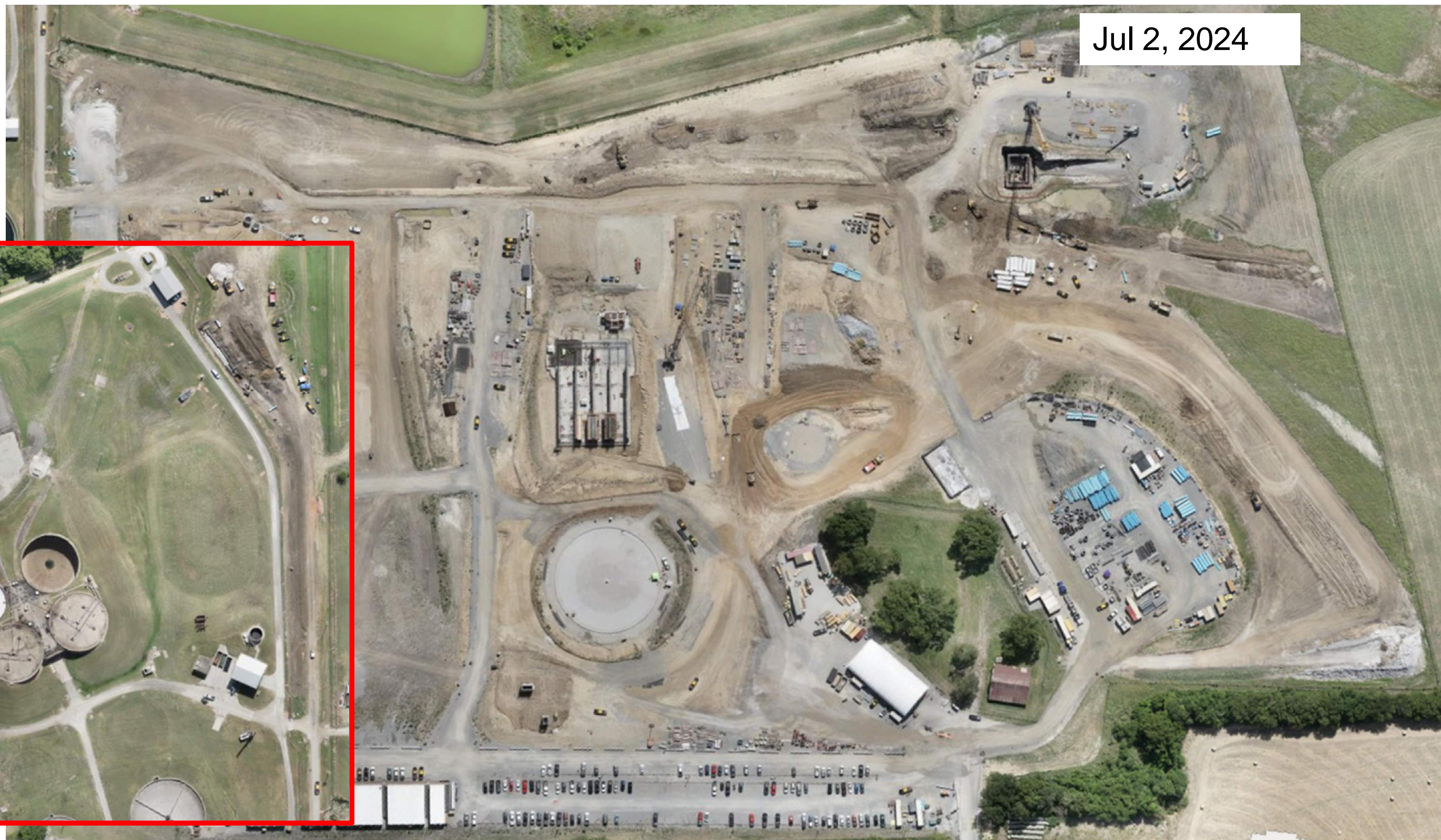


Jan 3, 2024



Apr 5, 2024

Jul 2, 2024



North Plant



Sep 26, 2024

North Plant

Apr 4, 2024



Sep 26, 2024



Apr 4, 2024



Sep 26, 2024



Influent Pump Station

Apr 4, 2024



Sep 26, 2024



Biological Reactor Basin,
Membrane Basins, Membrane
Support Building, RAS, and
EQ Tank

Sep 26, 2024

Apr 4, 2024



Biological Reactor Basin,
Membrane Basins, Membrane
Support Building, and RAS

Sep 26, 2024



Apr 4, 2024



Preliminary Treatment Unit

Oct 1, 2024



Apr 4, 2024



EQ Tank

Sep 26, 2024



Apr 4, 2024



North Plant Relift

Sep 26, 2024

Mar 26, 2024



June 2024: Collected 332 canned goods that were donated to the local Salvation of Army in Sherman.



June 2024: Donated shoes to local basketball team.



July 2024: Shoveled wood chips in play zone area at the local city of Sherman park – Martin Luther King

August 2024: Donated 300+ Canned Goods to Grand Central Station a Local Nonprofit Organization. Their mission is to provide food, tools for learning, advocacy, and life solutions, for their neighbors in need, in an environment of safety.



As of September 30, 2024

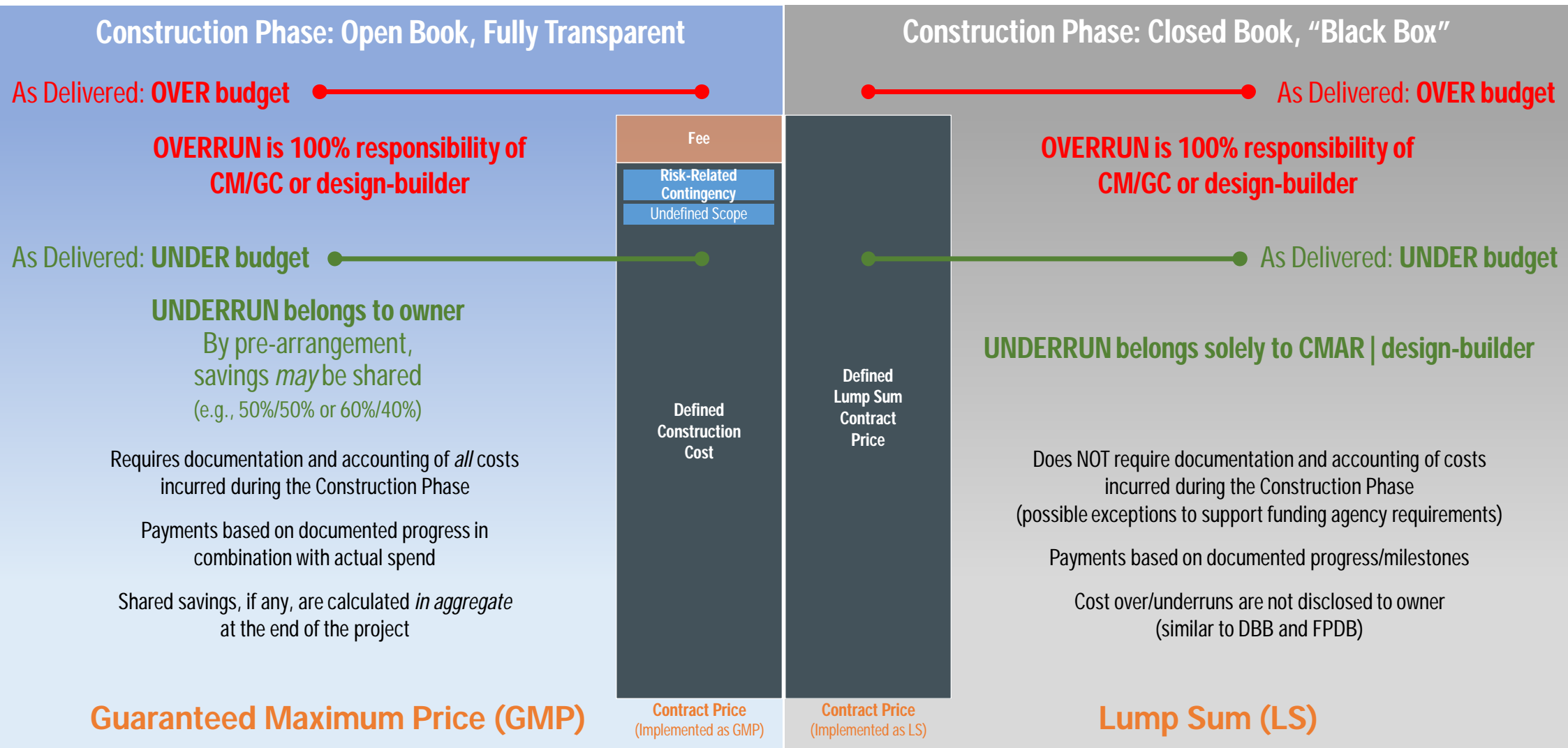
- **Total Personnel Onsite:
377**

- Onsite Staff: 93
- Onsite Craft: 223
- Onsite Subcontractors: 61

- **Total Percent Complete**

- Excavation: 83%
- Backfill: 40%
- UG Pipe: 58%
- UG Electrical: 68%
- Concrete: 60%
- AG Pipe: 0%
- AG Electrical: 0%
- Process Mechanical: 0%

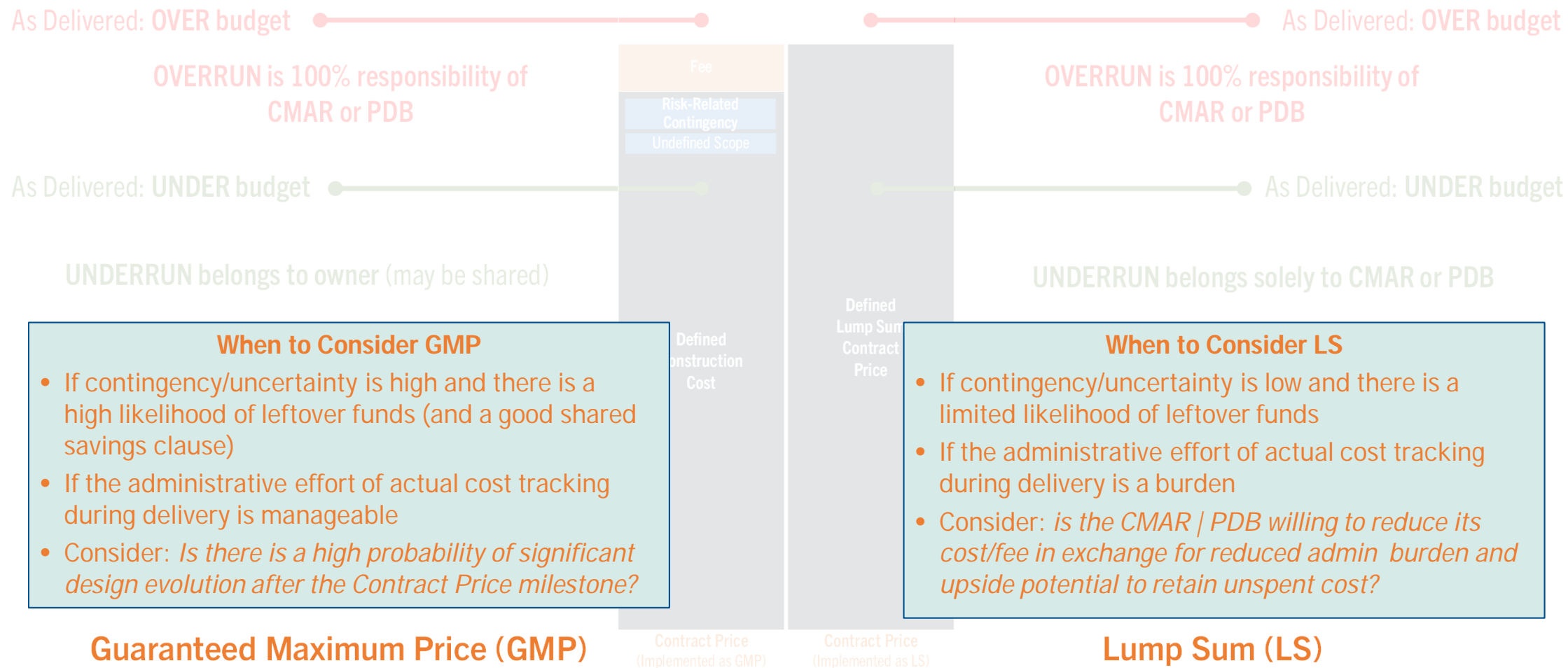
Cost versus Price



Cost versus Price

Construction Phase: Open Book, Fully Transparent

Construction Phase: Closed Book, "Black Box"



Commercial Concepts: Guaranteed Maximum Price (GMP) vs. Lump Sum (LS) Implementation

THE IMPORTANT DIFFERENCE BETWEEN GMP AND LUMP-SUM CONTRACTS

The terms “GMP” and “lump sum” are often used interchangeably, which is, in a word, wrong. As owners transition from traditional design-bid-build projects to collaborative delivery methods, it’s important to understand the differences between GMP and lump-sum contracts and be able to use the terms correctly.

ONE FINAL THING ABOUT INDUSTRY CONTRACT TEMPLATES

Several industry service organizations have developed standard contract templates to help owners equitably balance risk management and allocation between the owner and the collaborative delivery firm. Contract templates and language from DBIA, ConsensusDOCS, and EJCDC have gained wide acceptance in the collaborative delivery marketplace. These templates and forms are generally accepted by collaborative delivery firms with minimal negotiation.

THE IMPORTANT DIFFERENCE BETWEEN GMP AND LUMP-SUM CONTRACTS

The terms “GMP” and “lump sum” are often used interchangeably, which is, in a word, wrong. As owners transition from traditional design-bid-build projects to collaborative delivery methods, it’s important to understand the differences between GMP and lump-sum contracts and be able to use the terms correctly.

GMP

GMP pricing uses the “open-book” method, where the owner can see each line-item cost added by the collaborative delivery firm as they compile their guaranteed maximum price. Once the owner and collaborative delivery firm have agreed upon the GMP, that number becomes the “make or break” total for the collaborative delivery firm. If the collaborative delivery firm delivers the project for less than the GMP, the owner keeps the savings (unless the contract specifies a shared savings arrangement). However, if the collaborative delivery firm exceeds the GMP, the overrun is borne solely by the collaborative delivery firm, except in the case of owner-directed change orders. The GMP continues to be “open book” throughout the project so the collaborative delivery firm and owner each know exactly how much of the GMP has been spent. This “open-book” accounting is vital to determining cost savings or overruns at the end of the project.

Lump Sum

A lump-sum pricing structure begins like a GMP, in that the lump sum is typically compiled using the “open-book” process so the owner can see what goes into the project cost. Once the owner has agreed to the lump sum (or fixed price in a FPDB contract), the collaborative delivery firm is under no obligation to keep the “open-book” accounting structure or provide any cost information to the owner. The lump sum also acts as a “make or break” number for the collaborative delivery firm, with one important exception. If the collaborative delivery firm can meet the contract terms and deliver the project for less than the lump sum, the collaborative delivery firm keeps the savings and does not have to share with the owner. However, as with GMP pricing, if the collaborative delivery firm’s costs exceed the lump sum, they are responsible for cost overruns.



Mixing and Matching Agreements.
As mentioned above, there are a number of industry organizations that have developed contract forms and templates. Owners should be careful not to mix and match forms and templates from multiple sources, as the terminology can differ, leading to confusion and possible legal implications. In addition, federal procurements require using the Federal Acquisition Regulations for their contract documents. Owners should work with their owner advisors and/or legal counsel to identify the best template for the project.

AGENDA ITEM XI



GREATER TEXOMA UTILITY AUTHORITY

AGENDA COMMUNICATION

DATE: November 6, 2024

SUBJECT: AGENDA ITEM NO. XI

PREPARED AND SUBMITTED BY: Paul M. Sigle, General Manager

CONSIDER AND ACT UPON AMENDMENT NUMBER 7 (FINAL GUARANTEED MAXIMUM PRICE) FOR KIEWIT WATER FACILITIES SOUTH CO. FOR THE CITY OF SHERMAN'S SOUTH WASTEWATER TREATMENT PLANT PROJECT.

ISSUE

Consider and act upon Amendment Number 7 (Final Guaranteed Maximum Price) for Kiewit Water Facilities South Co. for the City of Sherman's South Wastewater Treatment Plant Project.

BACKGROUND

Due to rapid industrial and municipal growth currently being experienced by the City of Sherman, the Wastewater Treatment Plant has to be expanded to meet expected flow and effluent characteristics. Given these characteristics, the City engineers recommended a Membrane Biological Reactor (MBR) as the treatment method that will be required to meet the TCEQ requirements. In order to meet the abbreviated timeline, the method of construction delivery chosen was Construction Manager at Risk, or CMAR. Requests for Qualifications (RFQ's) were submitted with three construction firms submitting Statement of Qualifications (SOQ's). The contractor chosen to undertake the new Wastewater Treatment Plant – MBR was Kiewit Water Facilities South, Co. The engineers have undertaken pre-selection of various long-leading equipment to save as much time as possible. Further, the contractor, now procured, is also undertaking pre-procurement to expedite the time of delivery.

CONSIDERATIONS

The City of Sherman is requesting the Authority to approve Kiewit Water Facilities South Amendment No. 7 for the City's South Wastewater Treatment Plant Project. This Amendment No. 07 is the Final GMP for the South Wastewater Treatment Plant Project. The Final GMP proposal includes all GMPs/Bid Packages and Work Change Directives issues with CMAR services. The scope of work included with the Final GMP consists of construction of a Wastewater Treatment Plant, including a Diversion Structure, Influent Pump Station, Storage Tanks, Equalization Basin, Preliminary Treatment Unit, Carbon Storage, Blower Building, Membrane Biological Reactor basin, RAS Pump Station, MBR Supporting Building, Re-lift Pump Station, Effluent Filters and commissioning, startup and testing. The Final GMP proposal is submitted as a Lump Sum and totals \$288,131,406.55. This does not include scope changes during construction following acceptance of the Lump Sum Amendment; those will be brought back to the Council and the Authority for subsequent approval on a case-by-case scenario. Close collaboration between the design engineer, construction manager, CMAR and City Staff reviewing each component of the proposed amendment

STAFF RECOMMENDATIONS

The Authority Staff recommends approving Amendment No. 7 for Kiewit Water Facilities South for the South Wastewater Treatment Plant Project. The City of Sherman's Council has approved these changes at the November 4th Council Meeting.

ATTACHMENT

Final GMP Proposal



October 24, 2024

Mr. Tom Pruitt, PE
City of Sherman
220 W. Mulberry Street
Sherman, TX 75090

RE: GMP Proposal for the entire Work (Final GMP)

Dear Mr. Pruitt:

Kiewit Water Facilities South Co. is hereby submitting the GMP Proposal for the entire Work (Final GMP) for the South Wastewater Treatment Plant – MBR Project. The Final GMP proposal incorporates GMPs/Bid Packages and WCDs issued with CMAR services.

The scope of work included with the Final GMP consists of construction of a Wastewater Treatment Plant, including but not limited to a Diversion Structure, Influent Pump Station, Storage Tanks, Equalization Basin, Preliminary Treatment Unit, Carbon Storage, Blower Building, Biological Reactor Basin, RAS Pump Station, MBR Basin, MBR Support Building, Re-lift Pump Station, Effluent Filters, complete with electrical, site grading, installation, commissioning, start up and testing.

This Final GMP proposal is submitted as a Lump Sum to be billed against the proposed schedule of values and will convert the CMAR Contingency Fund to a Lump Sum.

The Substantial Completion date of August 26, 2025, was verbally agreed upon in a meeting with Kiewit, City of Sherman, Plummer, and Pape Dawson on July 30, 2024. Through many iterations and changes in design, the project team has developed the attached proposed revised Baseline Schedule. It is fully tied by logic and accelerated. The accelerations include Saturday work, night shifts, changing the High-Performance Coating Subcontractor, expediting Rodney Hunt, expediting the submittal reviews, modifying the structural leak test procedure, resequencing, and increased manpower. These efforts culminated in the development of a Baseline Schedule that aligns with the agreed upon Substantial Completion date of August 26, 2025. This schedule will become the approved baseline schedule once the Final GMP for the entire Work is fully executed. It should be noted that not all activities lead to Substantial Completion. Activities that are not required for Startup are not tied to Substantial Completion.

The Final GMP for the entire Work is \$288,131,409.55 as shown in the table below. The Final GMP for the entire Work includes a credit of \$2,929,067.75 for removing CMAR Fee on GCs and converts the CMAR Contingency Fund to a lump sum in the amount of \$9,000,000. The Final GMP for the entire Work does not include:

- WCD, RFIs, FOs, or other items listed in Tab 3 under 3.1 and 3.2;



- future WCDs, FOs, PCMs, or other cost or schedule impacts which will be processed through the terms set forth in the General Conditions;
- an Owner Contingency. CMAR recommends the Owner carry a minimum of \$10,000,000 in Contingency beyond the Final GMP for the entire Work which is presented here.

GMP	GMP/Work Package Name	Contracted (Thru AM06 - 4/15/24)	Owner's Contingency (Thru AM06 - 4/15/24)	Total Contingency Account	Contracted (4/15/24) with OC Consolidated	Approved PCOs Using Contingency Account	Additional Approved PCOs	Changes to Final GMP	Final GMP for the Entire Work
PCSA	Preconstruction Services	\$ 1,962,275.85	\$ -	\$ -	\$ 1,962,275.85	\$ -	\$ -	\$ -	\$ 1,962,275.85
PCSB	Procurement Services	\$ 915,000.00	\$ -	\$ -	\$ 915,000.00	\$ -	\$ -	\$ -	\$ 915,000.00
	Preconstruction Lump Sum	\$ 2,877,275.85	\$ -	\$ -	\$ 2,877,275.85	\$ -	\$ -	\$ -	\$ 2,877,275.85
GMPA	General Conditions	\$ 16,873,509.70	\$ -	\$ -	\$ 16,873,509.70	\$ -	\$ -	\$ -	\$ 16,873,509.70
GMPB	Site Services	\$ 18,399,017.31	\$ -	\$ -	\$ 18,399,017.31	\$ -	\$ -	\$ -	\$ 18,399,017.31
GMPD	Early Procurement	\$ 16,465,242.30	\$ -	\$ -	\$ 16,465,242.30	\$ -	\$ -	\$ -	\$ 16,465,242.30
GMPD	Grading, Excavation, SOE, Dewatering	\$ 15,902,635.00	\$ -	\$ -	\$ 15,902,635.00	\$ -	\$ -	\$ -	\$ 15,902,635.00
GMPE	Backfill	\$ 5,068,000.00	\$ -	\$ -	\$ 5,068,000.00	\$ -	\$ -	\$ -	\$ 5,068,000.00
GMPF	Underground Piping	\$ 39,952,988.25	\$ (1,902,523.00)	\$ -	\$ 38,050,465.25	\$ -	\$ -	\$ -	\$ 38,050,465.25
GMPG	Concrete, Miscellaneous Metals	\$ 32,311,000.00	\$ -	\$ -	\$ 32,311,000.00	\$ -	\$ -	\$ -	\$ 32,311,000.00
GMPH	Electrical, Instrumentation	\$ 19,921,397.00	\$ (2,343,757.00)	\$ -	\$ 17,577,640.00	\$ -	\$ -	\$ -	\$ 17,577,640.00
GMPJ	Process Mechanical	\$ 28,860,624.00	\$ (2,137,824.00)	\$ -	\$ 26,722,800.00	\$ -	\$ -	\$ -	\$ 26,722,800.00
GMPJ	Building Trades	\$ 7,544,000.00	\$ (984,000.00)	\$ -	\$ 6,560,000.00	\$ -	\$ -	\$ -	\$ 6,560,000.00
	Approved Contingency Account Used					\$ 27,282,697.98			\$ 27,282,697.98
	Pending PCO	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,140,963.48	\$ -	\$ 20,140,963.48
	Cost of Work	\$ 201,298,413.56	\$ (7,368,104.00)	\$ -	\$ 193,930,309.56	\$ 27,282,697.98	\$ 20,140,963.48	\$ -	\$ 241,353,971.02
	CMAR Fund	\$ 18,116,857.22	\$ (663,129.36)	\$ (17,453,727.86)	\$ -	\$ -	\$ -	\$ -	\$ -
	Cost of Work plus CMAR Fund	\$ 219,415,270.78	\$ (8,031,233.36)	\$ (17,453,727.86)	\$ 193,930,309.56	\$ 27,282,697.98	\$ 20,140,963.48	\$ -	\$ 241,353,971.02
12.2%	-Additional GCs (12.2% When >\$155M)	\$ 9,887,835.38	\$ (979,810.47)	\$ (2,129,354.80)	\$ 6,778,670.11	\$ 3,328,489.15	\$ 2,457,197.54	\$ -	\$ 12,564,356.80
	Subtotal Cost of Work	\$ 229,303,106.16	\$ (9,011,043.83)	\$ (19,583,082.66)	\$ 200,708,979.67	\$ 30,611,187.13	\$ 22,598,161.02	\$ -	\$ 253,918,327.82
9.95%	CMAR Fee	\$ 22,815,659.06	\$ (896,598.86)	\$ (1,948,516.72)	\$ 19,970,543.48	\$ 3,045,813.12	\$ 2,248,517.02	\$ -	\$ 25,264,873.62
9.95%	Deduct CMAR Fee on GCs							\$ (2,929,067.75)	\$ (2,929,067.75)
	Construction Total	\$ 252,118,765.22	\$ (9,907,642.69)	\$ (21,531,599.38)	\$ 220,679,523.15	\$ 33,657,000.25	\$ 24,846,678.05	\$ (2,929,067.75)	\$ 276,254,133.69
	Preconstruction Plus Construction Total	\$ 254,996,041.07	\$ (9,907,642.69)	\$ (21,531,599.38)	\$ 223,556,799.00	\$ 33,657,000.25	\$ 24,846,678.05	\$ (2,929,067.75)	\$ 279,131,409.55
	CMAR Fund to Lump Sum	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,000,000.00	\$ 9,000,000.00
	Owner's Contingency Allowance	\$ 3,153,958.93	\$ (3,153,958.93)	\$ (13,061,601.62)	\$ -	\$ -	\$ -	\$ -	\$ -
	Contingency Account	\$ -	\$ -	\$ -	\$ 34,593,201.00	\$ (33,657,000.25)	\$ (936,200.75)	\$ -	\$ -
	Total*	\$ 258,150,000.00	\$ (13,061,601.62)	\$ (34,593,201.00)	\$ 258,150,000.00	\$ 258,150,000.00	\$ 23,910,477.29	\$ 6,070,932.25	\$ 288,131,409.55

*This does not include Owner Contingency for excluded WCDs and potential future WCDs. CMAR recommends Owner carry a minimum of \$10m in contingency.

Respectfully,

James Goyer
Kiewit Water Facilities South Co.
Project Executive

Sherman WWTP South – Final GMP Proposal

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1 - Executive Summary

1 Introduction

1.1 Executive Summary

1.1.1 Scope Overview

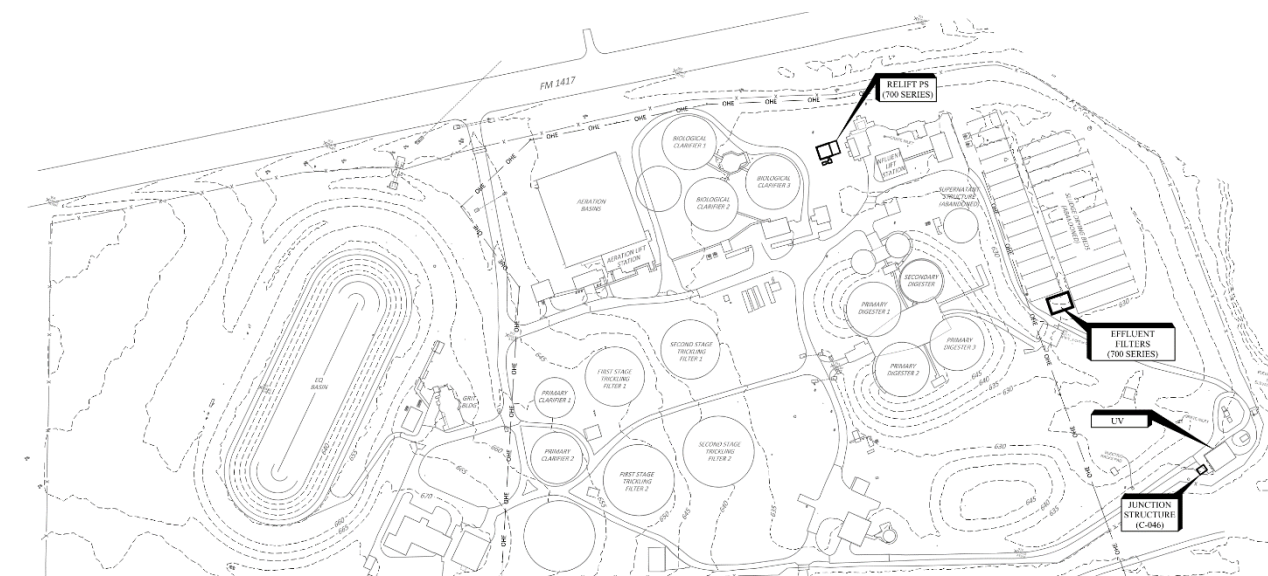
The project's overall objective is to build a new Wastewater Treatment Plant. Components of the project include but are not limited to a new Diversion Structure, Influent Pump Station, Pretreatment, Equalization, BNR, Membrane and Membrane Support Building. The project is one of several projects happening at the Wastewater Plant and around the City of Sherman.

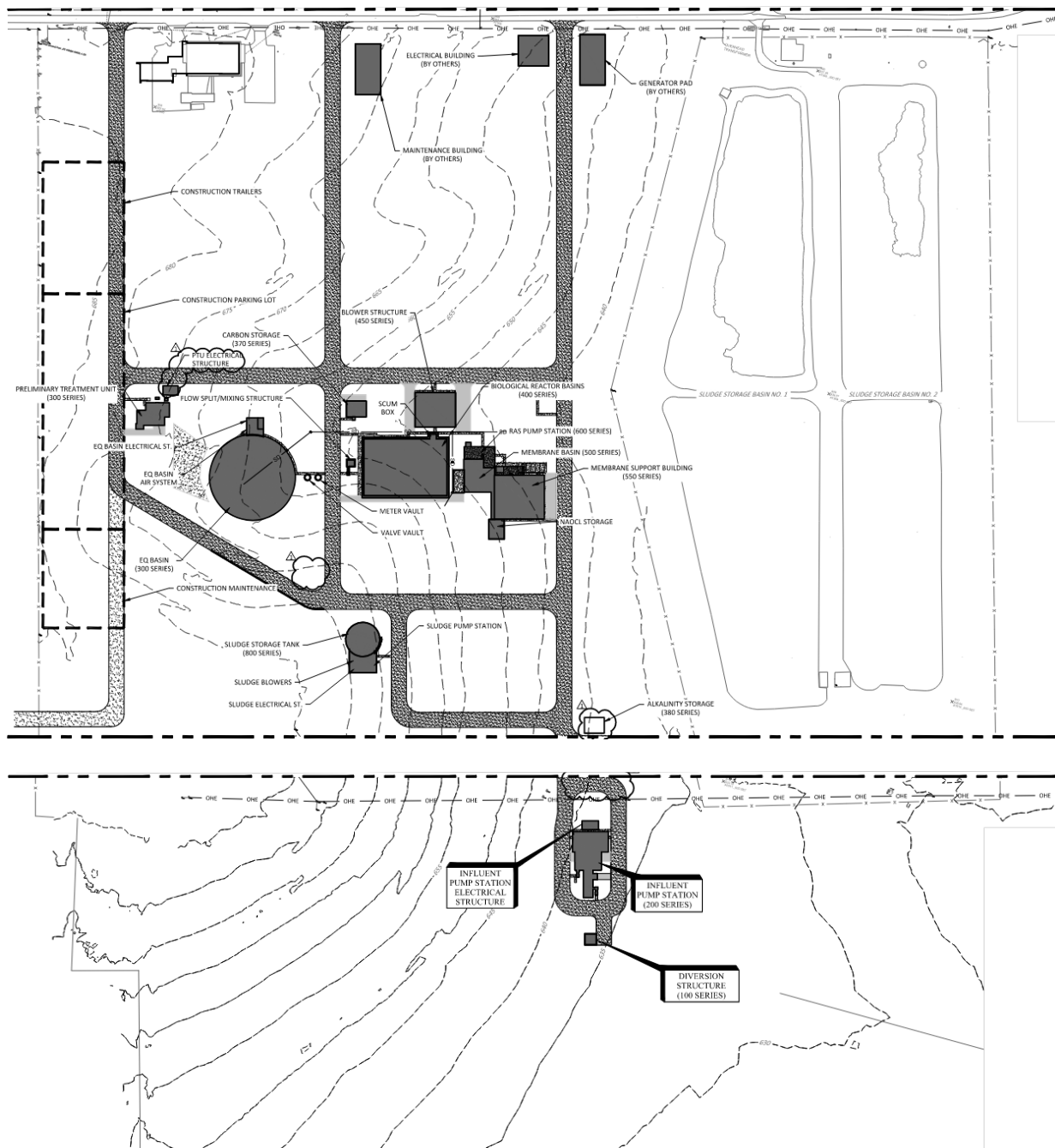
The success of this project depends upon the City of Sherman providing timely electrical equipment and service, which includes the paralleling switchgear, switches, transformers, and an ONCOR service drop. The transformers are necessary to provide the proper power for pre-functional testing and startup of the plant equipment and are needed by December 27, 2024, to avoid a schedule impact.

At the initial proposal phase of this project, the project schedule was aggressive. Since then, the sequence of events leading up to this Final GMP proposal has had an impact on the project schedule. The project team, including Plummer, Pape Dawson, the City of Sherman, and Kiewit have worked together to minimize project schedule impacts and have established Substantial and Final Completion dates for this Final GMP.

This GMP Proposal for the entire Work (Final GMP) is being created when the design is approximately 100% complete. This Final GMP proposal provides a list of drawings, specifications, a list of exclusions and assumptions, an estimated cost of work, and a progress schedule which defines the scope of Work included. This Final GMP is proposed as a Lump Sum price, not a Cost Reimbursable price.

This proposal is intended to help provide a better understanding of the costs included in the Final GMP and how they were determined as well as clarify assumptions. In the sections that follow, Kiewit outlines the basis and results of the GMPs and WCDs.





Latest Site Plan ~7/26/2024 (G-014, G-015, G-016)

Figure 1: Site Plan IFC

1.1.2 Basis GMP Proposal for the entire Work (Final GMP)

The Final GMP is a lump sum price based on design drawings initially issued through multiple Work Change Directives (WCD) as described within the Final GMP proposal. This Final GMP includes lump sum Bid Packages that were awarded as GMPs and included in Amendments to the Agreement.

See below the scope of work that is the Basis of this Final GMP:

- GMPA included General Conditions as described in the Specifications, Agreement and Standard General Conditions as per Amendment 01 and Amendment 06.
- GMPB included Site Services to provide temporary facilities and controls to allow on site management of the construction of the project as per Amendment 01. Additional CMAR Site Services have been reconciled in specific PCO's for the Work Change Directives included below.
- GMPC included Early Procurement for Equipment Packages 1 Membrane Biological Reactor, Equipment Package 2 Electrical Equipment, Equipment Package 3 Preselection Equipment and Equipment Package 4 as per Amendment 01 and Amendment 02. The following Work Change Directives have been included in Amendment 06 and are included in this GMP: WCD 0002 (Rotary Lobe Pumps), WCD 0010 (RAS Mixers and Air Pipe SOW change), WCD 0011 (Submersible Pump Discharge Elbow upsize), WCD 0012 (MBR Aluminum Cover), WCD 0014 (Eaton Changes). The following Work Change Directives have not been included in any prior Amendment however will be included in this GMP; WCD 0017 (Veolia Equipment Modifications), WCD 0018 (Tank Washdown Booster Pumps) and WCD 0025 (Update Sludge VFD Enclosure from NEMA 12 to NEMA 4X). It also includes converting GMPC from Time & Materials to a Lump Sum which has been incorporated in PCO 0040 and Global Pump Solutions Pump Protection Panels Modification which has been incorporated in PCO 0033.
- GMPD Early Grading and GMPE Backfill, scope of work includes clear, grub, strip topsoil, site grading, structural excavation, over excavation under the foundations, structural backfill, dewatering, and support of excavation at the IPS as per amendment 02 and 03. The following Work Change Directives have not been included in any prior Amendment however will be included in this GMP, WCD 0008 (IFB to IFC for Civil, Excavation, Backfill, and Rough Grade).
- GMPF2 Underground Piping, scope of work includes installation of yard piping, excavation and backfill of yard piping, concrete encasements, and plant tie-ins as per Amendment 04. The following Work Change Directives have not been included in any prior Amendment, however, will be included in this GMP: WCD 0001 (Furnish and install complete in place piping critical to the project schedule) and WCD 0005 R2 (IFC Drawing for the Underground Piping Package). The following Proposed Contract Modifications have not been included in any prior Amendment, however, will be included in this GMP: PCM 001 (North Plant Drying Beds Modifications) which has been incorporated in PCO 0015. GMPG Concrete, scope of work includes concrete, reinforcement steel, mud mats and vapor barrier for structures as per Amendment 03. The following Work Change Directives have not been included in any prior Amendment, however, will be included in this GMP: WCD 0003 R1 (IFB to IFC for Structural Packages) and WCD 0019 (Structural Revision to the PTU structure). It also includes PCO 0038 which relates to Concrete delays.
- In GMPH Underground Electrical and GMPH2 Aboveground Electrical, scope of work includes duct banks, conduit, wire, and I&C as per Amendment 03 and Amendment 05. The following Work Change Directives have not been included in any prior Amendment, however, will be included in this GMP: WCD 0004 R1 (IFB to IFC for Electrical), WCD 0013 (Startup Electrical Power) and WCD 0021 R1 (P&ID Drawing Update).
- In GMPI Process Mechanical, scope of work includes aboveground piping and process mechanical equipment as per Amendment 04. The following Work Change Directives have not been included in any prior Amendment, however, will be included in this GMP: WCD 0006 (IFB – IFC for Process Mechanical) and WCD 0024 R1 (PTU Mechanical Dwg's Update). The following Proposed Contract Modification has not been included in any prior Amendment, however, will be included in this GMP, PCM 004 (Delete Wet Well Wizards from the Project) which has been included in PCO 0031.
- In GMPJ scope of work includes masonry, doors, windows, structural steel, trusses, roofing, painting, HVAC, and plumbing for the Blower Building and MBR Support Building as per Amendment 06. The following Work Change Directive has not been included in any prior Amendment, however, will be

included in this GMP: WCD 0007 (IFB to IFC for Architectural and Building Trades), It also includes the Architectural Flooring (PCO 0036) and Drywall & Ceiling (PCO 0037).

- The following Work Change Directives have not been included in any prior Amendment and/or any GMP package, however, will be included in this GMP:
 - WCD 009 Site Finishes, scope of work includes sidewalk, PCC pavement, HMAC pavement, striping, culverts, sidewalks, PCC slope, curb and gutter, hydromulch and new fencing with gates.
 - WCD 015 High Performance Coatings, scope of work includes protective coatings at the Diversion Structure, Influent Pump Station, Preliminary Treatment Unit and Influent Splitter Box (BRB).
 - WCD 016 Starting, Demonstrating and Testing of Systems, scope of work includes startup and demonstration of facilities for the project.
- Refer to Tab 3.1 - Detailed listing of exclusions, substitutions, modifications for Work Change Directives that have been excluded from this GMP.
- Refer to Tab 3.2 - Narrative of the Qualifications and Assumptions which further defines the Basis of the Final GMP.

1.1.3 Cost Summary

The Final GMP for the entire Work is \$288,131,409.55 as shown in Table 1 Final GMP for the entire Work. The Approved PCOs column shows approved PCOs which utilized funds from the Contingency Account, see Table 1: Approved PCOs Using Contingency Account in Tab 4.1. The Pending PCOs column shows the pending PCOs for changes listed in Tab 4.1 sections 4.1.10, 4.1.11, and 4.1.12, see Table 2: Approved PCOs Pending Final GMP in Tab 4.1. The Changes to Final GMP column shows a credit of \$2,929,067.75 for removing CMAR Fee on GCs and converts the CMAR Contingency Fund to a lump sum in the amount of \$9,000,000. The last column shows the total cost for the Final GMP. Because the CMAR Contingency Fund is converted to a lump sum, the sharing of the CMAR Contingency Fund as described in 8.06 of Amendment 06 is no longer applicable. The Final GMP for the entire Work does not include:

- WCD, RFIs, FOs, or other items listed in Tab 3 under 3.1 and 3.2;
- future WCDs, FOs, PCMs, or other cost or schedule impacts which will be processed through the terms set forth in the General Conditions;
- an Owner Contingency. CMAR recommends the Owner carry a minimum of \$10M in Contingency beyond the Final GMP for the entire Work which is presented here.

City of Sherman
South Wastewater Treatment Plant – MBR Project

Final GMP

GMP	GMP/Work Package Name	Contracted (Thru AM06 - 4/15/24)	Owner's Contingency (Thru AM06 - 4/15/24)	Total Contingency Account	Contracted (4/15/24) with OC Consolidated	Approved PCOs Using Contingency Account	Additional Approved PCOs	Changes to Final GMP	Final GMP for the Entire Work
PCSA	Preconstruction Services	\$ 1,962,275.85	\$ -	\$ -	\$ 1,962,275.85	\$ -	\$ -	\$ -	\$ 1,962,275.85
PCSB	Procurement Services	\$ 915,000.00	\$ -	\$ -	\$ 915,000.00	\$ -	\$ -	\$ -	\$ 915,000.00
	Preconstruction Lump Sum	\$ 2,877,275.85	\$ -	\$ -	\$ 2,877,275.85	\$ -	\$ -	\$ -	\$ 2,877,275.85
GMPA	General Conditions	\$ 16,873,509.70	\$ -	\$ -	\$ 16,873,509.70	\$ -	\$ -	\$ -	\$ 16,873,509.70
GMPB	Site Services	\$ 18,399,017.31	\$ -	\$ -	\$ 18,399,017.31	\$ -	\$ -	\$ -	\$ 18,399,017.31
GMPD	Early Procurement	\$ 16,465,242.30	\$ -	\$ -	\$ 16,465,242.30	\$ -	\$ -	\$ -	\$ 16,465,242.30
GMPD	Grading, Excavation, SOE, Dewatering	\$ 15,902,635.00	\$ -	\$ -	\$ 15,902,635.00	\$ -	\$ -	\$ -	\$ 15,902,635.00
GMPE	Backfill	\$ 5,068,000.00	\$ -	\$ -	\$ 5,068,000.00	\$ -	\$ -	\$ -	\$ 5,068,000.00
GMPF	Underground Piping	\$ 39,952,988.25	\$ (1,902,523.00)	\$ -	\$ 38,050,465.25	\$ -	\$ -	\$ -	\$ 38,050,465.25
GMPG	Concrete, Miscellaneous Metals	\$ 32,311,000.00	\$ -	\$ -	\$ 32,311,000.00	\$ -	\$ -	\$ -	\$ 32,311,000.00
GMPH	Electrical, Instrumentation	\$ 19,921,397.00	\$ (2,343,757.00)	\$ -	\$ 17,577,640.00	\$ -	\$ -	\$ -	\$ 17,577,640.00
GMPI	Process Mechanical	\$ 28,860,624.00	\$ (2,137,824.00)	\$ -	\$ 26,722,800.00	\$ -	\$ -	\$ -	\$ 26,722,800.00
GMPJ	Building Trades	\$ 7,544,000.00	\$ (984,000.00)	\$ -	\$ 6,560,000.00	\$ -	\$ -	\$ -	\$ 6,560,000.00
	Approved Contingency Account Used					\$ 27,282,697.98			\$ 27,282,697.98
	Pending PCO	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,140,963.48	\$ -	\$ 20,140,963.48
	Cost of Work	\$ 201,298,413.56	\$ (7,368,104.00)	\$ -	\$ 193,930,309.56	\$ 27,282,697.98	\$ 20,140,963.48	\$ -	\$ 241,353,971.02
	CMAR Fund	\$ 18,116,857.22	\$ (663,129.36)	\$ (17,453,727.86)	\$ -	\$ -	\$ -	\$ -	\$ -
	Cost of Work plus CMAR Fund	\$ 219,415,270.78	\$ (8,031,233.36)	\$ (17,453,727.86)	\$ 193,930,309.56	\$ 27,282,697.98	\$ 20,140,963.48	\$ -	\$ 241,353,971.02
12.2%	-Additional GCs (12.2% When >\$155M)	\$ 9,887,835.38	\$ (979,810.47)	\$ (2,129,354.80)	\$ 6,778,670.11	\$ 3,328,489.15	\$ 2,457,197.54	\$ -	\$ 12,564,356.80
	Subtotal Cost of Work	\$ 229,303,106.16	\$ (9,011,043.83)	\$ (19,583,082.66)	\$ 200,708,979.67	\$ 30,611,187.13	\$ 22,598,161.02	\$ -	\$ 253,918,327.82
9.95%	CMAR Fee	\$ 22,815,659.06	\$ (896,598.86)	\$ (1,948,516.72)	\$ 19,970,543.48	\$ 3,045,813.12	\$ 2,248,517.02	\$ -	\$ 25,264,873.62
9.95%	Deduct CMAR Fee on GCs							\$ (2,929,067.75)	\$ (2,929,067.75)
	Construction Total	\$ 252,118,765.22	\$ (9,907,642.69)	\$ (21,531,599.38)	\$ 220,679,523.15	\$ 33,657,000.25	\$ 24,846,678.05	\$ (2,929,067.75)	\$ 276,254,133.69
	Preconstruction Plus Construction Total	\$ 254,996,041.07	\$ (9,907,642.69)	\$ (21,531,599.38)	\$ 223,556,799.00	\$ 33,657,000.25	\$ 24,846,678.05	\$ (2,929,067.75)	\$ 279,131,409.55
	CMAR Fund to Lump Sum	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,000,000.00	\$ 9,000,000.00
	Owner's Contingency Allowance	\$ 3,153,958.93	\$ (3,153,958.93)	\$ (13,061,601.62)	\$ -	\$ -	\$ -	\$ -	\$ -
	Contingency Account	\$ -	\$ -	\$ -	\$ 34,593,201.00	\$ (33,657,000.25)	\$ (936,200.75)	\$ -	\$ -
	Total*	\$ 258,150,000.00	\$ (13,061,601.62)	\$ (34,593,201.00)	\$ 258,150,000.00	\$ 258,150,000.00	\$ 23,910,477.29	\$ 6,070,932.25	\$ 288,131,409.55

*This does not include Owner Contingency for excluded WCDs and potential future WCDs. CMAR recommends Owner carry a minimum of \$10m in contingency.

Table 1: Final GMP for the entire Work

4 - The Proposed GMP

4 Proposed GMP

4.1 Cost of Work

Contingency components (CMAR and Owner) included in Amendments 1 through 5 have been superseded by Amendment 6.

This Final GMP Proposal for the entire Work includes all previously approved Lump Sum GMP Work. As part of this proposal, GMP C would also be converted to a Lump Sum scope of Work and would not be subject to cost reimbursable terms of the contract.

CMAR proposes the following language be added to the Agreement:

- Enabling language – see Section 11.06 of the EJCDC CMAR 525, as revised for our current Project status. Insert within Section 00 52 23, Construction Management At Risk Services Agreement, NEW SECTION 9.11:
 - 9.11 Conversion of Cost of Work to a Lump Sum Amount
 - A. If Owner and CMAR mutually agree, compensation for all Work on the Project may be converted to a lump sum (stipulated amount). If compensation for all Work on the Project is converted to a lump sum amount, this lump sum amount will include costs for Construction Support Cost, Cost of the Work, the CMAR Fee, and all other costs associated with the Contract, including any CMAR Contingency Allowance, all as if bid as a lump sum amount. CMAR will no longer have access to CMAR Contingency Allowance funds and bears all risk associated with delivering the Work for the lump sum amount.
 - B. The following will continue to apply for conversions to lump sum covered in Paragraph A:
 - 1. The Cost of the Work provisions in Article 7 will continue to apply to pricing certain Change Orders and other similar matters, as set forth in the General Conditions of the Construction Contract.
 - 2. Owner's Contingency Account will continue to be available per Article 8.
- Revision to Article 15 Accounting Records
 - 15.01 Accounting Record Availability: CMAR shall keep such full and detailed accounts of materials incorporated and labor and equipment utilized for the Work consistent with the requirements of Paragraph 11.01.B of the General Conditions of the Construction Contract and as may be necessary for proper financial management under this Agreement. Subject to prior written notice, GTUA/City of Sherman shall be afforded reasonable access during normal business hours to all CMAR's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to any payments made to CMAR after the date of Amendment 06 on the basis of cost under Section 11.01 of the General Conditions of the Construction Contract. CMAR shall preserve all such documents for a period of 5 years after the final payment by GTUA/City of Sherman.

Final GMP does not contain an Owner Allowance Amount. CMAR recommends Owner Carry \$10,000,000.00 in Owner Contingency.

Owner and CMAR mutually agree, compensation for all Work on the Project is converted to a lump sum. This lump sum amount will include costs for Construction Support Cost, Cost of the Work, the CMAR Fee, and all other costs associated with the Contract, including any CMAR Contingency Allowance, all as if bid as a lump sum amount. CMAR will no longer have access to CMAR Contingency Allowance funds and bears all risk associated with delivering the Work for the lump sum amount.

Potential Change Orders (PCOs)/Work Change Directives (WCDs); Change Order Log. Tab 3.1 Detailed Listing of Exclusions, Substitutions, and Modifications and Tab 3.2 Narrative of the Qualification and Assumption contains a list of items that are not priced in the GMP amount set forth in the Final GMP and may impact the GMP. These will be submitted as Potential Change Orders if applicable.

Tab 2 Drawings and Specifications includes the complete list of contract documents included in the cost of Work.

4.1.1 GMPA-C General Conditions, Site Services and Early Procurement

4.1.1.1 Lump Sum GMPA General Conditions

General Conditions were described to varying extents in the RFP Division 1 Specifications, the Agreement, and the General Conditions. Per Specification 01 01 01 CMAR Services Article 4 provide Administration and Management Services, Time Management Services, Cost Management Services, Risk Management Services, Starting and Adjusting Services and Warranty Correction Work. Per Agreement and Standard General Conditions Article 11 provide Labor and Management costs, Bonds and Insurance and Offices. Kiewit Water Facilities South Co. submitted a proposal. City of Sherman, Pape-Dawson, and Plummer recommended approval and award to Kiewit Water Facilities South Co.

4.1.1.2 Lump Sum GMPB Site Services

Site Services supplied items that are required by the entire project but are more efficiently consolidated as they allow for increased availability, higher quality, minimization of redundancy, and lessen congestion. The overall scope of work provided temporary facilities and controls to allow on site management of the construction of the project. This includes items such as, but not limited to; labor to establish the site, grading for temporary construction trailers and maintenance facilities, infrastructure to support temporary facilities and labor forces, site photography, implementation of the Storm Water Pollution Prevention Plan (SWPPP), maintenance of the SWPPP, security, site fencing, IT, temporary power and utility infrastructure costs, storm water management and best management practice installations, third party quality control testing, and labor to maintain the project site over the course of construction execution. Many of these costs are based on unit pricing, lump sum, and time and materials for supervision and craft support. Kiewit Water Facilities South Co. submitted a proposal. City of Sherman, Pape-Dawson, and Plummer recommended approval and award to Kiewit Water Facilities South Co.

4.1.1.3 GMPC Early Procurement

Early Procurement involved Equipment Package 1 Membrane Biological Reactor, Equipment Package 2 Electrical Equipment and Equipment Package 3 Equipment Preselection advertised by Plummer on behalf of the City of Sherman. For Equipment Packages 1 and 2 bids were received, evaluated and awarded by Plummer in cooperation with the City of Sherman. For Equipment Package 3 some equipment was advertised by Plummer on behalf of the City of Sherman. Remaining equipment procurement was completed by Kiewit Water Facilities South Co., evaluated and awarded by Kiewit and the City of Sherman. Kiewit Water Facilities South Co. submitted a proposal. City of Sherman, Pape-Dawson, and Plummer recommended approval and award to Kiewit Water Facilities South Co. This was originally T&M; however, this is being proposed as Lump Sum for the Final GMP.

4.1.2 *Lump Sum GMPD Early Grading, Excavation, SOE and Dewatering*

GMPD scope of work included: Clear, grub, and strip any remaining topsoil on indicated areas of the project site and haul to designated stockpile location. Perform early site grading, structural excavation, and over excavation under each foundation in accordance with the Geotechnical Report. Design excavations to meet OSHA, Kiewit's Temporary Structure and Construction Devices TSCD Manual. Backfill from over excavation to bottom of foundations in accordance with the Geotechnical Report. Design and install dewatering system and/or drainage system to keep excavations free from ground and storm water. Design and build crane pads based on the cranes indicated in the proposal. Design and install site access for all excavations.

GMPD (BP04-001) Early Grading, Excavation, SOE and Dewatering was issued for Notice to Bid on October 17, 2023. The Bid Package was due on November 3, 2023. Only one bidder, Kiewit Water Facilities South Co. submitted a proposal. Bid was submitted in a sealed package to the City of Sherman and was evaluated by a committee including the City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Kiewit Water Facilities South Co.

CMAR support staff for BP04-001 was also included consistent with the positions identified as future scopes on the initial GMP submittals.

4.1.3 *Lump Sum GMPE Backfill*

GMPE scope of work included: Removal of all shoring from BP04-001 Early Grading, dewatering system for structural areas to allow for backfill placement in dry conditions, installation of a damp proofing system on all structures, compaction and backfill around all structures.

GMPE (BP004-02) Backfill was issued for Notice to Bid on November 15, 2023. The Bid Package was due on December 7, 2023. Only one bidder, Kiewit Water Facilities South Co. submitted a proposal. Bid was submitted in a sealed package to the City of Sherman and was evaluated by a committee including the City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Kiewit Water Facilities South Co.

CMAR support staff for BP04-002 was also included consistent with the positions identified as future scopes on the initial GMP submittals.

4.1.4 *Lump Sum GMPF2 Underground Piping*

GMPF (BP005-01) Underground Piping was initially issued for Notice to Bid on November 21, 2023. The Bid Package was due on December 7, 2023. Only one bidder, Kiewit Water Facilities South Co. submitted a proposal. The bid was later rejected by City of Sherman, Pape Dawson, and Plummer. BP05-001 was later split into two proposals, GMPF2 (BP05-002) Underground Piping and WCD 001 Critical Underground Piping.

GMPF2 scope of work included: Underground Piping and appurtenances listed on CMAR's Piping Priority List as Medium or Low Level of criticality.

GMPF2 (BP05-002) Underground Piping was issued for Notice to Bid on January 11, 2024. The Bid Package was due on January 24, 2024. Only one bidder, Kiewit Water Facilities South Co. submitted a proposal. Bid was submitted in a sealed package to the City of Sherman and was evaluated by a committee including the

City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Kiewit Water Facilities South Co.

Pape-Dawson issued BP05-002 Underground Piping Re-Bid Bid Package Comments dated January 26, 2024 requesting further clarification. Our response to their Comments was to include Allowances.

CMAR support staff for BP05-002 was also included consistent with the positions identified as future scopes on the initial GMP submittals.

4.1.5 Lump Sum GMPG Concrete

GMPG scope of work included: Concrete, reinforcement steel, mud mat and vapor barrier for structures shown on the drawings. Not all structures shown on the Site Plan were included and were later added via IFC Drawings.

GMPG (BP06-001) Concrete was issued for Notice to Bid on November 15, 2023. The Bid Package was due on December 7, 2023. Only one bidder, Kiewit Water Facilities South Co. submitted a proposal. Bid was submitted in a sealed package to the City of Sherman and was evaluated by a committee including the City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Kiewit Water Facilities South Co.

CMAR support staff for BP06-001 was also included consistent with the positions identified as future scopes on the initial GMP submittals.

4.1.6 Lump Sum GMPH Underground Electrical

GMPH scope of work included: Duct banks, site lighting, installation of Owner provided Pad Mounted Transformers and Switchgear along with concrete equipment pads and grounding.

GMPH (BP07-001) Underground Electrical was issued for Notice to Bid on November 15, 2023. The Bid Package was due on December 7, 2023. Three bidders submitted a proposal with a Low Bid submitted by JL Texas Construction. Alterman Inc. submitted a bid as well as TIC - The Industrial Company. Bids were submitted in sealed packages to the City of Sherman and was evaluated by a committee including the City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Alterman Inc.

CMAR support staff for BP07-001 was also included consistent with the positions identified as future scopes on the initial GMP submittals. An Allowance was added per Client direction to cover exclusions from Alterman.

4.1.7 Lump Sum GMPH2 Aboveground Electrical

GMPH2 scope of work included: Aboveground Electrical including but not limited to above ground conduit and hanging hardware. All wire and terminations. The installation as well as startup and commissioning of all Electrical distribution equipment. Furnish and installation of site wide lighting. Grounding, Fire Alarm and Lightning protection systems. All instrumentation and associated mounting and stands.

GMPH2 (BP07-002) Aboveground Electrical was issued for Notice to Bid on December 27, 2023. The Bid

Package was due on February 7, 2024. Two bidders submitted a proposal with a Low Bid submitted by Alterman Inc. TIC – The Industrial Company submitted a bid as well. Bids were submitted in sealed packages to the City of Sherman and was evaluated by a committee including the City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Alterman Inc.

CMAR support staff for BP07-002 was also included consistent with the positions identified as future scopes on the initial GMP submittals.

4.1.8 Lump Sum GMPI Process Mechanical

GMPI scope of work included: Process Piping and Process Mechanical Equipment.

GMPI (BP08-001) Process Mechanical was issued for Notice to Bid on December 27, 2023. The Bid Package was due on January 24, 2024. Only one bidder, Kiewit Water Facilities South Co. submitted a proposal. Bid was submitted in a sealed package to the City of Sherman and was evaluated by a committee including the City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Kiewit Water Facilities South Co.

CMAR support staff for BP08-001 was also included consistent with the positions identified as future scopes on the initial GMP submittals.

4.1.9 Lump Sum GMPJ Architectural-Building Trades

GMPJ scope of work included: Masonry, Doors, Windows, Structural Steel, Trusses, Roofing, Painting, HVAC, Plumbing for the Blower Building and MBR Support Building.

GMPJ (BP09-001) Architectural-Building Trades was issued for Notice to Bid on February 15, 2024. The Bid Package was due on March 20, 2024. Only one bidder, Kiewit Water Facilities South Co. submitted a proposal. Bid was submitted in a sealed package to the City of Sherman and was evaluated by a committee including the City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Kiewit Water Facilities South Co.

CMAR support staff for BP09-001 was not required, CMAR had staff that could support this Bid Package.

4.1.10 Work Change Directives negotiated, but not included in any GMP packages

WCD 0001 (Furnish and install complete in place piping critical to project schedule).

WCD 0003 R1 (IFB to IFC for Structural Packages).

WCD 0004 R1 (IFB to IFC for Electrical).

WCD 0005 R2 (IFC Drawing for the Underground Piping Package).

WCD 0006 (IFB – IFC for Process Mechanical).

WCD 0007 (IFB to IFC for Architectural and Building Trades).

WCD 0008 (IFB to IFC for Civil, Excavation, Backfill, and Rough Grade).

WCD 009 Site Finishes, scope of work includes sidewalk, PCC pavement, HMAC pavement, striping, culverts, sidewalks, PCC slope, curb and gutter, hydromulch and new fencing with gates.

WCD 0013 (Startup Electrical Power).

In WCD 015 High Performance Coatings, scope of work includes protective coatings at the Diversion Structure, Influent Pump Station, Preliminary Treatment Unit and Influent Splitter Box (BRB).

In WCD 016 Starting, Demonstrating and Testing of Systems, scope of work includes startup and demonstration of facilities for the project.

WCD 0017 (Veolia Equipment Modifications).

WCD 0018 (Tank Washdown Booster Pumps).

WCD 0019 (Structural Revision to the PTU structure). WCD 0024 R1 (PTU Mechanical Dwgs Update).

WCD 0025 (Update Sludge VFD Enclosure from NEMA 12 to NEMA 4X).

4.1.11 Proposed Contract Modification negotiated, but not included in any GMP packages

PCM 001 (North Plant Drying Beds Modifications) which has been included in PCO 0015.

PCM 004 (Delete Wet Well Wizards from the Project) which has been included in PCO 0031.

4.1.12 Potential Change Orders negotiated, but not included in any GMP packages

Global Pump Solutions Pump Protection Panels Modification which has been incorporated in PCO 0033.

Architectural Flooring which has been incorporated in PCO 0036.

Drywall & Ceiling which has been incorporated in PCO 0037.

Concrete delays which have been incorporated in PCO 0038.

GMP C conversion from T&M to Lump Sum which has been incorporated in PCO 0040.

Alterman COR-013 for Extended General Conditions for 120 Days which has been incorporated in PCO 0041.

Contingency Request #	GMP / WCD	Description	Approved PCOs Using Contingency Account
COSK-KWT-CMS-CRQ-0001	GMP C	DN Tanks Leveling Base	\$40,149.55
PCO 0012	GMP H WCD 0013	Start Up Power	\$122,883.00
PCO 0002 Rev 5	GMP D, E	Excavation and Backfill for the South Plant	\$2,557,515.25
PCO 0013	GMP F2 and WCD 0005	IFB to IFC for GMP F2	\$695,616.51
PCO 0014	WCD 0001 and 0005	IFB to IFC for WCD 0001	\$794,182.81
PCO 0015	PCM 001	Demo of the drying beds and reroute of the 30"	-\$122,806.65
PCO 0016	WCD 0008	North Plant IFB to IFC Ex_Backfill	\$2,125,050.26
PCO 0022	WCD 0017	Veolia Changes	\$14,803.67
PCO 0023	WCD 0018	Tank Washdown	\$143,870.68
PCO 0017	WCD 0003 R1	Concrete	\$7,117,458.48
PCO 0033	GMP C	GPS Proposal Sherman Pump Protection Panels	\$69,347.78
COSK-KWT-CMS-CRQ-0003	GMP C	Heavy Duty Rotary Lobe Pumps	\$3,470.23
COSK-KWT-CMS-CRQ-0004	GMP C	Additional VFDs	\$9,375.66
PCO 0011	GMP H and H2	IFB to IFC Drawings for Underground and Above Ground Electrical	\$249,028.29
PCO 0031	PCM 004	Deletion of Wet Well Wizards System	-\$178,807.80

City of Sherman
South Wastewater Treatment Plant – MBR Project

Final GMP

PCO 0036 R2	GMP J	Amendment 06, GMP J Arch Bldg Trades, Exclusions: Flooring	\$21,872.49
PCO 0034	GMP C	NEMA 4X Enclosures	\$64,803.06
PCO 0003	GMP F2 and WCD 0001	Critical UG Piping	\$17,118,616.26
PCO 0037 R2	GMP J	Amendment 06, GMP J Arch Bldg Trades, Exclusions: Drywall and Ceilings	\$172,349.08
PCO 0020	GMP J	Architectural IFB to IFC	\$260,948.67
PCO 0026	WCD 0016	Start Up and Commissioning	\$913,443.17
PCO 0029	WCD 0024	PTU Mechanical Drawing Updates	\$37,712.81
PCO 0024	WCD 0019	PTU Design Change	\$359,037.92
PCO 0038	GMP G	Concrete Delay Beyond the Control of Contractor	\$155,866.84
PCO 0040	GMP C	GMP C Increased Value	\$408,979.93
PCO 0041	GMP H and H2	Alterman TRO	\$502,232.30

Table 1: Approved PCOs Using Contingency Account

Contingency Request #	GMP / WCD	Description	Approved PCOs Pending Final GMP
PCO 0018 R4	WCD 0003 R1 GMP G	Misc Metals	\$ 6,026,296.98
PCO 0021 R2	WCD 0015	High Performance Coatings	\$ 4,372,618.60
PCO 0019	GMP I	Process Mechanical IFB to IFC	\$ 8,828,585.90
PCO 0030	WCD 0009	Site Finishes	\$ 5,619,176.57

Table 2: Approved PCOs Pending Final GMP

4 Proposed GMP

4.2 *Cost Breakdown Proposed Subcontractors*

Subcontractors have been approved and included in the previously executed Lump Sum GMP Amendments to the contract. CMAR has executed these as Lump Sum Subcontracts, not Cost Reimbursable.

4 Proposed GMP

4.3 Itemized Listing of Proposed General Conditions Costs

Reference Section 00 42 23.01 item 2.02 of the Prime Contract which has been clarified in Amendment 1. The itemized listing for the General Conditions generally consists of the following:

General Conditions were described to varying extents in the RFP Division 1 Specifications, the Agreement, and the General Conditions.

1. Specification 01 01 01 CMAR Services Article 4 specified that the following be provided:
 - a. Administration and Management Services – Generally defines a full-time staff that manages construction and all other duties and obligations that would be customary for a General Contractor. Specifications 01 31 00, 01 31 00, 00 31 13, 01 31 24, and 01 32 34 further describe requirements relating to Administration and Management. Some of the requirements contained in those specifications have been classified as Site Services as seen by bid package descriptions.
 - b. Time Management Services – Generally requires maintaining a master schedule, reviewing schedules from Subcontractors and Suppliers, and managing Subcontractors and Suppliers to maintain adequate workforce and equipment to complete the Project within the Contract Time. Specification 01 32 16 further describes requirements related to Construction Progress Schedules.
 - c. Cost Management Services – Generally requires cash flow, earned value, contingency tracking, and total construction cost forecasting. Specification 01 29 00 further describes requirements related to Payment Procedures.
 - d. Risk Management Services – Manage implementation of Risk Management Plan.
 - e. Starting and Adjusting Services – Implement the Starting and Adjusting Plan.
 - f. Warranty Correction Work – Correct defects in the Work during the warranty period.
2. Agreement
 - a. The agreement generally provides guidance as it relates to executing the tasks described above.
3. Standard General Conditions of the Construction Contract Article 11.01.A.1.c 1-14.
 - a. Labor and Management costs not directly tied to direct performance of the work (1), including all transportation, travel, and subsistence (2).
 - b. Bonds and Insurance (3), Taxes (6), Deposits Lost (8), Capital Expenses (13)
 - c. Deductible Cost for Losses and Damage (9)
 - d. Offices (4), Minor Expenses (11), Office Expenses (12)
 - e. Permit Costs for Site Establishment (7)

4 Proposed GMP

4.4 Contingency Funds

Reference Section 00 42 23.01 item 2.03 of the Prime Contract further superseded in Amendment 6.

Owner Contingency and/or Allowance is to be utilized as directed by the City of Sherman and is not included in the Final GMP proposal. This contingency/allowance would be utilized for known changes which are not incorporated into this Final GMP and unforeseen scope changes. The cost of the current known changes is approximately \$4,500,000 which is beyond the Final GMP for the entire Work. Kiewit recommends the City of Sherman carry a minimum contingency/allowance of \$10,000,000.

The CMAR Contingency Fund is proposed as a Lump Sum in the amount of \$9,000,000 to be included in the Final GMP. Because the CMAR Contingency Fund is converted to a lump sum, the sharing of the CMAR Contingency Fund as described in 8.06 of Amendment 06 is no longer applicable. The CMAR Contingency Fund will be paid as a rounded percent complete without any decimals of the project on the pay applications. The first pay period after the Final GMP is approved will be for the percent complete to date of the project, with incremental amounts paid thereafter based on the percent complete change/increase from the prior pay period. Upon Owner acceptance of Substantial Completion, 100% of the lump sum CMAR Contingency Fund shall be paid, irrespective of the overall project percent complete.

4 Proposed GMP

4.5 Allowance and Unit Prices

Allowances identified Tab 3.5 were included in the proposal for the associated Early Works GMP Amendments. Per Tab 3.5 “Status for Final GMP Package” column notes, some of these allowances are not resolved and are not part of the Final GMP Package and become part of the Owner Contingency and/or allowances in Tab 4.4.

No unit prices are being established as part of the Final GMP proposal.

4 Approach to Estimate

4.6 Overview of Estimate Process

This estimate was prepared per Kiewit standard policies and procedures for bidding work.

Kiewit assigned a team of experienced estimators to develop this estimate. The scope was broken down into discipline groups. A lead estimator was assigned to each discipline group, and depending on the level of effort required, these leads utilized additional discipline estimators to complete the estimate. The estimate was prepared in Kiewit's standard estimating software (InEight Estimate). Bid Packages have been issued and awarded, WCDs have been issued and submitted for approval.

Our process followed these general steps:

- Preparation and Set Up – The estimate is set up in the system for the estimators to use. Wages, equipment rates, standard sub and material plugs are established. Wages were established at market rates and equipment rates utilized BlueBook Rates.
- Research and Quantify – The scope of work was quantified through detailed takeoffs performed on the drawings provided. All take offs were performed using the PDF drawings, CAD sketches, and memorandum as required. When little information was provided Kiewit utilized similar elements of work or facilities to generate realistic quantities.
- Prepare Estimate – Once the scope has been quantified the estimators prepare their estimate for the work by selecting appropriate crews and equipment to which productions are applied based on relevant past experience and data from our comprehensive past cost data base. Additionally, we reached out for pricing on materials and subcontracted work to provide realistic budget values.
- Review Estimate – Once the estimate is complete it goes through a series of reviews to ensure accuracy. The estimate is reviewed first by the sponsor, then by the district manager. They check to verify that all scope is adequately addressed and that the estimate is sound and reliable.
- Close out Estimate – For close out, final adjustments are made, and subcontract and material quotes are received and awarded. Our estimate reflects the sub and material prices based on the quotes received where appropriate.

4.6.1 Cost Breakdown Structure

The estimate is broken down into Cost of Work (Directs and Indirects), Contingency, and Contractor Markup.

- Indirect - Includes field indirect costs including: (GCs and Site Services carry Majority, but later GMPs also have a portion)
 - Job Supervision and Overhead including wages, benefits, insurance and taxes for onsite management, supervision, engineers, safety personnel, quality control staff, and administration staff.
 - Survey includes cost of construction survey including wages, equipment, and supplies.
 - Site Office Expense includes rental of building, maintenance, and removal as well as expenses, furniture, computers, and infrastructure.
 - Insurance and Taxes are included.

- Temporary Buildings including cost of ownership and rental, maintenance, and removal.
- Personnel Expense including small tools and supplies, safety expendables, drug screening, training, and per diem.
- Project Utilities for job office including electrical, water, and sewer.
- Mobile Equipment including overhead vehicles, and maintenance equipment.
- Mobilization includes the cost of transportation for equipment and other items for move in, move out, set up, and take down, including cost of personnel moves and related expense.
- Quality Control including costs of quality control labor, equipment, supplies, outside services, and personnel.
- Bonds.
- Escalations were calculated for items which firm pricing cannot be obtained including increases in labor rates, equipment, materials, and subcontracts.
- Directs
 - Direct cost includes the cost to perform the identified work. Cost includes the craft labor, equipment, permanent materials, consumable supplies, and subcontract costs.
- CMAR Contingency
 - Originally fixed at 9% of Cost of Work per Amendment 01 to the Contract. This was modified per Amendment 06 to a maximum of \$20,000,000. Refer to “4.4 Contingency Funds” for proposed contingency values to be carried in the Final GMP.
- Contractor Markup
 - Fixed at 9.95% per the Contract.
- Additional GCs
 - 12.2% are only calculating on Cost of Work plus Contingency above \$138,367,439.73 per Amendment 01.

4.6.2 Contractor Overhead and Profit

OHP of potential contractors was approximated.

4.6.3 Payment and Performance Bond

Bond costs were based on the Contract requirements.

4.6.4 Insurance

Insurance costs were based on the Contract requirements.

4.6.5 Tax

A tax review was performed and a sales tax rate of 8.25% was applied to Consumables. Tax exempt from permanent materials.

4.6.6 Project Management

Project Management includes the costs associated with Managers / Superintendents, Engineering, Equipment Management, JRO Staff Vehicles, Move Assist, and Subsistence. Additional superintendents were required to support Civil, Structures, Mechanical, Utilities, Electrical, Storage Yard, Building, and Subcontract Superintendents. Much of this staff was carried in the General Conditions and Site Services packages. The craft manhours of each remaining discipline were analyzed to assign the proper number of superintendents per discipline. Similarly analyzed by discipline, the Engineering section includes Project and Office Engineering to support the project management, and Field Engineering to support the Superintendents. Job Office Rental, Travel Expenses, and Job Office Expenses were also carried in the estimate.

4.6.7 Operational & Compliance Support

All of the project support team falls in the Operational and Compliance Support section of the estimate. This includes Safety Managers, Quality personnel, Third Party Testing, Business personnel, Survey personnel, Human Resources, Procurement, Environmental, Information Technology, and other support such as clerical help.

4.6.7.1 Craft Labor Support

Craft labor support items are driven off of craft manhours and also include support of our key craft that will be brought into the project from out of state. This section includes moves, subsistence, training and certifications, travel, safety supplies, recognition, and labor site services (water & ice, trash removal, chemical toilets, and drug testing).

4.6.7.2 Provisional Cost Assignments

Escalations make up provisional costs. Escalations are based off of the project schedule and Kiewit's corporate forecasted escalation rates.

4.6.7.3 Maintenance

The maintenance labor costs have been captured in the direct cost items. This item covers the maintenance direct tools and supplies, and the maintenance equipment costs.

AGENDA ITEM XII



GREATER TEXOMA UTILITY AUTHORITY

AGENDA COMMUNICATION

DATE: November 6, 2024

SUBJECT: AGENDA ITEM NO. XII

PREPARED BY: Stacy Patrick, Project Manager

SUBMITTED BY: Paul Sigle, General Manager

CONSIDER AND ACT UPON THE AWARD OF CONTRACT FOR CITY OF SHERMAN WTP SEDIMENTATION BASIN MECHANISM REPLACEMENT PROJECT.

ISSUE

Consider and act upon the award of contract for City of Sherman WTP Sedimentation Basin Mechanism Replacement Project.

BACKGROUND

The sedimentation basin equipment at the City of Sherman WTP requires replacement, as it has surpassed its intended lifespan and is no longer functioning effectively.

CONSIDERATIONS

The City of Sherman received one bid on October 30th at 2:30 PM. Red River Construction Company submitted the low bid in the amount of \$1,199,000.00. Lance Klement P.E. with Garver, has reviewed the bid and references and has determined the bid is acceptable.

STAFF RECOMMENDATIONS

The Authority Staff recommend authorizing the General Manager to award a contract to Red River Construction Company in the amount of \$1,199,000.00. This item is contingent upon the City of Sherman's approval.

ATTACHMENTS

Recommendation Letter
Bid Tabulation
Agreement

AGREEMENT

THIS AGREEMENT is by and between the GREATER TEXOMA UTILITY AUTHORITY ("GTUA") on behalf of City of Sherman, and _____, a _____ corporation (the "CONTRACTOR"). GTUA, City of Sherman, and CONTRACTOR are sometimes referred to collectively as the "parties" or individually as a "party."

GTUA and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

Article 1. **WORK**

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents (hereinafter defined) and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide the services and deliverables as specified by the terms and conditions of the Contract Documents (collectively, the "Work"). The Work is generally described as follows:

Sherman WTP Sedimentation Basin Mechanism and Filter Media Replacment

Article 2. **ENGINEER**

The Project has been designed by Garver, Frisco, Texas, who is hereinafter called ENGINEER and who is to act as GTUA'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. **CONTRACT TIME**

- 3.1 The Work must be substantially completed and ready for final payment within 150 calendar days from the date when the Contract Time commences to run, as provided in the General Conditions.
- 3.2 Liquidated Damages. GTUA and CONTRACTOR recognize that time is of the essence of this Agreement and that GTUA will suffer financial loss and actual damages if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss and damages suffered by GTUA if the Work is not completed on time. The exact amount of such loss and damages will be difficult to ascertain. Accordingly, instead of requiring any such proof, GTUA and CONTRACTOR agree that CONTRACTOR shall pay GTUA \$ 420.00 for each calendar day in which the Work is not completed, not as a penalty but as liquidated damages for the loss and damages that would be suffered by GTUA as a result of delay for each and every calendar day that the CONTRACTOR shall have failed to have completed the Work as required herein.

Article 4. **CONTRACT PRICE**

GTUA shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows:

At the unit prices shown on the Unit Price Bid Schedule included in the Contract Documents.

Article 5. **PAYMENT PROCEDURES**

CONTRACTOR shall submit a Application for Payment in accordance with the General Conditions. Applications for Payment will be processed by GTUA, as provided in the Special Provisions.

CONTRACTOR and GTUA acknowledge and agree that the continuation of this Agreement after the close of any given fiscal year of GTUA, which fiscal year ends on September 30th of each year, shall be subject to GTUA Board approval. In the event that the GTUA Board does not approve the appropriation of funds for this Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder, except that GTUA shall be obligated to pay monies owed CONTRACTOR for Services it has provided pursuant to this Agreement through the end of that fiscal year provided that CONTRACTOR is not in breach of this Agreement.

Article 6. **INTEREST**

If the contract amount of this Agreement is less than \$5,000,000, no interest will be paid to the CONTRACTOR on retained money. When the contract amount exceeds \$5,000,000, no interest will be paid unless required by law.

Article 7. **CONTRACTOR'S REPRESENTATIONS**

In order to induce GTUA to enter into this Agreement, CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that, in any manner, may affect cost, progress, performance or furnishing of the Work.
- 7.2 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- 7.3 CONTRACTOR has reviewed and fully agrees to the limitation of liability provisions included in the Special Provisions.
- 7.4 CONTRACTOR certifies that they are eligible to be awarded government contracts. CONTRACTOR also certifies that any agreement entered into with a subcontractor will contain a clause stating that the subcontractor is eligible to be awarded government contracts.

Article 8. **CONTRACT DOCUMENTS**

The "Contract Documents," which comprise the entire agreement between GTUA and CONTRACTOR concerning the Work, consist of the following:

- 8.1 This Agreement
- 8.2 Solicitation for Bids
- 8.3 Instructions to Respondents
- 8.4 Certifications Required by Texas Law
- 8.5 Suspension and Debarment Certification
- 8.6 Bid Bond and Bid Bond POA
- 8.7 Statement of Respondent's Qualifications
- 8.8 Insurance Requirement Affidavit
- 8.9 Bid Submittal
- 8.10 Resolution of Award

- 8.11 Form 1295, Certificate of Interested Parties
- 8.12 Certificate of Insurance
- 8.13 Performance Bond and POA
- 8.14 Payment Bond and POA
- 8.15 Notice to Proceed
- 8.16 Closeout Documents
- 8.17 Special Provisions
- 8.18 Technical Specification prepared or issued by the City of Sherman dated_____.
- 8.19 Drawings, consisting of sheets numbered ____through ___, inclusive with each sheet bearing the following general title: City of Sherman, _____
- 8.20 Addenda numbers__ to __, inclusive.
- 8.22 The following, which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

All written Amendments, change orders, and other documents amending, modifying, or supplementing the Contract Documents pursuant to the Special Provisions. The parties understand and agree that deviations or modifications to the scope of Work described in the Contract Documents, in the form of one or more written Contingency Change Allowance or also change orders, may be authorized from time to time by GTUA ("Change Orders"). "Extra" work, "claims" invoiced as "extra" work or "claims" which have not been issued as a duly executed, written Change Orders by the GTUA Manager or his designee will not be authorized for payment and/or shall not become part of this Agreement. A duly executed, written Change Order shall be preceded by the GTUA's authorization for the GTUA Manager to execute said Change Order. CONTRACTOR agrees that GTUA'S project managers are authorized to issue Contingency Allowance Authorization but GTUA'S project managers, superintendents and/or inspectors not authorized to issue verbal or written Change Orders.

There are no Contract Documents other than those listed above. The Contract Documents may only be amended, modified or supplemented, as outlined in this Agreement.

Article 9. **INDEMNITY**

CONTRACTOR HEREBY RELEASES AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS **GTUA**, THE CITY OF SHERMAN AND THEIR RESPECTIVE BOARD OR CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "GTUA" FOR PURPOSES OF THIS SECTION) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS SECTION), THAT IN WHOLE OR IN PART ARISE OUT OF OR ARE CONNECTED WITH GOODS AND/OR SERVICES PROVIDED BY **CONTRACTOR**, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM **CONTRACTOR** IS LEGALLY RESPONSIBLE (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION) PURSUANT TO THIS AGREEMENT AND/OR THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF **CONTRACTOR** IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OF **GTUA** (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST **GTUA** BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN **CONTRACTOR** AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH **CONTRACTOR**, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL

ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.

IN ITS SOLE DISCRETION, GTUA SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY GTUA, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY GTUA IN WRITING. GTUA RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, GTUA IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY GTUA IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND GTUA OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY GTUA PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN GTUA-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF GTUA'S WRITTEN NOTICE THAT GTUA IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, GTUA SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY GTUA.

THE RIGHTS AND OBLIGATIONS CREATED BY THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

Article 10. **LIABILITY**

To the fullest extent permitted by law, CONTRACTOR shall be fully and solely responsible and liable for its own acts and omissions, including those of its officers, agents, representatives, employees, subcontractors, licensees, invitees and all other parties performing services for or on behalf of CONTRACTOR under this Agreement, and for any and all damage to CONTRACTOR's equipment and other property. GTUA and the City of Sherman assume no such responsibility or liability. GTUA and the City of Sherman shall have no such responsibility or liability to either CONTRACTOR or its officers, agents, representatives, employees, subcontractors, licensees, invitees or other persons.

Article 11. **TERMINATION**

GTUA or the City of Sherman is entitled to terminate this Agreement at any time for any reason or for no reason by giving CONTRACTOR at least thirty (30) days' prior written notice of the termination date.

GTUA or the City of Sherman is entitled to terminate this Agreement immediately on breach of any term or provision of the Contract Documents by CONTRACTOR. If at any time during the term of this Agreement, CONTRACTOR shall fail to commence the work in accordance with the provisions of the Contract Documents or fail to diligently perform the work in an efficient, timely and careful manner and in strict accordance with the provisions of the Contract Documents, then GTUA or the City of Sherman shall have the right to terminate this Agreement. Any such act by GTUA or the City of Sherman shall not be deemed a waiver of any other right or remedy of GTUA or the City of Sherman.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

Article 12. **MISCELLANEOUS**

12.1 Terms used in the Agreement will have the meanings indicated in the Special Provisions.

12.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due, may not be assigned without such

consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- 12.3 CONTRACTOR acknowledges and agrees that the existence of a prohibited interest during the term of this Agreement will render this Agreement voidable. CONTRACTOR further acknowledges and agrees that it also is aware of, and will abide by, the vendor disclosure requirements set forth in Chapter 176 of the Texas Local Government Code, as amended.
- 12.4 Each party represents and warrants to the other that it has the full power and authority to enter into and fulfill the obligations of this Agreement. The respective signatories to this Agreement, by affixing their signatures hereto, warrant and represent that they have the authority to bind their respective parties as duly authorized representatives thereof.
- 12.5 The parties acknowledge and agree that, in executing and performing this Agreement, GTUA has not waived, nor shall be deemed to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it or the City of Sherman against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.
- 12.6 In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, void, unenforceable or unlawful by a court of competent jurisdiction, then that term, condition or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been included in this Agreement.
- 12.7 If either party files any action or brings any proceeding against the other arising from this Agreement, then as between GTUA and CONTRACTOR, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable and necessary attorneys' fees and litigation expenses both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV'T CODE § 271.153, as it exists or may be amended, if applicable.
- 12.8 The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement, without regard to conflict of law principles. This Agreement is performable in Grayson County, Texas, and the exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.
- 12.9 Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.10 CONTRACTOR covenants and agrees that CONTRACTOR is an independent contractor and not an officer, agent, servant or employee of GTUA; that CONTRACTOR shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing the same; that the doctrine of respondent superior shall not apply as between GTUA and CONTRACTOR, its officers, agents, employees, contractors, subcontractors and consultants; and that nothing herein shall be construed as creating a partnership or joint enterprise between GTUA and CONTRACTOR.
- 12.11 GTUA and CONTRACTOR agree the City of Sherman is an intended third-party beneficiary of CONTRACTOR's obligations under the Contract Documents and shall be entitled to enforce such obligations as if it were a party hereto and may seek and obtain any and all available remedies against CONTRACTOR in the event

CONTRACTOR breaches any term or provision of the Contract Documents, it being the intent of GTUA and CONTRACTOR to confer direct benefits on the City of Sherman under the Contract Documents. In addition, GTUA and CONTRACTOR agree that the City of Sherman is entitled to exercise all rights of GTUA under the Contract Documents.

- 12.12 This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.
- 12.13 This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.
- 12.14 GTUA and CONTRACTOR each binds itself, its partners, successors, assign, and legal representatives to the other party hereto, its partners, successors, assign and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

Article 13. **OTHER PROVISIONS**

None.

IN WITNESS WHEREOF, GTUA and CONTRACTOR have signed this Agreement in multiple copies. One counterpart each has been delivered to GTUA, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by GTUA and CONTRACTOR or by ENGINEER on their behalf. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement (the "Effective Date").

GTUA: CONTRACTOR:_____

By: _____

By: _____

Date: _____

Date: _____

(Corporate Seal)

Attest: _____

Attest: _____

Address for giving notices:

Address for giving notices:



3000 Internet Blvd
Suite 400
Frisco, TX 75034
TEL 972.377.7480
FAX 972.377.8380
www.GarverUSA.com

November 6th, 2024

City of Sherman Engineering
Attn: Tom Pruitt, PE
220 W Mulberry St.
Sherman, TX 75090

Greater Texoma Utility Authority
Attn: Paul Sigle and Nichole Murphy
5100 Airport Dr.
Denison, TX 75020

Re: City of Sherman
WTP Sedimentation Basin Mechanism Replacement
Recommendation of Award

To whom it may concern:

Bids were received for the "Sherman WTP Sedimentation Basin Mechanism Replacement" project at the Sherman City Hall at 2:30 PM on October 30th, 2024. A total of one bidder submitted a bid on the project. A summary of the bid results can be found in the attached bid tabulation.

Red River Construction Company submitted the low bid for the project in the amount of \$1,199,000. This bid includes the Owner's Contingency Allowance as specified at \$100,000.

We believe that the bid submitted by Red River Construction Co. represents a good value for the City of Sherman. We recommend that the construction contract for the "Sherman WTP Sedimentation Basin Mechanism Replacement" be awarded to Red River Construction Co. in the amount of \$1,199,000.

Please call me if you have any questions.

Sincerely,
GARVER, LLC

Lance Klement, P.E.
Senior Project Manager

Attachments: Bid Tabulation

CITY OF SHERMAN
PROJECT NAME: Sherman WTP Sedimentation Basin Mechanism Replacement
GARVER PROJECT NO: 21W05325
BID PROPOSAL FORM: ORIGINAL
BIDS RECEIVED: OCTOBER 30, 2024 2:30 PM

				Red River Construction	
ITEM	QTY	UNITS	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
1	1	LS	All Work as defined in the Contract Documents, except those listed separately below	\$ 1,052,000.00	\$1,052,000
2	1	LS	Mobilization and demobilization.	\$ 47,000.00	\$47,000
3	1	LS	Contingency Allowance 1 for Work Change Directives (miscellaneous work on a change authorization basis) required during completion of the Project to be used solely at the discretion of the Owner and Engineer, for the lump sum of: One Hundred Thousand Dollars	\$ 100,000.00	\$100,000
TOTAL BASE BID AMOUNTS					\$1,199,000

TOTAL BASE BID AMOUNT \$1,199,000

AGENDA ITEM XIII



GREATER TEXOMA UTILITY AUTHORITY

AGENDA COMMUNICATION

DATE: October 31, 2024

SUBJECT: AGENDA ITEM NO. XIII

PREPARED BY: Stacy Patrick, Project Manager

SUBMITTED BY: Paul Sigle, General Manager

**CONSIDER AND ACT UPON THE AWARD OF CONTRACT FOR CITY OF SHERMAN STEPHENS
PS AND GST FACILITY IMPROVEMENTS PROJECT.**

ISSUE

Consider and act upon the award of contract for City of Sherman Stephens PS and GST Facility Improvements Project.

BACKGROUND

During a recent inspection by the City of Sherman, the ground storage tank was found to be deficient. Improvements will primarily involve design services for sandblasting and coating both the exterior and interior of the Stephens Ground Storage Tank. The design will also include the replacement of two pumps and motors, along with check valves and gate valves. Additional work entails the installation of a new exterior drainpipe, replacement of the ladder and access hatch if necessary, replacing the tank lighting, installing an antenna ring, and design for the recoating of exterior valves and piping.

CONSIDERATIONS

The City of Sherman received two bids on October 30th at 3:00 PM. Viking Painting, LLC was the apparent lowest bidder with an amount of \$1,499,200.00. Lance Klement, P.E. with Garver, LLC has reviewed the bid and references and has determined the bid is acceptable.

STAFF RECOMMENDATIONS

The Authority Staff recommend authorizing the General Manager to award a contract to Viking Painting, LLC in the amount of \$1,499,200.00. This item is contingent upon the City of Sherman's approval.

ATTACHMENTS

Recommendation Letter

Bid Tabulation

Agreement

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT

This Agreement is by and between the **Greater Texoma Utility Authority (GTUA) on behalf of the City Of Sherman**, and _____, a _____ corporation (the "Contractor"). GTUA and Contractor are sometimes referred to collectively as the "parties" or individually as a "party."

GTUA and Contractor, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

ARTICLE 1—WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents (hereinafter defined) and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide the services and deliverables as specified by the terms and conditions of the Contract Documents (collectively, the "Work"). The Work is generally described as follows:

Sherman Stephens PS and GST Improvements

ARTICLE 2—ENGINEER

- 2.01 The Project has been designed by Garver, LLC in Frisco, Texas, who is hereinafter called Engineer and who is to act as GTUA'S representative, assume all duties and responsibilities and have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3—CONTRACT TIMES

- 3.01 The Work must be substantially complete by **August 19, 2025** as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions by **September 19, 2025**.
- 3.02 Liquidated Damages. GTUA and Contractor recognize that time is of the essence of this Agreement and that GTUA will suffer financial loss and actual damages if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss and damages suffered by GTUA if the Work is not completed on time. The exact amount of such loss and damages will be difficult to ascertain. Accordingly, instead of requiring any such proof, GTUA and Contractor agree that Contractor shall pay GTUA \$420 for each calendar day in which the Work is not completed, not as a penalty but as liquidated damages for the loss and damages that would be suffered by GTUA as a result of

delay for each and every calendar day that the Contractor shall have failed to have completed the Work as required herein.

ARTICLE 4—CONTRACT PRICE

- 4.01 GTUA shall pay Contractor for completion of the Work in accordance with the Contract Documents in current funds as follows:

At the unit prices shown on the Unit Price Bid Schedule included in the Contract Documents.

ARTICLE 5—PAYMENT PROCEDURES

- 5.01 Contractor shall submit a Application for Payment in accordance with the General Conditions. Applications for Payment will be processed by GTUA, as provided in the Special Provisions.
- 5.02 Contractor and GTUA acknowledge and agree that the continuation of this Agreement after the close of any given fiscal year of GTUA, which fiscal year ends on September 30th of each year, shall be subject to GTUA Board approval. In the event that the GTUA Board does not approve the appropriation of funds for this Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder, except that GTUA shall be obligated to pay monies owed Contractor for Services it has provided pursuant to this Agreement through the end of that fiscal year provided that Contractor is not in breach of this Agreement.

ARTICLE 6—INTEREST

- 7.01 If the contract amount of this Agreement is less than \$5,000,000, no interest will be paid to the CONTRACTOR on retained money. When the contract amount exceeds \$5,000,000, no interest will be paid unless required by law.

ARTICLE 7—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

- 7.01 In order to induce GTUA to enter into this agreement, Contractor makes the following representations:
- A. Contractor has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that, in any manner, may affect cost, progress, performance or furnishing of the Work.
 - B. Contractor has given Engineer written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor.
 - C. Contractor has reviewed and fully agrees to the limitation of liability provisions included in the Special Provisions.
 - D. Contractor certifies that they are eligible to be awarded government contracts. Contractor also certifies that any agreement entered into with a subcontractor will contain a clause stating that the subcontractor is eligible to be awarded government contracts.

ARTICLE 8—CONTRACT DOCUMENTS

- 8.01 The “Contract Documents,” which comprise the entire agreement between GTUA and Contractor concerning the Work, consist of the following:
- A. This Agreement
 - B. Solicitation for Bids
 - C. Instructions to Respondents
 - D. Certifications Required by Texas Law
 - E. Suspension and Debarment Certification
 - F. Bid Bond and Bid Bond POA
 - G. Statement of Respondent’s Qualifications
 - H. Insurance Requirement Affidavit
 - I. Bid Submittal
 - J. Resolution of Award
 - K. Form 1295, Certificate of Interested Parties
 - L. Certificate of Insurance
 - M. Performance Bond and POA
 - N. Payment Bond and POA
 - O. Notice to Proceed
 - P. Closeout Documents
 - Q. Special Provisions
 - R. Technical Specification prepared or issued by the City of Sherman dated: **10/04/2024**.
 - S. Drawings, consisting of sheets numbered **1** through 20, inclusive with each sheet bearing the following general title: City of Sherman **Sherman Stephens PS and GST Facility Improvements**.
 - T. Addenda numbers ____ to ____, inclusive.
 - U. The following, which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:
 - 1. All written Amendments, change orders, and other documents amending, modifying, or supplementing the Contract Documents pursuant to the Special Provisions. The parties understand and agree that deviations or modifications to the scope of Work described in the Contract Documents, in the form of one or more written Contingency Change Allowance or also change orders, may be authorized from time to time by GTUA (“Change Orders”). “Extra” work, “claims” invoiced as “extra” work or “claims” which have not been issued as a duly executed, written Change Orders by the GTUA Manager or his designee will not be authorized for payment and/or shall not become part of this Agreement. A duly executed, written Change Order shall be preceded by the GTUA’s authorization for the GTUA Manager to execute said Change Order. CONTRACTOR agrees that GTUA’S project managers are authorized to issue Contingency Allowance

Authorization but GTUA'S project managers, superintendents and/or inspectors not authorized to issue verbal or written Change Orders.

- 8.02 There are no Contract Documents other than those listed above. The Contract Documents may only be amended, modified or supplemented, as outlined in this Agreement.

ARTICLE 9—INDEMNITY

- 9.01 **CONTRACTOR HEREBY RELEASES AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS GTUA, THE CITY OF SHERMAN AND THEIR RESPECTIVE BOARD OR CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "GTUA" FOR PURPOSES OF THIS SECTION) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS SECTION), THAT IN WHOLE OR IN PART ARISE OUT OF OR ARE CONNECTED WITH GOODS AND/OR SERVICES PROVIDED BY CONTRACTOR, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CONTRACTOR IS LEGALLY RESPONSIBLE (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION) PURSUANT TO THIS AGREEMENT AND/OR THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF CONTRACTOR IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OF GTUA (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST GTUA BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.**
- 9.02 **IN ITS SOLE DISCRETION, GTUA SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY GTUA, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY GTUA IN WRITING. GTUA RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, GTUA IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY GTUA IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND GTUA OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY GTUA PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN GTUA-APPROVED DEFENSE COUNSEL WITHIN SEVEN**

(7) BUSINESS DAYS OF GTUA'S WRITTEN NOTICE THAT GTUA IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, GTUA SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY GTUA.

- 9.03 THE RIGHTS AND OBLIGATIONS CREATED BY THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.**

ARTICLE 10—LIABILITY

- 10.01 To the fullest extent permitted by law, Contractor shall be fully and solely responsible and liable for its own acts and omissions, including those of its officers, agents, representatives, employees, subcontractors, licensees, invitees and all other parties performing services for or on behalf of Contractor under this Agreement, and for any and all damage to Contractor's equipment and other property. GTUA and the City of Sherman assume no such responsibility or liability. GTUA and the City of Sherman shall have no such responsibility or liability to either Contractor or its officers, agents, representatives, employees, subcontractors, licensees, invitees or other persons.

ARTICLE 11—TERMINATION

- 11.01 GTUA or the City of Sherman is entitled to terminate this Agreement at any time for any reason or for no reason by giving Contractor at least thirty (30) days' prior written notice of the termination date.
- 11.02 GTUA or the City of Sherman is entitled to terminate this Agreement immediately on breach of any term or provision of the Contract Documents by Contractor. If at any time during the term of this Agreement, Contractor shall fail to commence the work in accordance with the provisions of the Contract Documents or fail to diligently perform the work in an efficient, timely and careful manner and in strict accordance with the provisions of the Contract Documents, then GTUA or the City of Sherman shall have the right to terminate this Agreement. Any such act by GTUA or the City of Sherman shall not be deemed a waiver of any other right or remedy of GTUA or the City of Sherman.
- 11.03 The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

ARTICLE 12—MISCELLANEOUS

- 12.01 Terms used in the Agreement will have the meanings indicated in the Special Provisions.
- 12.02 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due, may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an

assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

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- 12.05 The parties acknowledge and agree that, in executing and performing this Agreement, GTUA has not waived, nor shall be deemed to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it or the City of Sherman against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.
- 12.06 In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, void, unenforceable or unlawful by a court of competent jurisdiction, then that term, condition or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been included in this Agreement.
- 12.07 If either party files any action or brings any proceeding against the other arising from this Agreement, then as between GTUA and Contractor, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable and necessary attorneys' fees and litigation expenses both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV'T CODE § 271.153, as it exists or may be amended, if applicable.
- 12.08 The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement, without regard to conflict of law principles. This Agreement is performable in Grayson County, Texas, and the exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.
- 12.09 Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.10 Contractor covenants and agrees that Contractor is an independent contractor and not an officer, agent, servant or employee of GTUA; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing the same; that the doctrine of respondent superior shall not apply as between GTUA and Contractor, its officers, agents, employees, contractors, subcontractors and consultants; and that nothing herein shall be construed as creating a partnership or joint enterprise between GTUA and Contractor.
- 12.11 GTUA and Contractor agree the City of Sherman is an intended third-party beneficiary of Contractor's obligations under the Contract Documents and shall be entitled to enforce such obligations as if it were a party hereto and may seek and obtain any and all available remedies against Contractor in the event Contractor breaches any term or provision of the Contract Documents, it being the intent of GTUA and Contractor to confer direct benefits on the City of

Sherman under the Contract Documents. In addition, GTUA and Contractor agree that the City of Sherman is entitled to exercise all rights of GTUA under the Contract Documents.

- 12.12 This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.
- 12.13 This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.
- 12.14 GTUA and Contractor each binds itself, its partners, successors, assign, and legal representatives to the other party hereto, its partners, successors, assign and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, GTUA and Contractor have signed this Agreement in multiple copies. One counterpart each has been delivered to GTUA, Contractor and Engineer. All portions of the Contract Documents have been signed or identified by GTUA and Contractor or by Engineer on their behalf. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement (the "Effective Date").

GTUA:

By: _____

Date: _____

Attest: _____

Address for giving notices:

Contractor: _____

By: _____

Date: _____

(Corporate Seal)

Attest: _____

Address for giving notices:



3000 Internet Blvd
Suite 400
Frisco, TX 75034
TEL 972.377.7480
FAX 972.377.8380
www.GarverUSA.com

November 6th, 2024

City of Sherman Engineering
Attn: Tom Pruitt, PE
220 W Mulberry St.
Sherman, TX 75090

Greater Texoma Utility Authority
Attn: Paul Sigle and Nichole Murphy
5100 Airport Dr.
Denison, TX 75020

Re: City of Sherman
Stephens PS and GST Facility Improvements
Recommendation of Award

To whom it may concern:

Bids were received for the "Sherman Stephens PS and GST Facility Improvements" project at the Sherman City Hall at 3:00 PM on October 30th, 2024. A total of two bidders submitted bids on the project. A summary of the bid results can be found in the attached bid tabulation.

Viking Painting, LLC submitted the low bid for the project in the amount of \$1,499,200. This bid includes the Owner's Contingency Allowance as specified at \$150,000. This bid also includes Additive Bid Alternate 1 – Cathodic Protection in the amount of \$33,900, bringing the bid amount with this alternate included to \$1,533,100.

We believe that the base bid, not including Additive Bid Alternate 1, submitted by Viking Painting, LLC represents a good value for the City of Sherman. We recommend that the construction contract for the "Sherman Stephens PS and GST Facility Improvements" be awarded to Viking Painting, LLC for the base bid amount of \$1,499,200.

Please call me if you have any questions.

Sincerely,
GARVER, LLC

Lance Klement, P.E.
Senior Project Manager

Attachments: Bid Tabulation

CITY OF SHERMAN
PROJECT NAME: SHERMAN STEPHENS PS AND GST FACILITY IMPROVEMENTS
GARVER PROJECT NO: 2400726
BID PROPOSAL FORM: ORIGINAL
BIDS RECEIVED: OCTOBER 30, 2024 3:00 PM

				GDC Industrial		Viking Painting, LLC	
ITEM	QTY	UNITS	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
1	1	LS	All Work as defined in the Contract Documents, except those listed separately below	\$ 4,142,838.00	\$4,142,838	\$ 1,336,100.00	\$1,336,100
2	1	LS	Spot locate and verify all existing utility locations between electrical building and the ground storage tank and high service pumps, for the lump sum of:	\$ -	\$0	\$ 4,700.00	\$4,700
3	50	EA	Contingency Allowance for up to fifty (50) spot repairs of pitted areas on the tank structure, for the cost per each of:	\$ 300.00	\$15,000	\$ 70.00	\$3,500
4	700	CF	Contingency Allowance for removal and disposal of up to seven hundred (700) cubic feet of sediment from the interior of the tank, for the cost per cubic foot of:	\$ 42.86	\$30,000	\$ 7.00	\$4,900
5	1	LS	Contingency Allowance 1 for Work Change Directives (miscellaneous work on a change authorization basis) required during completion of the Project to be used solely at the discretion of the Owner and Engineer, for the lump sum of: One-Hundred and fifty-thousand dollars.	\$ 150,000.00	\$150,000	\$ 150,000.00	\$150,000
TOTAL BASE BID AMOUNTS					\$4,337,838		\$1,499,200
ADDITIVE BID ALTERNATE							
ITEM	QTY	UNITS	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
AB1	1	LS	Cathodic Protection Additive Bid Alternate	\$ 176,438.00	\$176,438	\$ 33,900.00	\$33,900

TOTAL BASE BID AMOUNT	\$4,337,838	\$1,499,200
TOTAL BASE BID AMOUNT WITH AB1	\$4,514,276	\$1,533,100

Note: Values in red indicate back-calculated unit prices due to bid form error.

AGENDA ITEM XIV



GREATER TEXOMA UTILITY AUTHORITY

AGENDA COMMUNICATION

DATE: November 6, 2024

SUBJECT: AGENDA ITEM NO. XIV

PREPARED BY: Stacy Patrick, Project Manager

SUBMITTED BY: Paul Sigle, General Manager

**CONSIDER AND ACT UPON THE CHANGE ORDER NO. 1 WITH ELLIOTT ELECTRIC SUPPLY
FOR THE CITY OF SHERMAN, POST OAK PAD MOUNTED TRANSFORMER PROJECT.**

ISSUE

Consider and act upon Change Order No. 1 with Elliott Electric Supply for the City of Sherman, Post Oak Pad Mounted Transformers Project.

BACKGROUND

This project is part of the 2023 Open Market bond issue that consists of the emergency backup generator, switchgear, and transformers for the City's Post Oak Wastewater Treatment Plant Electrical Improvements Project.

CONSIDERATIONS

In September 2023, the City of Sherman selected Elliot Electric Supply for the Wastewater Treatment Plant Electrical Distribution and Generator Pad Mounted Transformer Pre-procurement Project in the amount of \$1,288,515.00. This was for the pre-procurement of 16 pad mounted transformers necessary for the existing Post Oak Wastewater Treatment Plant (Post Oak WWTP) and the proposed new South MBR Plant to connect to a new proposed Medium Voltage (MV) loop.

It was brought to City Staff's attention that the specified copper-wound transformers will not be available until beyond the needed timeframe to bring the new South MBR Plant on-line. However, aluminum-wound transformer could be available in the timeframe needed. The proposed transformers will cost an additional \$136,451.80 and will come with a three-year warranty instead of a two-year warranty.

STAFF RECOMMENDATIONS

The Authority Staff recommend approving Change Order No. 1 in the amount of \$136,451.80. This will change the original contract price of \$1,288,515.00 to the new contract price of \$1,424,966.80. Contingent upon the City of Sherman Council Approval.

ATTACHMENTS

Change Order No. 1

Change Order

Date of Issuance: 10/24/2024

No. 001

Project: **Emergency Backup Generator & Paralleling Switchgear Pre-Procurement Project**

Project No.: 1514-U

Owner: **City of Sherman**

Date of Contract: May 20, 2024

Contractor: **Elliott Electric Supply**

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

Description: Transformer winding change from aluminum to copper, extension of warranty from two to three years, deletion of two (2) 2500-kVa transformers, addition of four (4) 1500-kVa Transformers for the South WWTP-MBR plant.

Justification: Reduce lead time for transformers to meet project schedule, additional warranty for the material change, and modification of transformer sizes and quantities for revised design.

CHANGE IN CONTRACT PRICE:

Original Contract Price:

\$ 1,288,515.00

[Increase] [Decrease] from previously approved Change Orders No. 0 to No. 0:

\$ 0

Contract Price prior to this Change Order:

\$ 1,288,515.00

[Increase] [Decrease] of this Change Order:

\$ 136,451.80

Contract Price incorporating this Change

\$ 1,424,966.80

CHANGE IN CONTRACT TIMES:

Original Contract Times:

Substantial completion days: 365

Substantial completion date: May 20, 2024

[Increase] [Decrease] from previous Change Orders No. 0 to No. 0:

Substantial completion days: 0

Substantial completion date: 0

Contract Times prior to this Change Order:

Substantial completion days: 365

Substantial completion date: May 20, 2024

[Increase] [Decrease] of this Change Order:

Substantial completion days: 0

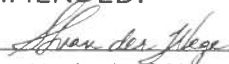
Substantial completion date: May 20, 2024

Contract Times with all approved Change Orders:

Substantial completion days: 365

Substantial completion date: May 20, 2024

RECOMMENDED:

By: 
Engineer (Authorized Signature)

Date: 10/24/2024

ACCEPTED:

By: _____
Owner (Authorized Signature)

Date: _____

ACCEPTED:

By: _____
GTUA (Authorized Signature)

Date: _____

ACCEPTED:

By: 
Contractor (Authorized Signature)

Date: _____



PLUMMER

PROPOSED CONTRACT MODIFICATION

PROJECT: POWWTP 12.5-kV Distribution System
OWNER: City of Sherman, TX
CONTRACTOR: Elliott Electric
ENGINEER: Plummer Associates, Inc.

PROJ. NO. 1422-003-01

DESCRIPTION: Transformer winding change from copper to aluminum NO. 001

NOTIFICATION BY ENGINEER

The Engineer proposes to make the additions, modifications, or deletions to the Work described in the Contract Documents, as shown in Attachment "A" and requests that you take the following action:

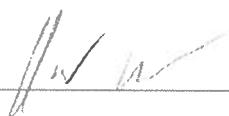
- ☐ Notify us that you concur that this change does not require a change in Contract time or amount and issue a Field Order.
- ☐ Issue a Change Order for performing the described change. Change in Contract amount to be indicated in a detailed cost breakdown associated with this change. Impacts on Contract/Delivery Time are also to be provided.
- ☐ Authorize the Contractor to proceed with the described change. Payment will be requested at the unit price bid.
- ☐ Authorize the Contractor to proceed with the change under the time and materials provisions of the Contract.

By:  Date: 10/17/2024

CONTRACTOR/SUPPLIER'S RESPONSE

We respond to your request as follows:

- ☐ We concur that this is a no cost or time change. See attached/forthcoming Field Order No. / comments.
- ☒ Your proposal is recommended to the Owner. See attached/forthcoming proposed Change Order.
- ☐ Proceed with the change at the unit price bid.
- ☐ Proceed with the change under the time and materials provisions of the Contract.
- ☐ Additional information is required to evaluate this request. Provide information as described in the attached comments and resubmit.
- ☐ Proposed Contract Modification is not accepted.

By:  Date: 10/24/24



PLUMMER

CONTRACT MODIFICATION REQUEST

ATTACHMENT A
SCOPE OF WORK

Supplier to make the following modifications:

1. Specification Section 26 12 19, Part 1.9, A, 1; change "two (2)" to "three (3)."
2. Specification Section 26 12 19, Part 2.3, D; change "aluminum" to "copper."
3. Drawing E-008. Delete two (2) 2500-kva transformers.
4. Drawing E-008, add four (4) 1500-kva transformers.



ELLIOTT ELECTRIC SUPPLY

Change Order 001

Date: 10/23/2024	Subtotal Cost: \$ 136,451.80	Shipping _____
Customer: JST	Estimated Freight:	Address: _____
Project: Oak WWTP- Trans	Total Cost: \$ 136,451.80	Shipping Method: <input type="checkbox"/> Standard
Cust. PO:	Approval Signature: _____	<input type="checkbox"/> Next Day <input type="checkbox"/> Two Day <input type="checkbox"/> Other
Elliott BO: 18-95690		
This material will not be entered without this signed change order. Customer will be charged freight unless vendor minimums are met or special freight is requested.		

Items				
Quantity	Type	Catalog Number	Leadtime	Unit Price
1	Adder	Drawing E-008 Delete (2) 2500 kva Xfmr		Extended Price
		Drawing E-008 Add (4) 1500 kva fmr		Special Pricing

AGENDA ITEM XV



GREATER TEXOMA UTILITY AUTHORITY

AGENDA COMMUNICATION

DATE: November 6, 2024

SUBJECT: AGENDA ITEM NO. XV

PREPARED: Stacy Patrick, Project Manager

SUBMITTED BY: Paul Sigle, General Manager

CONSIDER AND ACT UPON A RESOLUTION BY THE BOARD OF DIRECTORS OF THE GREATER TEXOMA UTILITY AUTHORITY ACCEPTING THE CONTRACT WITH RED RIVER CONSTRUCTION CO. FOR THE CITY OF SHERMAN POST OAK WASTEWATER TREATMENT PLANT PRIMARY CLARIFIER NO.1 EQUIPMENT REPLACEMENT AND SLUDGE TRANSFER STATION REHAB PROJECT AS COMPLETE.

ISSUE

Consider and act upon a Resolution by the Board of Directors of the Greater Texoma Utility Authority accepting the Contract with Red River Construction Co. for the City of Sherman Wastewater Treatment (“WWTP”) Plant Primary Clarifier No. 1 Equipment Replacement and Sludge Transfer Station Rehab Project as complete.

BACKGROUND

In January 2020, the Board and City of Sherman Council approved the Bond Resolution which authorized the issuance of \$13,595,000 through the TWDB’s CWSRF program. The Authority was able to procure a special class of CWSRF funds called the Equivalency Funds, which offered below market interest rates.

This project consisted of a new Electrical Building of CMU construction; replacement of three multistage centrifugal blowers; façade, HVAC and lighting improvements at existing Blower Building; replacement of aeration diffusers and grids, air valves, and air flow meter at Aeration Basins; replacement of 14 gates at the Aeration Basin, three gates and three telescoping valves at the Clarifier Control Station; replacement of existing screw lift pump with immersible pump, four gates, FRP Parshall flume liner, miscellaneous valves at Aeration Basin Lift Station; and replacement of mechanism, control panel, effluent weirs, troughs, box, at three Bio-Clarifiers.

The City of Sherman Engineering Department completed the final inspection of the Wastewater Treatment (“WWTP”) Plant Primary Clarifier No. 1 Equipment Replacement and Sludge Transfer Station Rehab Project on February 28, 2024.

CONSIDERATIONS

Red River Construction Co. has completed the City of Sherman Wastewater Treatment (“WWTP”) Plant Primary Clarifier No. 1 Equipment Replacement and Sludge Transfer Station Rehab Project. Accepting the project as complete will allow the Authority to process the final payment and release the retainage to Red River Construction Co.

STAFF RECOMMENDATIONS

The Authority Staff recommend approving the project as complete.

ATTACHED

Letter from the City of Sherman accepting the job as complete.

RESOLUTION NO. _____

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE GREATER TEXOMA UTILITY AUTHORITY ACCEPTING THE CONTRACT WITH RED RIVER CONSTRUCTION AS COMPLETE FOR THE GTUA ON BELHALF OF THE CITY OF SHERMAN POST OAK WASTEWATER TREATMENT PLANT PRIMARY CLARIFIER NO.1 EQUIPMENT REPLACEMENT AND SLUDGE TRANSFER STATION REHAB PROJECT.

WHEREAS, the Greater Texoma Utility Authority has entered into a Contract for Water Supply and Sewer Service with the City of Sherman and

WHEREAS, the Greater Texoma Utility Authority has entered into a contract with Red River Construction for the City of Sherman Post Oak Wastewater Treatment Plant Primary Clarifier No. 1 Equipment Replacement and Sludge Transfer Station Rehab- Project, and

WHEREAS representatives of the City of Sherman and the project engineer have inspected the City of Sherman Post Oak Wastewater Treatment Plant Primary Clarifier No. 1 Equipment Replacement and Sludge Transfer Station Rehab Project and found it to be complete.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE GREATER TEXOMA UTILITY AUTHORITY that the Authority hereby formally accepts the contract with Red River Construction as complete.

Upon motion by _____, seconded by _____, the foregoing Resolution was passed and approved on this _____ day of _____ 2024 by the following vote:

AYE:

NAY:

ABSTAIN:

At a meeting of the Board of Directors of the Greater Texoma Utility Authority.

President

ATTEST:

Secretary-Treasurer

October 28, 2024

Red River Construction Co.
ATTN: Dean Porter
2804 Capital St.
Wylie, Texas 75098

Re: Final Acceptance Letter
Post Oak WWTP Primary Clarifier #1 Equipment Replacement & Sludge Transfer Station Rehab, COS #1420-U

Mr. Porter:

The City of Sherman Engineering Department completed the final inspection of the improvements for the above-mentioned development on February 28, 2024. This development appears to be in substantial compliance with the issued construction documents and compliance with City of Sherman requirements. The City of Sherman accepts the infrastructure portion of the project.

This is an acceptance of physical work and in no event shall this inspection or acceptance be deemed as a waiver by the City of Sherman, in any respect or degree, of any of the terms and provisions of the governing contract or any of the rights under the contract if you have failed to comply strictly with the terms and provisions thereof.

If you have any questions, please feel free to contact me at your convenience.

Sincerely,
City of Sherman



Project Manager
Utility Engineer

Cc Dwight LaGrone, GIS Manager
Jerry Pace, GIS Technician II
Kristi Jenkins, Engineering Coordinator
File

AGENDA ITEM XVI



GREATER TEXOMA UTILITY AUTHORITY

AGENDA COMMUNICATION

DATE: November 6, 2024

SUBJECT: AGENDA ITEM NO. XVI

PREPARED BY: Stacy Patrick, Project Manager

SUBMITTED BY: Paul Sigle, General Manager

CONSIDER AND ACT UPON THE AWARD OF CONTRACT FOR NORTHWEST GRAYSON COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO.1 (NWGCWCID), ELEVATED STORAGE TANK NO. 2 PROJECT.

ISSUE

Consider and act upon the award of contract for NWGCWCID Elevated Storage Tank No. 2 project

BACKGROUND

The Northwest Grayson County WCID #1 has requested assistance in obtaining funding for improvements to the District's water system. These improvements include a new elevated storage tank, appurtenances and other water system projects as funds allow.

The Texas Water Development Board ("TWDB") Drinking Water State Revolving Fund ("DWSRF") was initially selected as the funding source for these improvements. However, the TWDB informed the Authority staff in February that changes have been made to the SRF programs by limiting the amount of funding they are making available. For at least the next 12 months the SRF program funding will be difficult to qualify for and will take significantly more time to be funded if a project ends up qualifying. Due to these changes in the SRF program and discussions with TWDB, the Authority staff is proposing to pursue funding through the Texas Water Development Fund ("DFund"). The DFund is a state funded loan program with below market interest rates.

CONSIDERATIONS

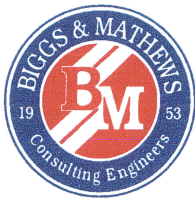
The District received three bids on October 29th at 1:30 PM. Maquire Iron Inc. was the lowest responsive bidder with an amount of \$1,399,000.00. Kerry Maroney P.E. with Biggs & Matthews, Inc. has reviewed the Maquire Iron Inc. bid and references and has determined the bid is acceptable.

STAFF RECOMMENDATIONS

The Authority Staff recommend authorizing the General Manager to award a contract to Maquire Iron Inc. with the amount of \$1,399,000.00. This item is contingent upon the NWGCWCID approval.

ATTACHMENTS

Recommendation Letter
Bid Tabulation
Agreement



BIGGS & MATHEWS INC.

Consulting Engineers

October 31, 2024

Paul Sigle, General Manager
Greater Texoma Utility Authority
5100 Airport Dr.
Denison, Texas 75020

Karen Bomar, General Manager
Northwest Grayson County WCID No. 1
P.O. Box 715
Gordonville, Texas 76245

RE: Bid Award – Elevated Tank No. 2 (250,000 Gallons)

Dear Mr. Sigle & Ms. Bomar:

As you are aware, on Tuesday, October 29, 2024, bids were received for the above-referenced project and three (3) qualified bids were submitted. As shown in the attached Bid Tabulation sheet, the bids ranged from a low of \$1,399,000 to a high of \$1,529,000.

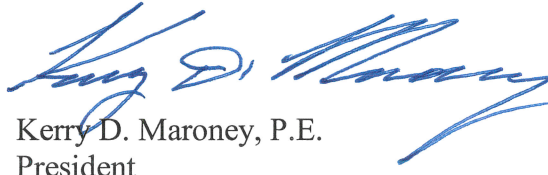
With adequate funds being available for this project, and based on our review and evaluation of the bid, we recommend that the bid be awarded to Maquire Iron, Inc., Sioux Falls, South Dakota in the amount of **\$1,399,000**.

We have worked with Maquire on a previous project, and we found them to be qualified to perform the requested and specified work.

Please contact us if you have any questions regarding this information.

Sincerely,

BIGGS & MATHEWS, INC.



Kerry D. Maroney, P.E.
President

KDM/kdm

Greater Texoma Utility Authority on Behalf of Northwest Grayson WCID #1
Northwest Grayson 250,000 Gallon Elevated Tank
October 29, 2024

ITEM	QTY	UNITS	DESCRIPTION	Maguire Iron Inc.		Caldwell Tanks, Inc.		Pittsburg Tank & Tower Co. Inc.	
				2001 East Robur Dr. Sioux Falls, SD 57104		4000 Tower Rd. Louisville, KY 40219		P.O. Box 913 Henderson, KY 42419	
				\$ PER UNIT	TOTAL	\$ PER UNIT	TOTAL	\$ PER UNIT	TOTAL
1	1	LS	Mobilization & Insurance	\$65,000.00	\$65,000.00	\$63,819.00	\$63,819.00	\$76,450.00	\$76,450.00
2	1	LS	Temp. Gate, All Weather Rd. & Drainage Facilities	\$10,000.00	\$10,000.00	\$20,000.00	\$20,000.00	\$107,927.00	\$107,927.00
3	1	LS	Construct 250,000 Gallon Elevated Tank	\$1,318,000.00	\$1,318,000.00	\$1,328,381.00	\$1,328,381.00	\$982,571.00	\$982,571.00
4	1	LS	Provide & Utilize OSHA Approved Trench System	\$2,000.00	\$2,000.00	\$3,000.00	\$3,000.00	\$58,652.00	\$58,652.00
5	1	LS	Erosion Control & SW3P	\$4,000.00	\$4,000.00	\$3,000.00	\$3,000.00	\$303,400.00	\$303,400.00
TOTAL AMOUNT OF BASE BID					\$1,399,000.00		\$1,418,200.00		\$1,529,000.00

ITEM 1V

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2023 by and between Greater Texoma Utility Authority on Behalf of Northwest Grayson County WCID No. 1 hereinafter called "OWNER", and _____ doing business as _____ hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1) The CONTRACTOR will commence and complete the construction of Elevated Storage Tank No. 2 – A 250,000 Gallon Elevated Water Storage Tank

2) The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the project described herein.

3) The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS within Ten (10) calendar days after the date of the NOTICE TO PROCEED and will complete the PROJECT within 300 consecutive calendar days unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS. Furthermore, the CONTRACTOR agrees to and will pay as liquidated damages \$100.00 for each consecutive calendar day that the work is not complete as required by the Contract Documents.

4) The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS for the sum shown as follows, or as shown in the BID schedule.

Total \$ _____

5) The term "CONTRACT DOCUMENTS" means and includes the following:

- (A) Advertisement for Bids
- (B) Information and Notice to Bidders
- (C) Bid Schedule
- (D) Bid Bond
- (E) Agreement
- (F) Payment Bond
- (G) Performance Bond
- (H) Certificate of Insurance
- (I) Notice of Award
- (J) Notice to Proceed
- (K) General Contract Conditions
- (L) Supplemental Contract Conditions
- (M) Drawings prepared by Biggs & Mathews, Inc., numbered 1 through 3, and dated January, 2023.
- (N) Specifications prepared or issued by Biggs & Mathews, Inc. dated January, 2023 and also NCTCOG Standard Specifications for Public Works Construction, Fifth Edition, November 2017.
- (O) **ADDENDA:**
No. _____, dated _____, 2023

6) The OWNER will pay to the Contractor in the manner and at such times as set forth in the General Conditions such amount as required by the CONTRACT DOCUMENTS.

7) This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

8) Contractor shall provide for a one (1) year warranty from the date of Substantial Completion to cover all labor and materials furnished and installed by the CONTRACTOR.

9) The Contractor acknowledges to and for the benefit of the Applicant ("Purchaser") and the Texas Water Development Board ("TWDB") that it understands the goods and services under this Agreement are being funded with monies made available by the Water Development Fund, Rural Water Assistance Fund, Economically Distressed Areas, State Participation Fund and/or Agricultural Water Conservation Fund. That these funds have statutory requirements commonly known as "United States Iron and Steel" that requires all of the iron and steel products used in the project to be produced in the United States ("United States Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the TWDB that (a) the Contractor has reviewed and understands the United States Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the United States Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the United States Iron and Steel Requirement, as may be requested by the Purchaser or the TWDB. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser to enforce this Agreement and recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Purchaser resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the TWDB or any damages owed to the TWDB by the Purchaser). Neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the TWDB.

In the execution of the Contract, the Contractor shall be familiar with and at all times shall observe and comply with all applicable federal, state, and local laws, ordinances and regulations concerned with the use of iron and steel made in the United States which in any manner affect the conduct of the work, and shall indemnify and save harmless the Texas Water Development Board against any claim arising from violation of any such law, ordinance or regulation by the Contractor or by their Subcontractor or their employees.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in 4 (number of copies) each of which shall be deemed an original on the date first above written.

OWNER:

Greater Texoma Utility Authority on Behalf of Northwest
Grayson County WCID No. 1

By _____

Name _____ (SEAL)
(Please Type)

ATTEST:

Name _____

(Please Type)

Title _____

CONTRACTOR:

By _____

Name _____ (SEAL)

(Please Type)

Address _____

ATTEST:

Name _____

(Please Type)

Title _____

ITEM IX

GENERAL CONDITIONS

- | | |
|--|---|
| 1. Definitions | 16. Correction of Work |
| 2. Additional Instructions & Detail Drawings | 17. Subsurface Conditions |
| 3. Schedules, Reports & Records | 18. Suspension of Work, Termination & Delay |
| 4. Drawings & Specifications | 19. Payments to Contractor |
| 5. Shop Drawings | 20. Acceptance of Final Payment as Release |
| 6. Materials, Services & Facilities | 21. Insurance |
| 7. Inspection & Testing | 22. Contract Security |
| 8. Substitutions | 23. Assignments |
| 9. Patents | 24. Indemnification |
| 10. Surveys, Permits, Regulations | 25. Separate Contracts |
| 11. Protection of Work, Property, Persons | 26. Subcontracting |
| 12. Supervision by Contractor | 27. Engineer's Authority |
| 13. Changes in Work | 28. Land and Rights-of-Way |
| 14. Changes in Contract Price | 29. Guaranty |
| 15. Time for Completion & Liquidated Damages | 30. Arbitration |
| | 31. Taxes |

1. DEFINITIONS

1.1 Wherever used in the CONTRACT DOCUMENTS, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof.

1.2 ADDENDA - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the CONTRACT DOCUMENTS, DRAWINGS and SPECIFICATIONS, by additions, deletions, clarifications or corrections.

1.3 BID - The offer or proposal of the BIDDER submitted on the prescribed form setting forth the prices for the WORK to be performed.

1.4 BIDDER - Any person, firm or corporation submitting a BID for the WORK.

1.5 BONDS - Bid, Performance, and Payment Bonds and other instruments of security, furnished by the CONTRACTOR and his surety in accordance with the CONTRACT DOCUMENTS.

1.6 CHANGE ORDER - A written order to the CONTRACTOR authorizing an addition, deletion or revision in the WORK within the general scope of the CONTRACT DOCUMENTS, or authorizing an adjustment in the CONTRACT PRICE or CONTRACT TIME.

1.7 CONTRACT DOCUMENTS - The contract, including Advertisement For Bids, Information For Bidders, BID, Bid Bond, Agreement, Payment Bond, Performance Bond, NOTICE OF AWARD, NOTICE TO PROCEED, CHANGE ORDER, DRAWINGS, SPECIFICATIONS, and ADDENDA.

1.8 CONTRACT PRICE - The total monies payable to the CONTRACTOR under the terms and conditions of the CONTRACT DOCUMENTS.

1.9 CONTRACT TIME - The number of calendar days stated in the CONTRACT DOCUMENTS for the completion of the WORK.

1.10 CONTRACTOR - The person, firm or corporation with whom the OWNER has executed the Agreement.

1.11 DRAWINGS - The part of the CONTRACT DOCUMENTS which show the characteristics and scope of the WORK to be performed and which have been prepared by the ENGINEER.

1.12 ENGINEER - The person, firm or corporation named as such in the CONTRACT DOCUMENTS.

1.13 FIELD ORDER - A written order effecting a change in the WORK not involving an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, issued by the ENGINEER to the CONTRACTOR during construction.

1.14 NOTICE OF AWARD - The written notice of the acceptance of the BID from the OWNER to the successful BIDDER.

1.15 NOTICE TO PROCEED - Written communication issued by the OWNER to the CONTRACTOR authorizing him to proceed with the WORK and establishing the date of commencement of the WORK.

1.16 OWNER - A public or quasi-public body or authority, corporation, association, partnership, or individual for whom the WORK is to be performed.

1.17 PROJECT - The undertaking to be performed as provided in the CONTRACT DOCUMENTS.

1.18 RESIDENT PROJECT REPRESENTATIVE - The authorized representative of the OWNER who is assigned to the PROJECT site or any part thereof.

1.19 SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONTRACTOR, a SUBCONTRACTOR, manufacturer, SUPPLIER or distributor, which illustrate how specific portions of the WORK shall be fabricated or installed.

1.20 SPECIFICATIONS - A part of the CONTRACT DOCUMENTS consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

1.21 SUBCONTRACTOR - An individual, firm or corporation having a direct contract with the CONTRACTOR or with any other SUBCONTRACTOR for the performance of a part of the WORK at the site.

1.22 SUPPLEMENTAL GENERAL CONDITIONS - Modifications to General Conditions required by a Federal agency for participation in the PROJECT and approved by the agency in writing prior to inclusion in the CONTRACT DOCUMENTS, or such requirements that may be imposed by applicable state laws.

1.23 SUPPLIER - Any person or organization who supplies materials or equipment for the WORK, including that fabricated to a special design, but who does not perform labor at the site.

1.24 WORK - All labor necessary to produce the construction required by the CONTRACT DOCUMENTS, and all materials and equipment incorporated or to be incorporated in the PROJECT.

1.25 WRITTEN NOTICE - Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address; or delivered in person to said party or his authorized representative on the WORK.

2. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

2.1 The CONTRACTOR may be furnished additional instructions and detail drawings, by the ENGINEER, as necessary to carry out the WORK required by the CONTRACT DOCUMENTS.

2.2 The additional drawings and instruction thus supplied will become a part of the CONTRACT DOCUMENTS. The CONTRACTOR shall carry out the WORK in accordance with the additional detail drawings and instructions.

3. SCHEDULES, REPORTS AND RECORDS

3.1 The CONTRACTOR shall submit to the OWNER such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data where applicable as are required by the CONTRACT DOCUMENTS for the WORK to be performed.

3.2 Prior to the first partial payment estimate the CONTRACTOR shall submit construction progress schedules showing the order in which he proposes to carry on the WORK, including dates at which he will start the various parts of the WORK, estimated date of completion of each part and, as applicable:

3.2.1 The dates at which special detail drawings will be required; and

3.2.2 Respective dates for submission of SHOP DRAWINGS, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.

3.3 The CONTRACTOR shall also submit a schedule of payments that he anticipates he will earn during the course of the WORK.

4. DRAWINGS AND SPECIFICATIONS

4.1 The intent of the DRAWINGS and SPECIFICATIONS is that the CONTRACTOR shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the WORK in accordance with the CONTRACT DOCUMENTS and all incidental work necessary to complete the PROJECT in an acceptable manner, ready for use, occupancy or operation by the OWNER.

4.2 In case of conflict between the DRAWINGS and SPECIFICATIONS, the SPECIFICATIONS shall govern. Figure dimensions on DRAWINGS shall govern over scale dimensions, and detailed DRAWINGS shall govern over general DRAWINGS.

4.3 Any discrepancies found between the DRAWINGS and SPECIFICATIONS and site conditions or any inconsistencies or ambiguities in the DRAWINGS or SPECIFICATIONS shall be immediately reported to the ENGINEER, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. WORK done by the CONTRACTOR after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the CONTRACTOR'S risk.

5. SHOP DRAWINGS

5.1 The CONTRACTOR shall provide SHOP DRAWINGS as may be necessary for the prosecution of the WORK as required by the CONTRACT DOCUMENTS. The ENGINEER shall promptly review all SHOP DRAWINGS. The ENGINEER'S approval of any SHOP DRAWING shall not release the CONTRACTOR from responsibility for deviations from the CONTRACT DOCUMENTS. The approval of any SHOP DRAWING which substantially deviates from the requirement of the CONTRACT DOCUMENTS shall be evidenced by a CHANGE ORDER.

5.2 When Submitted for the ENGINEER'S review, SHOP DRAWINGS shall bear the CONTRACTOR'S certification that he has reviewed, checked and approved the SHOP DRAWINGS and that they are in conformance with the requirements of the CONTRACT DOCUMENTS.

5.3 Portions of the WORK requiring a SHOP DRAWING or sample submission shall not begin until the SHOP DRAWING or submission has been approved by the ENGINEER. A copy of each approved SHOP DRAWING and each approved sample shall be kept in good order by the CONTRACTOR at the site and shall be available to the ENGINEER.

6. MATERIALS, SERVICES AND FACILITIES

6.1 It is understood that, except as otherwise specifically stated in the CONTRACT DOCUMENTS, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the WORK within the specified time.

6.2 Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the WORK. Stored materials and equipment to be incorporated in the WORK shall be located so as to facilitate prompt inspection.

6.3 Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

6.4 Materials, supplies and equipment shall be in accordance with samples submitted by the CONTRACTOR and approved by the ENGINEER.

6.5 Materials, supplies or equipment to be incorporated into the WORK shall not be purchased by the CONTRACTOR or the SUBCONTRACTOR subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

7. INSPECTION AND TESTING

7.1 All materials and equipment used in the construction of the PROJECT shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the CONTRACT DOCUMENTS.

7.2 The OWNER shall provide all inspection and testing services not required by the CONTRACT DOCUMENTS.

7.3 The CONTRACTOR shall provide at his expense the testing and inspection services required by the CONTRACT DOCUMENTS.

7.4 If the CONTRACT DOCUMENTS, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any WORK to specifically be inspected, tested, or approved by someone other than the CONTRACTOR, the CONTRACTOR will give the ENGINEER timely notice of readiness. The CONTRACTOR will then furnish the ENGINEER the required certificates of inspection, testing or approval.

7.5 Inspections, tests or approvals by the ENGINEER or others shall not relieve the CONTRACTOR from his obligations to perform the WORK in accordance with the requirements of the CONTRACT DOCUMENTS.

7.6 The ENGINEER and his representatives will at all times have access to the WORK. In addition, authorized representatives and agents of any participating Federal or state agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The CONTRACTOR will provide proper facilities for such access and observation of the WORK and also for any inspection, or testing thereof.

7.7 If any WORK is covered contrary to the written instructions of the ENGINEER, it must, if requested by the ENGINEER, be uncovered for his observation and replaced at the CONTRACTOR'S expense.

7.8 If the ENGINEER considers it necessary or advisable that covered WORK be inspected or tested by others, the CONTRACTOR, at the ENGINEER'S request, will uncover, expose or otherwise make available for observation, inspection or testing as the ENGINEER may require, that portion of the WORK in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such WORK is defective, the CONTRACTOR will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such WORK is not found to be defective, the CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate CHANGE ORDER shall be issued.

8. SUBSTITUTIONS

8.1 Whenever a material, article or piece of equipment is identified on the DRAWINGS or SPECIFICATIONS by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The CONTRACTOR may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the CONTRACT DOCUMENTS by reference to brand name or catalogue number, and if, in the opinion of the ENGINEER, such material, article, or piece of equipment is of equal substance and function to that specified, the ENGINEER may approve its substitution and use by the CONTRACTOR. Any cost differential shall be deductible from the CONTRACT PRICE and the CONTRACT DOCUMENTS shall be appropriately modified by CHANGE ORDER. The CONTRACTOR warrants that if substitutes are approved, no major changes in the function or general design of the PROJECT will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the CONTRACTOR without a change in the CONTRACT PRICE or CONTRACT TIME.

9. PATENTS

9.1 The CONTRACTOR shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and save the OWNER harmless from loss on account thereof, except that the OWNER shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified; however, if the CONTRACTOR has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the ENGINEER.

10. SURVEYS, PERMITS, REGULATIONS

10.1 The OWNER shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the WORK together with a suitable number of bench marks adjacent to the WORK as shown in the CONTRACT DOCUMENTS. From the information provided by the OWNER, unless otherwise specified in the CONTRACT DOCUMENTS, the CONTRACTOR shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations and cut sheets.

10.2 The CONTRACTOR shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

10.3 Permits and licenses of a temporary nature necessary for the prosecution of the WORK shall be secured and paid for by the CONTRACTOR unless otherwise stated in the SUPPLEMENTAL GENERAL CONDITIONS. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the OWNER, unless otherwise specified. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the WORK as drawn and specified. If the CONTRACTOR observes that the CONTRACT DOCUMENTS are at variance therewith, he shall promptly notify the ENGINEER in writing, and any necessary changes shall be adjusted as provided in Section 13, CHANGES IN THE WORK.

11. PROTECTION OF WORK, PROPERTY AND PERSONS

11.1 The CONTRACTOR will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the WORK. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the WORK and other persons who may be affected thereby, all the WORK and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

11.2 The CONTRACTOR will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. He will erect and maintain, as required by the conditions and progress of the WORK, all necessary safeguards for safety and protection. He will notify owners of adjacent utilities when prosecution of the WORK may affect them. The CONTRACTOR will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any SUBCONTRACTOR or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable.

11.3 In emergencies affecting the safety of persons or the WORK or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the ENGINEER or OWNER, shall act to prevent threatened damage, injury or loss. He will give the ENGINEER prompt WRITTEN NOTICE of any significant changes in the WORK or deviations from the CONTRACT DOCUMENTS caused thereby, and a CHANGE ORDER shall thereupon be issued covering the changes and deviations involved.

12. SUPERVISION BY CONTRACTOR

12.1 The CONTRACTOR will supervise and direct the WORK. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The CONTRACTOR will employ and maintain on the WORK a qualified supervisor or superintendent who shall have been designated in writing by the CONTRACTOR as the CONTRACTOR'S representative at the site. The supervisor shall have full authority to act on behalf of the CONTRACTOR and all communications given to the supervisor shall be as binding as if given to the CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the WORK.

13. CHANGES IN THE WORK

13.1 The OWNER may at any time, as the need arises, order changes within the scope of the WORK without invalidating the Agreement. If such changes increase or decrease the amount due under the CONTRACT DOCUMENTS, or in the time required for performance of the WORK, an equitable adjustment shall be authorized by CHANGE ORDER.

13.2 The ENGINEER, also, may at any time, by issuing a FIELD ORDER, make changes in the details of the WORK. The CONTRACTOR shall proceed with the performance of any changes in the WORK so ordered by the ENGINEER unless the CONTRACTOR believes that such FIELD ORDER entitles him to a change in CONTRACT PRICE or TIME, or both, in which event he shall give the ENGINEER WRITTEN NOTICE thereof within seven (7) days after the receipt of the ordered change. Thereafter, the CONTRACTOR shall document the basis for the change in CONTRACT PRICE or TIME within thirty (30) days. The CONTRACTOR shall not execute such changes pending the receipt of an executed CHANGE ORDER or further instruction from the OWNER.

14. CHANGES IN CONTRACT PRICE

14.1 The CONTRACT PRICE may be changed only by a CHANGE ORDER. The value of any WORK covered by a CHANGE ORDER or of any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of precedence listed below:

- (a) Unit prices previously approved.
- (b) An agreed lump sum.

15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

15.1 The date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the WORK embraced shall be commenced on a date specified in the NOTICE TO PROCEED.

15.2 The CONTRACTOR will proceed with the WORK at such rate of progress to insure full completion within the CONTRACT TIME. It is expressly understood and agreed, by and between the CONTRACTOR and the OWNER, that the CONTRACT TIME for the completion of the WORK described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the WORK.

15.3 If the CONTRACTOR shall fail to complete the WORK within the CONTRACT TIME, or extension of time granted by the OWNER, then the CONTRACTOR will pay to the OWNER the amount for liquidated damages as specified in the BID for each calendar day that the CONTRACTOR shall be in default after the time stipulated in the CONTRACT DOCUMENTS.

15.4 The CONTRACTOR shall not be charged with liquidated damages or any excess cost when the delay in completion of the WORK is due to the following and the CONTRACTOR has promptly given WRITTEN NOTICE of such delay to the OWNER or ENGINEER.

15.4.1 To any preference, priority or allocation order duly issued by the OWNER.

16. CORRECTION OF WORK

16.1 The CONTRACTOR shall promptly remove from the premises all WORK rejected by the ENGINEER for failure to comply with the CONTRACT DOCUMENTS, whether incorporated in the construction or not, and the CONTRACTOR shall promptly replace and re-execute the WORK in accordance with the CONTRACT DOCUMENTS and without expense to the OWNER and shall bear the expense of making good all WORK of other CONTRACTORS destroyed or damaged by such removal or replacement.

16.2 All removal and replacement WORK shall be done at the CONTRACTOR'S expense. If the CONTRACTOR does not take action to remove such rejected WORK within ten (10) days after receipt of WRITTEN NOTICE, the OWNER may remove such WORK and store the materials at the expense of the CONTRACTOR.

17. SUBSURFACE CONDITIONS

17.1 The CONTRACTOR shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the OWNER by WRITTEN NOTICE of:

17.1.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the CONTRACT DOCUMENTS; or

17.1.2 Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in WORK of the character provided for in the CONTRACT DOCUMENTS.

17.2 The OWNER shall promptly investigate the conditions, and if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the WORK, an equitable adjustment shall be made, and the CONTRACT DOCUMENTS shall be modified by a CHANGE ORDER. Any claim of the CONTRACTOR for adjustment hereunder shall not be allowed unless he has given the required WRITTEN NOTICE; provided that the OWNER may, if he determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

18. SUSPENSION OF WORK, TERMINATION AND DELAY

18.1 The OWNER may suspend the WORK or any portion thereof for a period of not more than ninety days or such further time as agreed upon by the CONTRACTOR, by WRITTEN NOTICE to the CONTRACTOR and the ENGINEER which notice shall fix the date on which WORK shall be resumed. The CONTRACTOR will resume that WORK on the date so fixed. The CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to any suspension.

18.2 If the CONTRACTOR is adjudged a bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the CONTRACTOR or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to SUBCONTRACTORS or for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the WORK or if he disregards the authority of the ENGINEER, or if he otherwise violates any provision of the CONTRACT DOCUMENTS, then the OWNER may, without prejudice to any other right or remedy and after giving the CONTRACTOR and his surety a minimum of ten (10) days from delivery of a WRITTEN NOTICE, terminate the services of the CONTRACTOR and take possession of the PROJECT and of all materials, equipment, tools, construction equipment and machinery thereon owned by the CONTRACTOR, and finish the WORK by whatever method he may deem expedient. In such case the CONTRACTOR shall not be entitled to receive any further payment until the WORK is finished. If the unpaid balance of the CONTRACT PRICE exceeds the direct and indirect costs of completing the PROJECT, including compensation for additional professional services, such excess SHALL BE PAID TO

THE CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR will pay the difference to the OWNER. Such costs incurred by the OWNER will be determined by the ENGINEER and incorporated in a CHANGE ORDER.

18.3 Where the CONTRACTOR'S services have been so terminated by the OWNER, said termination shall not affect any right of the OWNER against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies by the OWNER due the CONTRACTOR will not release the CONTRACTOR from compliance with the CONTRACT DOCUMENTS.

18.4 After ten (10) days from delivery of a WRITTEN NOTICE to the CONTRACTOR and the ENGINEER, the OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the PROJECT and terminate the Contract. In such case, the CONTRACTOR shall be paid for all WORK executed and any expense sustained plus reasonable profit.

18.5 If, through no act or fault of the CONTRACTOR, the WORK is suspended for a period of more than ninety (90) days by the OWNER or under an order of court or other public authority, or the ENGINEER fails to act on any request for payment within thirty (30) days after it is submitted, or the OWNER fails to pay the CONTRACTOR substantially the sum approved by the ENGINEER or awarded by arbitrators within thirty (30) days of its approval and presentation, then the CONTRACTOR may, after ten (10) days from delivery of a WRITTEN NOTICE to the OWNER and the ENGINEER, terminate the CONTRACT and recover from the OWNER payment for all WORK executed and all expenses sustained. In addition and in lieu of terminating the CONTRACT, if the ENGINEER has failed to act on a request for payment or if the OWNER has failed to make any payment as aforesaid, the CONTRACTOR may upon ten (10) days written notice to the OWNER and the ENGINEER stop the WORK until he has been paid all amounts then due, in which event and upon resumption of the WORK, CHANGE ORDERS shall be issued for adjusting the CONTRACT PRICE or extending the CONTRACT TIME or both to compensate for the costs and delays attributable to the stoppage of the WORK.

18.6 If the performance of all or any portion of the WORK is suspended, delayed, or interrupted as a result of a failure of the OWNER or ENGINEER to act within the time specified in the CONTRACT DOCUMENTS, or if no time is specified, within a reasonable time, an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, shall be made by CHANGE ORDER to compensate the CONTRACTOR for the costs and delays necessarily caused by the failure of the OWNER or ENGINEER.

19. PAYMENTS TO CONTRACTOR

19.1 At least ten (10) days before each progress payment falls due (but not more often than once a month), the CONTRACTOR will submit to the ENGINEER a partial payment estimate filled out and signed by the CONTRACTOR covering the WORK performed during the period covered by the partial payment estimate and supported by such data as the ENGINEER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the WORK but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the OWNER, as will establish the OWNER'S title to the material and equipment and protect his interest therein, including applicable insurance. The ENGINEER will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing his approval of payment and present the partial payment estimate to the OWNER, or return the partial payment estimate to the CONTRACTOR indicating in writing his reasons for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The OWNER will, within ten (10) days of

presentation to him of an approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment estimate. The OWNER shall retain ten (10%) percent of the amount of each payment until final completion and acceptance of all work covered by the CONTRACT DOCUMENTS. On completion and acceptance of a part of the WORK on which the price is stated separately in the CONTRACT DOCUMENTS, payment may be made in full, including retained percentages, less authorized deductions.

19.2 The request for payment may also include an allowance for the cost of such major materials and equipment which are suitably stored either at or near the site.

19.3 The OWNER shall have the right to enter the premises for the purpose of doing work not covered by the CONTRACT DOCUMENTS. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the WORK, or the restoration of any damaged WORK except such as may be caused by agents or employees of the OWNER.

19.4 Upon completion and acceptance of the WORK, the ENGINEER shall issue a certificate attached to the final payment request that the WORK has been accepted by him under the conditions of the CONTRACT DOCUMENTS. The entire balance found to be due the CONTRACTOR, including the retained percentages, but except such sums as may be lawfully retained by the OWNER, shall be paid to the CONTRACTOR within thirty (30) days of completion and acceptance of the WORK.

19.5 The CONTRACTOR will indemnify and save the OWNER or the OWNER'S agents harmless from all claims growing out of the lawful demands of SUBCONTRACTORS, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the WORK. The CONTRACTOR shall, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the CONTRACTOR fails to do so the OWNER may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the CONTRACTOR shall be resumed, in accordance with the terms of the CONTRACT DOCUMENTS, but in no event shall the provisions of this sentence be construed to impose any obligations upon the OWNER to either the CONTRACTOR, his Surety, or any third party. In paying any unpaid bills of the CONTRACTOR, any payment so made by the OWNER shall be considered as a payment made under the CONTRACT DOCUMENTS by the OWNER to the CONTRACTOR, and the OWNER shall not be liable to the CONTRACTOR for any such payments made in good faith.

19.6 If the OWNER fails to make payment thirty (30) days after approval by the ENGINEER, in addition to other remedies available to the CONTRACTOR, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the CONTRACTOR.

20. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

20.1 The acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the OWNER of all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with this WORK and for every act and neglect of the OWNER and others relating to or arising out of this WORK. Any payment, however, final or otherwise, shall not release the CONTRACTOR or his sureties from any obligations under the CONTRACT DOCUMENTS or the Performance BOND and Payment BONDS.

21. INSURANCE

21.1 The CONTRACTOR shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the CONTRACTOR'S execution of the WORK, whether such execution be by himself or by any SUBCONTRACTOR or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

21.1.1 Claims under workmen's compensation, disability benefit and other similar employee benefit acts;

21.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;

21.1.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;

21.1.4 Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the CONTRACTOR, or (2) by any other person; and

21.1.5 Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.

21.2 Certificates of Insurance acceptable to the OWNER shall be filed with the OWNER prior to commencement of the WORK. These Certificates shall contain a provision that coverages afforded under the policies will not be cancelled unless at least fifteen (15) days prior WRITTEN NOTICE has been given to the OWNER.

21.3 The CONTRACTOR shall procure and maintain, at his own expense, during the CONTRACT TIME, liability insurance as hereinafter specified;

21.3.1 CONTRACTOR'S General Public Liability and Property Damage Insurance including vehicle coverage issued to the CONTRACTOR and protecting him from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the CONTRACT DOCUMENTS, whether such operations be by himself or by any SUBCONTRACTOR under him, or anyone directly or indirectly employed by the CONTRACTOR or by a SUBCONTRACTOR under him. Insurance shall be written with a limit of liability of not less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate

for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$500,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$500,000 aggregate for any such damage sustained by two or more persons in any one accident and an excess loss policy of one million dollars.

21.3.2 The CONTRACTOR shall acquire and maintain, if applicable, Fire and Extended Coverage insurance upon the PROJECT to the full insurable value thereof for the benefit of the OWNER, the CONTRACTOR, and SUBCONTRACTORS as their interest may appear. This provision shall in no way release the CONTRACTOR or CONTRACTOR'S surety from obligations under the CONTRACT DOCUMENTS to fully complete the PROJECT.

21.4 Workers' Compensation Insurance Coverage:

A) Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project for the duration of the project.

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

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

B) The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project for the duration of the project.

C) The contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D) If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E) The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

- (1) A certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
- (2) No later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F) The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G) The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H) The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I) The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

- (1) Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
- (2) Provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
- (3) Provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (4) Obtain from each other person with whom it contracts, and provide to the contractor:
 - (a) A certificate of coverage, prior to the other person beginning work on the project; and
 - (b) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) Retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) Notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) Contractually require each person with whom it contracts to perform as required by paragraphs (1)-(7), with the certificates of coverage to be provided to the person for whom they are providing services.

J) By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K) The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

21.5 The CONTRACTOR shall secure, if applicable, "All Risk" type Builder's Risk Insurance for WORK to be performed. Unless specifically authorized by the OWNER, the amount of such insurance shall not be less than the CONTRACT PRICE totaled in the BID. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the CONTRACT TIME, and until the WORK is accepted by the OWNER. The policy shall name as the insured the CONTRACTOR, the ENGINEER, and the OWNER.

22. CONTRACT SECURITY

22.1 The CONTRACTOR shall within ten (10) days after the receipt of the NOTICE OF AWARD furnish the OWNER with a Performance Bond and a Payment Bond in penal sums equal to the amount of the CONTRACT PRICE, conditioned upon the performance by the CONTRACTOR of all undertakings, covenants, terms, conditions and agreements of the CONTRACT DOCUMENTS, and upon the prompt payment by the CONTRACTOR to all persons supplying labor and materials in the prosecution of the WORK provided by the CONTRACT DOCUMENTS. Such BONDS shall be executed by the CONTRACTOR and a corporate bonding company licensed to transact such business in the state in which the WORK is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these BONDS shall be borne by the CONTRACTOR. If at any time a surety on any such BOND is declared a bankrupt or loses its right to do business in the state in which the WORK is to be performed or is removed from the list of Surety Companies accepted on Federal BONDS, CONTRACTOR shall within ten (10) days after notice from the OWNER to do so, substitute an acceptable BOND (or BONDS) in such form and sum and signed by such other surety or sureties as may be satisfactory to the OWNER. The premiums on such BOND shall be paid by the CONTRACTOR. No further payments shall be deemed due nor shall be made until the new

surety or sureties shall have furnished an acceptable BOND to the OWNER.

23. ASSIGNMENTS

23.1 Neither the CONTRACTOR nor the OWNER shall sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of his right, title or interest therein, or his obligations thereunder, without written consent of the other party.

24. INDEMNIFICATION

24.1 The CONTRACTOR will indemnify and hold harmless the OWNER and the ENGINEER and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the WORK, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, and SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

24.2 In any and all claims against the OWNER or the ENGINEER, or any of their agents or employees, by any employee of the CONTRACTOR, any SUBCONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any SUBCONTRACTOR under workmen's compensation acts, disability benefit acts or other employee benefit acts.

24.3 The obligation of the CONTRACTOR under this paragraph shall not extend to the liability of the ENGINEER, his agents or employees arising out of the preparation or approval of maps, DRAWINGS, opinions, reports, surveys, CHANGE ORDERS, designs or SPECIFICATIONS.

25. SEPARATE CONTRACTS

25.1 The OWNER reserves the right to let other contracts in connection with this PROJECT. The CONTRACTOR shall afford other CONTRACTORS reasonable opportunity for the introduction and storage of their materials and the execution of their WORK, and shall properly connect and coordinate his WORK with theirs. If the proper execution or results of any part of the CONTRACTOR'S WORK depends upon the WORK of any other CONTRACTOR, the CONTRACTOR shall inspect and promptly report to the ENGINEER any defects in such WORK that render it unsuitable for such proper execution and results.

25.2 The OWNER may perform additional WORK related to the PROJECT by himself, or he may let other contracts containing provisions similar to these. The CONTRACTOR will afford the other CONTRACTORS who are parties to such Contracts (or the OWNER, if he is performing the additional WORK himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of WORK, and shall properly connect and coordinate his WORK with theirs.

25.3 If the performance of additional WORK by other CONTRACTORS or the OWNER is not noted in the CONTRACT DOCUMENTS prior to the execution of the CONTRACT, written notice thereof shall be given to the CONTRACTOR prior to starting any such additional WORK. If the CONTRACTOR believes that the performance of such additional WORK by the OWNER or others involves him in additional expense or entitles him to an extension of the CONTRACT TIME, he may make a claim therefor as provided in Sections 14 and 15.

26. SUBCONTRACTING

26.1 The CONTRACTOR may utilize the services of specialty SUBCONTRACTORS on those parts of the WORK which, under normal contracting practices, are performed by specialty SUBCONTRACTORS.

26.2 The CONTRACTOR shall not award WORK to SUBCONTRACTOR(s), in excess of fifty (50%) percent of the CONTRACT PRICE, without prior written approval of the OWNER.

26.3 The CONTRACTOR shall be fully responsible to the OWNER for the acts and omissions of his SUBCONTRACTORS, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

26.4 The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the WORK to bind SUBCONTRACTORS to the CONTRACTOR by the terms of the CONTRACT DOCUMENTS insofar as applicable to the WORK of SUBCONTRACTORS and to give the CONTRACTOR the same power as regards terminating any subcontract that the OWNER may exercise over the CONTRACTOR under any provision of the CONTRACT DOCUMENTS.

26.5 Nothing contained in this CONTRACT shall create any contractual relation between any SUBCONTRACTOR and the OWNER.

27. ENGINEER'S AUTHORITY

27.1 The ENGINEER shall act as the OWNER'S representative during the construction period. He shall decide questions which may arise as to quality and acceptability of materials furnished and WORK performed. He shall interpret the intent of the CONTRACT DOCUMENTS in a fair and unbiased manner. The ENGINEER will make visits to the site and determine, in general, if the WORK is proceeding in accordance with the CONTRACT DOCUMENTS.

27.2 The CONTRACTOR will be held strictly to the intent of the CONTRACT DOCUMENTS in regard to the quality of materials, workmanship and execution of the WORK. Inspections may be made at the factory or fabrication plant of the source of material supply.

27.3 The ENGINEER will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

27.4 The ENGINEER shall promptly make decisions relative to interpretation of the CONTRACT DOCUMENTS.

28. LAND AND RIGHTS-OF-WAY

28.1 Prior to issuance of NOTICE TO PROCEED, the OWNER shall obtain all land and rights-of-way necessary for carrying out and for the completion of the WORK to be performed pursuant to the CONTRACT DOCUMENTS, unless otherwise mutually agreed.

28.2 The OWNER shall provide to the CONTRACTOR information which delineates and describes the lands owned and rights-of-way acquired.

28.3 The CONTRACTOR shall provide at his own expense and without liability to the OWNER any additional land and access thereto that the CONTRACTOR may desire for temporary construction facilities, or for storage of materials.

29. GUARANTY

29.1 The CONTRACTOR shall guarantee all materials and equipment furnished and WORK performed for a period of two (2) years from the date of SUBSTANTIAL COMPLETION. The CONTRACTOR warrants and guarantees for a period of two (2) years from the date of SUBSTANTIAL COMPLETION of the system that the completed system is free from all defects due to faulty materials or workmanship and the CONTRACTOR shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The OWNER will give notice of observed defects with reasonable promptness. In the event that the CONTRACTOR should fail to make such repairs, adjustments, or other WORK that may be so made necessary by such defects, the OWNER may do so and charge the CONTRACTOR the cost thereby incurred. The Performance BOND shall remain in full force and effect through the guarantee period.

30. ARBITRATION

30.1 All claims, disputes and other matters in question arising out of, or relating to, the CONTRACT DOCUMENTS or the breach thereof, except for claims which have been waived by the making and acceptance of final payment as provided by Section 20, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, if both parties mutually agree. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

30.2 Notice of the demand for arbitration shall be filed in writing with the other party to the CONTRACT DOCUMENTS and with the American Arbitration Association, and a copy shall be filed with the ENGINEER. Demand for arbitration shall in no event be made on any claim, dispute or other matter in question which would be barred by the applicable statute of limitations.

30.3 The Contractor will carry on the WORK and maintain the progress schedule during any arbitration proceedings, unless otherwise mutually agreed in writing.

31. TAXES

31.1 The CONTRACTOR will pay all sales, consumer, use and other similar taxes required by the law of the place where the WORK is performed.

ITEM X

SUPPLEMENTAL CONTRACT CONDITIONS

1. Supersession

The Owner and the Contractor agree that the TWDB Supplemental Conditions apply to the work eligible for Texas Water Development Board assistance to be performed under this contract and these clauses supersede any conflicting provisions of this contract.

2. Privity of Contract

Funding for this project is expected to be provided in part by a loan or grant from the Texas Water Development Board. Neither the state of Texas, nor any of its departments, agencies or employees is, or will be, a party to this contract or any lower tier contract. This contract is subject to applicable provisions in 31 TAC Chapter 363 in effect on the date of the assistance award for this project.

3. Definitions

- (a) The term "Owner" means the local entity contracting for the construction services.
- (b) The term "TWDB" means the Executive Administrator of the Texas Water Development Board, or other person who may be at the time acting in the capacity or authorized to perform the functions of such Executive Administrator, or the authorized representative thereof.
- (c) The term "Engineer" means the Owner's authorized consulting engineer for the project.

4. Laws to be Observed

In the execution of the contract, the Contractor must comply with all applicable local, state and federal laws, including but not limited to laws concerned with labor, safety, minimum wages, and the environment. The Contractor shall be familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances and regulations which in any manner affect the conduct of the work, and shall indemnify and save harmless the Owner, Texas Water Development Board, and their representatives against any claim arising from violation of any such law, ordinance or regulation by the Contractor, their Subcontractor or their employees.

5. Review by Owner and TWDB

- (a) The Owner, authorized representatives and agents of the Owner, and the TWDB shall, at all times have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, and other relevant data and records pertaining to this contract, provided, however that all instructions and approval with respect to the work will be given to the Contractor only by the Owner through authorized representatives or agents.
- (b) Any such inspection or review by the TWDB shall not subject the state of Texas, or its representatives, to any action for damages.

6. Performance and Payment Bonds

Each Contractor awarded a construction contract must furnish performance and payment bonds:

- (a) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices;
- (b) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the Engineer of the political subdivision; and
- (c) the Contractor shall utilize a surety company that is authorized to do business in Texas in accordance with Surety Bonds and Related Instruments, Chapter 3503 of the Insurance Code.

7. Payments Schedule and Cost Breakdown

- (a) The Contractor shall submit for approval immediately after execution of the Agreement, a carefully prepared Progress Schedule, showing the proposed dates of starting and completing each of the various sections of the work, the anticipated monthly payments to become due to the Contractor, and the accumulated percent of progress each month.
- (b) The following paragraph applies only to contracts awarded on a lump sum contract price:
COST BREAKDOWN - The Contractor shall submit to the Owner a detailed breakdown of the estimated cost of all work to be accomplished under the contract, so arranged and itemized as to meet the approval of the Owner or funding agencies. This breakdown shall be submitted promptly after execution of the agreement and before any payment is made to the Contractor for the work performed under the contract. After approval by the Owner the unit prices established in the breakdown shall be used in estimating the amount of partial payments to be made to the Contractor.

8. Workers' Compensation Insurance Coverage (as applicable, consistent with Texas Labor Code § 406.096)

- (a) The Contractor shall certify in writing that they provide workers' compensation insurance coverage for each employee of the Contractor employed on the public project.
- (b) Each Subcontractor on the public project shall provide such a certificate relating to coverage of the Subcontractor's employees to the general Contractor, who shall provide the Subcontractor's certificate to the governmental entity.
- (c) A Contractor who has a contract that requires workers' compensation insurance coverage may provide the coverage through a group plan or other method satisfactory to the governing body of the governmental entity.
- (d) The employment of a maintenance employee by an employer who is not engaging in building or construction as the employer's primary business does not constitute engaging in building or construction.
- (e) In this section: (1) "Building or construction" includes: i. erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenances.
ii. remodeling, extending, repairing, or demolishing a structure; or
iii. otherwise improving real property or an appurtenance to real property through similar activities. (2) "Governmental entity" means this state or a political subdivision of this state. The term includes a municipality.

9. U.S. Iron and Steel (Does not apply to SWIFT Projects funded prior to May 1, 2019)

The following statement must be completed by the Contractor and made a part of the agreement between the Owner and the Contractor.

The Contractor acknowledges to and for the benefit of the Applicant ("Purchaser") and the Texas Water Development Board ("TWDB") that it understands the goods and services under this Agreement are being funded with monies made available by the Water Development Fund, Rural Water Assistance Fund, Economically Distressed Areas, State Participation Fund and/or Agricultural Water Conservation Fund. That these funds have statutory requirements commonly known as "United States Iron and Steel" that requires all of the iron and steel products used in the project to be produced in the United States ("United States Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the TWDB that (a) the Contractor has reviewed and understands the United States Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the United States Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the United States Iron and Steel Requirement, as may be requested by the Purchaser or the TWDB. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser to enforce this Agreement and recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Purchaser resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the TWDB or any damages owed to the TWDB by the Purchaser). Neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the TWDB.

In the execution of the Contract, the Contractor shall be familiar with and at all times shall observe and comply with all applicable federal, state, and local laws, ordinances and regulations concerned with the use of iron and steel made in the United States which in any manner affect the conduct of the work, and shall indemnify and save harmless the Texas Water Development Board against any claim arising from violation of any such law, ordinance or regulation by the Contractor or by their Subcontractor or their employees.

Additional information on the United States Iron and Steel (US I&S) and its applicability to this contract can be found in the TWDB-11005 guidance.

It is recommended the Owner receive and maintain files documenting the Contractor's use of US I&S. Compliance with US I&S will be verified by the Owner through the submittal of the TWDB form TWDB-1105-A.

10. Prevailing Wage Rates

This contract is subject to Government Code Chapter 2258 concerning payment of Prevailing Wage Rates. The Owner will determine what the general prevailing rates are in accordance with the statute. The applicable provisions include, but are not limited to the following:

§2258.021. Right to be Paid Prevailing Wage Rates

(a) A worker employed on a public work by or on behalf of the state or a political subdivision of the state shall be paid:

(1) not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed; and

- (2) not less than the general prevailing rate of per diem wages for legal holiday and overtime work.
- (b) Subsection (a) does not apply to maintenance work.
- (c) A worker is employed on a public work for the purposes of this section if the worker is employed by a Contractor or Subcontractor in the execution of a contract for the public work with the state, a political subdivision of the state, or any officer or public body of the state or a political subdivision of the state.

§2258.023. Prevailing Wage Rates to be Paid by Contractor and Subcontractor; Penalty

- (a) The Contractor who is awarded a contract by a public body or a Subcontractor of the Contractor shall pay not less than the rates determined under Section 2258.022 to a worker employed by it in the execution of the contract.
- (b) A Contractor or Subcontractor who violates this section shall pay to the state or a political subdivision of the state on whose behalf the contract is made, \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A public body awarding a contract shall specify this penalty in the contract.
- (c) A Contractor or Subcontractor does not violate this section if a public body awarding a contract does not determine the prevailing wage rates and specify the rates in the contract as provided by Section 2258.022.
- (d) The public body shall use any money collected under this section to offset the costs incurred in the administration of this chapter.
- (e) A municipality is entitled to collect a penalty under this section only if the municipality has a population of more than 10,000.

§2258. 024. Records

- (a) A Contractor and Subcontractor shall keep a record showing:
 - (1) the name and occupation of each worker employed by the Contractor or Subcontractor in the construction of the public work; and
 - (2) the actual per diem wages paid to each worker.
- (b) The record shall be open at all reasonable hours to inspection by the officers and agents of the public body.

§2258. 025. Payment Greater Than Prevailing Rate Not Prohibited

This chapter does not prohibit the payment to a worker employed on a public work an amount greater than the general prevailing rate of per diem wages.

11. Employment of Local Labor (only applicable to projects funded by EDAP)

The Contractor shall, to the maximum feasible extent, employ local labor for construction of the project. The Contractor and every Subcontractor undertaking to do work on the project which is, or reasonably may be done as on-site work, shall employ qualified persons who regularly reside within the political subdivision boundary of the Owner and the economically distressed area where the project is located (Texas Water Code, Section 17.183).

12. Payments

- (a) Progress Payments:
 - (1) The Contractor shall prepare their requisition for progress payment as of the last day of the month and submit it, with the required number of copies, to the Engineer for review. Except as provided in paragraph (3) of this subsection, the amount of the payment due the Contractor shall be determined by adding to the total value of work completed to date, the value of materials properly stored on the site and deducting: (1) five percent (5%) minimum of the total amount, as a retainage and (2) the amount of all previous payments. The total value of work completed to date shall be based on the actual or estimated quantities

of work completed and on the unit prices contained in the agreement (or cost breakdown approved pursuant to section 7b relating to lump sum bids) and adjusted by approved change orders. The value of materials properly stored on the site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be available for inspection by the Engineer.

(2) The Contractor shall be responsible for the care and protection of all materials and work upon which payments have been made until final acceptance of such work and materials by the Owner. Such payments shall not constitute a waiver of the right of the Owner to require the fulfillment of all terms of the Contract and the delivery of all improvements embraced in this contract complete and satisfactory to the Owner in all details.

(3) This clause applies to contracts when the Owner is a District or Authority. The retainage shall be ten percent of the amount otherwise due until at least fifty percent of the work has been completed. After the project is fifty percent completed, and if the District or Authority's Board finds that satisfactory progress is being made, then the District may authorize any of the remaining progress payments to be made in full. The District is not obligated to pay interest earned on the first 50% of work completed (Texas Water Code Sec. 49.276(d)).

(4) The five percent (5%) retainage of the progress payments due to the Contractor may not be reduced until the building of the project is substantially complete and a reduction in the retainage has been authorized by the TWDB.

(b) Withholding Payments. The Owner may withhold from any payment otherwise due the Contractor so much as may be necessary to protect the Owner and if so elects may also withhold any amounts due from the Contractor to any Subcontractors or material dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the Owner and will not require the Owner to determine or adjust any claims or disputes between the Contractor and their Subcontractors or Material dealers, or to withhold any monies for their protection unless the Owner elects to do so. The failure or refusal of the Owner to withhold any monies from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this contract.

(c) Payments Subject to Submission of Certificates. Each payment to the Contractor by the Owner shall be made subject to submission by the Contractor of all written certifications required of the Contractor, their Subcontractors and other general and special conditions elsewhere in this contract.

(d) Final Payment.

(1) Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract or as a termination settlement under this contract the Contractor shall execute and deliver to the Owner a release of all claims against the Owner arising under, or by virtue of, this contract, except claims which are specifically exempted by the Contractor to be set forth therein. Unless otherwise provided in this contract, by state law or otherwise expressly agreed to by the parties to this contract, final payment under this contract or settlement upon termination of this contract shall not constitute a waiver of the Owner's claims against the Contractor or their sureties under this contract or applicable performance and payment bonds.

(2) After final inspection and acceptance by the Owner of all work under the Contract, the Contractor shall prepare their requisition for final payment which shall be based upon the carefully measured or computed quantity of each item of work at the applicable unit prices stipulated in the Agreement or cost breakdown (if lump sum), as adjusted by approved change orders. The total amount of the final payment due to the Contractor under this contract shall be the amount computed as described above less all previous payments.

(3) The retainage and its interest earnings, if any, shall not be paid to the Contractor until the TWDB has authorized a reduction in, or release of, retainage on the contract work.

(4) Withholding of any amount due to the Owner, under general and/or special conditions regarding "Liquidated Damages" shall be deducted from the final payment due the Contractor.

13. Archaeological Discoveries and Cultural Resources

No activity which may affect properties listed or properties eligible for listing in the National Register of Historic Places or eligible for designation as a State Archeological Landmark is authorized until the Owner has complied with the provisions of the National Historic Preservation Act and the Antiquities Code of Texas. The Owner has previously coordinated with the appropriate agencies and impacts to known cultural or archeological deposits have been avoided or mitigated. However, the Contractor may encounter unanticipated cultural or archeological deposits during construction.

If archeological sites or historic structures which may qualify for designation as a State Archeological Landmark according to the criteria in 13 TAC Chapter 26, or that may be eligible for listing on the National Register of Historic Places in accordance with 36 CFR Part 800, are discovered after construction operations are begun, the Contractor shall immediately cease operations in that particular area and notify the Owner, the TWDB, and the Texas Historical Commission, 1511 N. Colorado St. , P. O. Box 12276, Capitol Station, Austin, Texas 78711-2276. The Contractor shall take reasonable steps to protect and preserve the discoveries until they have been inspected by the Owner's representative and the TWDB. The Owner will promptly coordinate with the State Historic Preservation Officer and any other appropriate agencies to obtain any necessary approvals or permits to enable the work to continue. The Contractor shall not resume work in the area of the discovery until authorized to do so by the Owner.

14. Endangered Species

No activity is authorized that is likely to jeopardize the continued existence of a threatened or endangered species as listed or proposed for listing under the Federal Endangered Species Act (ESA), and/or the State of Texas Parks and Wildlife Code on Endangered Species, or to destroy or adversely modify the habitat of such species.

If a threatened or endangered species is encountered during construction, the Contractor shall immediately cease work in the area of the encounter and notify the Owner, who will immediately implement actions in accordance with the ESA and applicable State statutes. These actions shall include reporting the encounter to the TWDB, the U.S. Fish and Wildlife Service, and the Texas Parks and Wildlife Department, obtaining any necessary approvals or permits to enable the work to continue, or implement other mitigation actions. The Contractor shall not resume construction in the area of the encounter until authorized to do so by the Owner.

15. Hazardous Materials

Materials utilized in the project shall be free of any hazardous materials, except as may be specifically provided for in the specifications.

If the Contractor encounters existing material on sites owned or controlled by the Owner or in material sources that are suspected by visual observation or smell to contain hazardous materials, the Contractor shall immediately notify the Engineer and the Owner. The Owner will be responsible for the testing and removal or disposal of hazardous materials on sites owned or controlled by the Owner. The Owner may suspend the work, wholly or in part during the testing, removal or disposal of hazardous materials on sites owned or controlled by the Owner.

16. Changes

*Provisions identified with an asterisk below are consistent with Local Government Code 271.060. Counties and Municipalities may modify the identified provisions, when applicable, to conform to Local Government Code 262.031 (Counties) or 252.048 (Municipalities).

- (a) The Owner may at any time, without notice to any surety, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including but not limited to changes:
 - (1) In the specifications (including drawings and designs);
 - (2) In the time, method or manner of performance of the work;
 - (3) To decrease or increase the quantity of work to be performed or materials, equipment or supplies to be furnished;
- (b) *The total price of a contract may not be increased by a change order unless provision has been made for the payment of the added cost by the appropriation of current funds or bond funds for that purpose, by the authorization of the issuance of certificates, or by a combination of those procedures.
- (c) *A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract, with an original contract price of less than \$1 million, increases the contract amount to \$1 million or more, subsequent change orders may not increase the revised contract amount by more than 25 percent.
- (d) *A governing body may grant authority to an official or employee responsible for purchasing or for administering a contract to approve a change order that involves an increase or decrease of \$50,000 or less.
- (e) Changes that involve an increase in price will be supported by documentation of the cost components. For projects funded through the EDAP program, or with grant proceeds, TWDB staff may request this information to be provided in a format equivalent to the Cost and Pricing Information form (No. WRD-277).
- (f) Any change orders involving a change in the project requiring a relocation of project components, sizing, or process may require additional environmental approval. A map and description of the proposed changes should be sent to the TWDB Environmental

17. Operation and Maintenance Manuals and Training

- (a) The Contractor shall obtain installation, operation, and maintenance manuals from manufacturers and suppliers for equipment furnished under the contract. The Contractor shall submit three copies of each complete manual to the Engineer within 90 days after approval of shop drawings, product data, and samples, and not later than the date of shipment of each item of equipment to the project site or storage location.
- (b) The Owner shall require the Engineer to promptly review each manual submitted, noting necessary corrections and revisions. If the Engineer rejects the manual, the Contractor shall correct and resubmit the manual until it is acceptable to the Engineer as being in conformance with the design concept of the project and for compliance with information given in the contract documents. Owner may assess Contractor a charge for reviews of same items in excess of three (3) times. Such procedure shall not be considered cause for delay.
- (c) Acceptance of manuals by Engineer does not relieve Contractor of any requirements of terms of Contract.
- (d) The Contractor shall provide the services of trained, qualified technicians to check final equipment installation, to assist as required in placing same in operation, and to instruct operating personnel in the proper manner of performing routine operation and maintenance of the equipment.
- (e) Operations and maintenance manuals specified hereinafter are in addition to any operation, maintenance, or installation instructions required by the Contractor to install, test, and start-up the equipment.
- (f) Each manual is to be bound in a folder and labeled to identify the contents and project to which it applies. The manual shall contain the following applicable items:
 - (1) A listing of the manufacturer's identification, including order number, model, serial number, and location of parts and service centers.
 - (2) A list of recommended stock of parts, including part number and quantity.

- (3) Complete replacement parts list.
- (4) Performance data and rating tables.
- (5) Specific instructions for installation, operation, adjustment, and maintenance.
- (6) Exploded view drawings for major equipment items.
- (7) Lubrication requirements.
- (8) Complete equipment wiring diagrams and control schematics with terminal identification.

18. As-built Dimensions and Drawings

- (a) Contractor shall make appropriate daily measurements of facilities constructed and keep accurate records of location (horizontal and vertical) of all facilities.
- (b) Upon completion of each facility, the Contractor shall furnish the Owner with one set of direct prints, marked with red pencil, to show as-built dimensions and locations of all work constructed. As a minimum, the final drawings shall include the following:
 - (1) Horizontal and vertical locations of work.
 - (2) Changes in equipment and dimensions due to substitutions.
 - (3) "Nameplate" data on all installed equipment.
 - (4) Deletions, additions, and changes to scope of work.
 - (5) Any other changes made.

19. Close-Out Procedures

To close-out the contract and release final retainage, the following steps must be completed:

- (a) TWDB Staff must conduct a construction contract final inspection (CCFI).
- (b) The following submittals must be received, reviewed, and accepted by TWDB:
 - (1) The final change order, adjustment of quantities, or a statement that all change orders have previously been submitted and there will be no more change orders;
 - (2) The final pay request from the Contractor;
 - (3) An affidavit by the Contractor that all bills have been paid;
 - (4) Certification by the consulting Engineer that the work has been completed and was constructed in accordance with the approved plans and specifications and sound engineering principles and construction practices;
 - (5) Acceptance of the project by the Owner in the form of a written resolution or other formal action;
 - (6) Notification of the beginning date of the warranty period for the contract; and
 - (7) Confirmation that the Owner has received as-built drawings from the Contractor.
- (8) Certificate of Compliance with U.S. Iron and Steel Requirements (TWDB-1105A)
- (c) TWDB will issue a Certificate of Approval allowing the release of retainage.

AGENDA ITEM XVII



GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

DATE: November 6, 2024

SUBJECT: AGENDA ITEM NO. XVII

PREPARED AND SUBMITTED BY: Paul M. Sigle, General Manager

CONSIDER AND ACT UPON ADMINISTRATIVE SERVICE CONTRACT WITH THE RED RIVER GROUNDWATER CONSERVATION DISTRICT

ISSUE

Administrative Services contract with the Red River Groundwater Conservation District ("District") for 2025.

BACKGROUND

The District Board of Directors authorized the 2025 Administrative Services contract with Greater Texoma Utility Authority at their meeting on October 17, 2024. Since the beginning of the relationship, the Authority and the District enter into one-year agreements for the services. The District was given the option of another one-year or a five-year agreement, and the District's Board decided to proceed with a five-year agreement. The Authority has provided administrative services to the District since 2010. The current contract expires on December 31, 2024.

CONSIDERATIONS

The administrative services provided to the District are paid for by the District and have been a great help in offsetting the administrative costs of the Authority. This agreement provides a significantly more cost-effective mechanism for operating the District than procuring an office and hiring full-time staff. This contract was approved at the District's October 17, 2024. Board Meeting and the costs for these services have been budgeted in the District's 2025 budget.

STAFF RECOMMENDATIONS

The Authority Staff recommend authorizing the execution of the Administrative Services Contract with the Red River Groundwater Conservation District.

ATTACHMENTS

Administrative Services Contract
Scope of Services

**ADMINISTRATIVE SERVICES AGREEMENT
BETWEEN THE GREATER TEXOMA UTILITY AUTHORITY AND
THE RED RIVER GROUNDWATER CONSERVATION DISTRICT**

STATE OF TEXAS	§	STATE OF TEXAS
	§	
GREATER TEXOMA UTILITY AUTHORITY	§	RED RIVER GROUNDWATER
	§	CONSERVATION DISTRICT

This Agreement, made and entered into by and between the Greater Texoma Utility Authority, hereinafter referred to as ("Authority") and the Red River Groundwater Conservation District in Fannin and Grayson Counties, Texas, hereinafter referred to as ("District").

WITNESSETH:

WHEREAS, the District is experiencing a need for administrative services in order to achieve the objectives provided in its enabling legislation and Chapter 36 of the Texas Water Code; and

WHEREAS, the Authority has staff experienced in water related activities; and

WHEREAS, the District has determined that it is in the best interest of the District to engage the Authority to assist in providing administrative assistance in establishing the District's programs and activities; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and of the terms and conditions hereinafter set forth, the parties agree as follows:

1. The Scope of Services. The term "Scope of Services" as used herein refers to the Scope of Services made and submitted by the Authority to the District as amended, modified, or supplemented herein. (attached hereto as "Exhibit A")

The Scope of Services is a general guideline for the commencement of administrative activities and related services. Said Scope of Services is amended and superseded by specific terms of this Agreement, which may be amended in writing from time to time upon agreement of the Authority and the District.

2. Administrative Services. The Authority shall perform administrative services for the District at the direction of the District Board, and the District Board President to the extent that the Board President's direction does not conflict with any District, State or Federal Laws, or Authority rule, policy, or order of the District or Authority Board. Such directions from the District Board and Board President regarding the performance of administrative services shall supplement any specific services delineated in this Agreement or the attached Scope of Services. Administrative services shall include, but not be limited to recording and communication services, database collection and well registration services, as well as assistance in developing personnel policies, operating procedures, refining of temporary rules and developing a management plan. Administrative services shall also include performance of the duties of the "General Manager" as set forth in the District's District Rules, Bylaws, rules and orders, subject to the directions and orders of the District Board and Board President. The Authority shall not retain outside professional services to be reimbursed by the District without prior authorization from the

District. The District Board shall retain ultimate authority in decision-making under the District's Rules.

3. Charges and Payment. Monthly payments shall be made by the District to the Authority for actual costs incurred including hourly wages and benefits of the Authority employees, insurance costs, extra travel costs to and from the District, overhead, and other direct costs, including fees for professional services. The Authority shall invoice the District for any such services performed hereunder during the preceding thirty (30) day period, said invoice to be presented by the 25th day of the following month. Said invoice shall be itemized in such a manner that the District may determine the reasonableness of the charges submitted. The District shall pay the full amount of invoices received from the Authority by the tenth day of the month following receipt of any such invoice unless notice of protest or disagreement is given to the Authority within seven (7) business days after receipt of said invoice. Failure of the Authority and the District to agree upon payment of such invoice within thirty (30) days of protest shall be grounds for termination under Paragraph 4 unless the parties can otherwise agree in writing to a schedule of payment.

4. Terms of Agreement. The Term of this Agreement shall be for a five (5) year period commencing as of the effective date of this Agreement, which shall be the later date that the District or the Authority executes this Agreement. This Agreement may be renewed upon expiration of the Term of this Agreement by written agreement between the parties. Either the District or the Authority may terminate this agreement for any reason at any time upon ninety (90) days written notice of termination to the other party. Should the Authority or the District elect to terminate this Agreement, the District shall remain responsible for its share of any costs for which it is obligated that remain existing and unpaid as of the effective date of termination.

5. Indemnity. Neither the District nor the Authority shall be liable to the other for loss, either direct or consequential. All such claims for any and all loss, however caused, are hereby waived. Said absence of liability shall exist whether or not the damage, destruction, injury, or loss of life is caused by the negligence of either party or of any of their respective agents, servants, or employees. It is contemplated that each party shall look to its respective insurance carriers for reimbursement of any such loss. Neither party shall have any interest or claim in the other's insurance policy or policies, or the proceeds thereof, unless it is specifically covered therein as an additional insured. Nothing contained in this Agreement is intended by either party to create a partnership or joint venture, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint any party as an agent of any other party, for any purpose whatsoever. It is understood and agreed that by execution of this Agreement, no governmental powers or immunities are waived or surrendered by either the District or the Authority.

6. Independent Contractor. The Authority is, and shall perform this agreement as, an independent contractor, and as such, shall have and maintain complete control over all of its employees, subcontractors, agents, and operations. Neither the Authority nor anyone employed by it shall be, represent, act, purport to act or be deemed to be the agent, representative, subcontractor, employee, officer or servant of the District. No employee or agent of the District shall be, represent, act, or purport to act or be deemed to be the agent, representative, subcontractor, employee, officer, or servant of the Authority.

7. Surety Bond. Any officer, employee, or agent of the Authority who collects, pays, or handles any funds of the District shall furnish good and sufficient bond payable to the District in an amount determined by the District Board to safeguard the District. The bond shall be conditioned on the faithful performance of that person's duties and on accounting for all funds and property of the District. The bond shall be signed or endorsed by a surety

company authorized to do business in Texas. The District Board hereby determines that the initial amount of each bond shall be set at \$50,000.00, and may alter the amount pursuant to a minute order or resolution adopted at a properly noticed meeting. The District Board shall provide the Authority with notice of any such alternative amount. The District shall reimburse the Authority for costs incurred in connection with providing administrative services to the District. Any such out-of-pocket costs exceeding \$2,500.00 per year shall require prior approval of the District Board. The Authority shall limit the collection, payment, or handling of District funds only to the officers, employees, and agents of the Authority who have been bonded in accordance with this paragraph.

8. No Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties hereto, and all duties and responsibilities undertaken pursuant to this Agreement shall be for the sole and exclusive benefit of the parties hereto, and not for the benefit of any other party. There are no third party beneficiaries to this Agreement.

9. Assignment. This Agreement shall not be assignable except at the written consent of the Authority and the District hereto, and if so assigned, shall extend to and be binding upon the successors and assigns of the Authority and the District thereto.

10. Notices. All notices given under this agreement shall be deemed properly served if delivered in writing personally, or sent by certified mail to Mark Patterson, President, Red River Groundwater Conservation District, PO Box 1214, Sherman, TX 75091-1214, and to the Authority addressed to the President, Greater Texoma Utility Authority, 5100 Airport Drive, Denison, TX 75020-8448. Date of service of notice served by mail shall be the date on which such notice is deposited in a post office of the United States Postal Service. Either party may change their respective addresses for notice by providing notice of such address change in the aforesaid manner with specific reference to this Agreement.

11. Authority Financial Obligations. Nothing in this agreement shall be construed to require the Authority to expend funds from any source other than the revenues received hereunder. All costs required by valid rules, regulations, laws, or orders passed or promulgated by the United States of America, the State of Texas, and regulatory or judicial branches thereof having lawful jurisdiction shall be the responsibility of the District.

12. Entire Agreement. This agreement embodies the entire understanding between the Authority and the District hereto relative to the subject matter hereof and shall not be modified, changed or altered in any respect except in writing signed by the Authority and the District.

13. Governing Law and Severability. This agreement shall be governed by the laws of the State of Texas and the venue in Grayson County, Texas. The provisions of this agreement shall be deemed to be severable and the invalidity of or inability to enforce other provisions hereof. In the event of a conflict between the terms of this Agreement and any exhibit attached hereto, the terms and conditions of this Agreement shall take precedence. Venue shall be in Grayson County, Texas.

14. Interpretation. Although drawn by the Authority, this contract shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party. Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused the signatures of their legally authorized representatives to be affixed hereto, having been duly approved by the respective governing bodies and effective on the last date of execution as set forth below.

GREATER TEXOMA UTILITY AUTHORITY
5100 AIRPORT DRIVE
DENISON TX 75020-8448

RED RIVER GCD
PO BOX 1214
SHERMAN TX 75091-1214

BY: _____
President

BY:  _____
President

DATE: _____

DATE: 10-17-24

ATTEST:

ATTEST:

Secretary-Treasurer

 _____
Secretary-Treasurer

Exhibit "A"

Scope of Services – [Dated October 11, 2024](#)

- I. Recording and Communication Services
 - Act as point of contact for well owners by answering questions regarding rules
 - Provide all postings for meetings
 - Provide notice postings in timely manner
 - Mail notices and rules as needed
 - Prepare agenda after consultation with President
 - Prepare and e-mail draft minutes to Board of Directors
 - Complete minutes after review by Board of Directors
 - Maintain website as needed
 - Establish and maintain paper and electronic filing system
 - Provide written communications to well owners, TWDB and others as needed
 - Draft correspondence for signature by designated persons
- II. Database Collection for Registered and Non-Registered Wells in the District
 - Work with chosen database development firm to create the well registration system for the District
 - Operate and maintain well registration website and map, which will depict wells in each District county
 - Work with well owners to register wells and collect well registration fees
 - Employ field technician to locate and verify wells in each District county
- III. Development of Personnel and Other Policies
 - Prepare and present drafts of personnel policies for review by appropriate committee and Board of Directors
 - Prepare and present drafts of operating procedures for future staff to follow
 - Assist Board of Directors in training personnel for District at appropriate time
- IV. Assistance for Rule Development
 - Assist Board of Directors in development of permanent rules
 - Assist Board of Directors in the development and implementation of a Management Plan
- V. Accounting
 - Provide accounting services including keeping financial records, issuing invoices, paying invoices, etc.
 - Prepare and present monthly financial statements
 - Assist Board of Directors with development of budget
 - Prepare and provide documentation for audit

Approach to Provision of Services

- Staff is able to work diplomatically with well owners and others
- Use 800 number on all letterhead and other communication for calls to make contact easier for well owners
- Well-acquainted with TWDB staff
- Utilize assistance from Texas Alliance of Groundwater District members
- Coordinate District activities with GMA 8 activities
- Develop records and procedures in a manner that will make for easy transition when desired

Estimated Cost of Services

The Authority is a public agency. The Board's approach to provision of services has always been to seek reimbursement for the costs of providing the services requested. These costs include:

- The salary and employer personnel costs (social security, worker's compensation insurance, retirement, and accounting, etc.)
- Mileage for travel required at the rate set annually by IRS
- Any direct expenses required to provide the services requested (telephone charges, copies, postage, and similar expenses directly associated with the project)
- The contract for services will not exceed \$90,000 for administration and accounting, \$55,000 for the field technicians, and \$35,000 for field permitting specialist during the first year of the Term, and thereafter not more than five percent (5%) from the previous year thereafter during the Term, without prior authorization from the Board of Directors
- Field personnel costs will be an expense of the District, which will include salary, benefits, transportation and other costs directly associated with verification of well and pumping information
- Billing Rates, which may be adjusted each year during the Term as necessary to recoup actual costs as set forth herein and the Agreement:
 - General Manager – \$116 per hour
 - Project Coordinator - \$40 per hour
 - Sr Project Coordinator - \$61 per hour
 - Administrative Assistant - \$37 per hour
 - Finance Officer - \$93 per hour
 - Sr Accountant - \$56
 - Accountants - \$35 per hour
 - Office Clerk - \$36 per hour
 - Field Technician - \$56 per hour
 - Groundwater Technical Lead - \$52 per hour
 - Operation Supervisor - \$59 per hour

AGENDA ITEM XVIII



GREATER TEXOMA UTILITY AUTHORITY

AGENDA COMMUNICATION

DATE: November 6, 2024

SUBJECT: AGENDA ITEM NO. XVIII

PREPARED AND SUBMITTED BY: Paul M. Sigle, General Manager

CONSIDER AND ACT UPON A POLICY ON COVERED APPLICATIONS AND PROHIBITED TECHNOLOGY.

ISSUE

Consider and act upon a Policy on covered applications and prohibited technology.

BACKGROUND

The 88th Texas Legislature passed Senate Bill 1893 prohibiting the use of certain social media applications and services on governmental entity devices and directing Texas Department of Information Resources (DIR) and Department of Public Safety (DPS) to develop a model policy for the prohibition of Covered Applications. Government Code Chapter 620 requires governmental entities as defined to ban the social media service TikTok (Covered Applications) and any successor application developed by ByteDance. This requirement applies to state and local government entities.

The prohibited software, applications, developers, hardware, equipment, and manufacturers as of 1/23/2023 are: Alipay, ByteDance Ltd., CamScanner, Kaspersky, QQ Wallet, SHAREit, Tencent Holdings Ltd., TikTok, VMate, WeChat, WeChat Pay, WPS Office, Dahua Technology Company, Huawei Technologies Company, Hangzhou, Hikvision Digital Technology Company, Hytera Communications Corporation, SZ DJI Technology Company, ZTE Corporation, or any subsidiary or affiliate of an entity listed above.

CONSIDERATIONS

Local government entities like the Authority have until November 20, 2024, to adopt their own Covered Applications Policy. The draft policy is based on the model policy from DIR.

STAFF RECOMMENDATIONS

The Authority Staff recommend adopting the draft policy on Covered Applications and Prohibited Technology.

ATTACHMENT

Draft Policy



Greater Texoma Utility Authority

Covered Applications and Prohibited Technology Policy

Date: November 11, 2024

Version: 1.0

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INSTRUCTIONS FOR GOVERNMENTAL ENTITY

This document is intended to serve as a model policy for Texas governmental entities to modify and adopt to fulfill the requirements of Government Code Chapter 620 and the Office of the Governor's directive regarding the installation and use of prohibited technologies on personal devices used to conduct state business. Entities should review this document and implement any organization-specific components as necessary. Sections in the policy **[contained in bold brackets]** are intended to be replaced by the entity implementing the policy.

Please direct questions regarding this model policy to GRC@dir.texas.gov.

1.0 INTRODUCTION

1.1 PURPOSE

On December 7, 2022, Governor Greg Abbott required all state agencies to ban the video-sharing application TikTok from all state-owned and state-issued devices and networks over the Chinese Communist Party's ability to use the application for surveilling Texans. Governor Abbott also directed the Texas Department of Public Safety (DPS) and the Texas Department of Information Resources (DIR) to develop a plan providing state agencies guidance on managing personal devices used to conduct state business. Following the issuance of the Governor's directive, the 88th Texas Legislature passed [Senate Bill 1893](#), which prohibits the use of covered applications on governmental entity devices.

As required by the Governor's directive and Senate Bill 1893, this model policy establishes a template that entities subject to the directive or bill may mimic to prohibit the installation or use of covered applications or prohibited technologies on applicable devices.

1.2 SCOPE AND APPLICATION

Due to distinctions in requirements between the Governor's directive and SB 1893, Sections 2 and 3 apply to distinct organizations. Where appropriate, each section will identify the unique entities to whom the section applies and the appropriate definitions.

Governmental entities, including local governments, must adopt a covered applications policy as described by [Section 2.0](#).

State agencies to whom the Governor issued his December 7, 2022, directive must adopt a prohibited technology policy as described by [Section 3.0](#). To the extent a state agency is also subject to the requirements of Senate Bill 1893, that agency must also adopt a covered applications policy as described by [Section 2.0](#).

2.0 COVERED APPLICATIONS POLICY FOR GOVERNMENTAL ENTITIES

2.1 SCOPE AND DEFINITIONS

Pursuant to Senate Bill 1893, governmental entities, as defined below, must establish a covered applications policy:

- A department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Education Code Section 61.003.
- The supreme court, the court of criminal appeals, a court of appeals, a district court, or the Texas Judicial Council or another agency in the judicial branch of state government.
- A political subdivision of this state, including a municipality, county, or special purpose district.

This policy applies to all Greater Texoma Utility Authority (Authority) full- and part-time employees, contractors, paid or unpaid interns, and other users of government networks. All Authority employees are responsible for complying with this policy.

A covered application is:

- The social media service TikTok or any successor application or service developed or provided by ByteDance Limited, or an entity owned by ByteDance Limited.
- A social media application or service specified by proclamation of the governor under Government Code Section 620.005.

2.2 COVERED APPLICATIONS ON GOVERNMENT-OWNED OR LEASED DEVICES

Except where approved exceptions apply, the use or installation of covered applications is prohibited on all government-owned or -leased devices, including cell phones, tablets, desktop and laptop computers, and other internet-capable devices.

The Authority will identify, track, and manage all government-owned or -leased devices including mobile phones, tablets, laptops, desktop computers, or any other internet-capable devices to:

- a. Prohibit the installation of a covered application.
- b. Prohibit the use of a covered application.
- c. Remove a covered application from a government-owned or -leased device that was on the device prior to the passage of S.B. 1893 (88th Leg, R.S.).
- d. Remove an application from a government-owned or -leased device if the Governor issues a proclamation identifying it as a covered application.

The Authority will manage all government-owned or leased mobile devices by implementing the security measures listed below:

- a. Any employee who installs or uses a prohibited application listed by the Texas Department of Information Resources on an Authority owned or leased device will be subject to disciplinary action in accordance with the Authority's Employee policies.
- b. All new Authority owned or leased devices will be inspected by the General Manager or employee's direct supervisor to ensure the device does not have any prohibited application installed on the device.
- c. All Authority owned or leased devices are subject to inspection at any time by the General Manager or employee's direct supervisor.

2.3 ONGOING AND EMERGING TECHNOLOGY THREATS

To provide protection against ongoing and emerging technological threats to the government's sensitive information and critical infrastructure, DPS and DIR will regularly monitor and evaluate additional social media applications or services that pose a risk to this state.

DIR will annually submit to the Governor a list of social media applications and services identified as posing a risk to Texas. The Governor may proclaim items on this list as covered applications that are subject to this policy.

If the Governor identifies an item on the DIR-posted list described by this section, then the Authority will remove and prohibit the covered application.

The Authority may also prohibit social media applications or services in addition to those specified by proclamation of the Governor.

2.4 BRING YOUR OWN DEVICE POLICY

If the Authority has a "Bring Your Own Device" (BYOD) program, then the Authority may consider prohibiting the installation or operation of covered applications on employee-owned devices that are used to conduct government business.

2.5 COVERED APPLICATION EXCEPTIONS

The Authority may permit exceptions authorizing the installation and use of a covered application on government-owned or -leased devices consistent with the authority provided by Government Code Chapter 620.

Government Code Section 620.004 only allows the Authority to install and use a covered application on an applicable device to the extent necessary for:

- (1) Providing law enforcement; or
- (2) Developing or implementing information security measures.

If the Authority authorizes an exception allowing for the installation and use of a covered application, the Authority must use measures to mitigate the risks posed to the state during the application's use.

The Authority must document whichever measures it took to mitigate the risks posed to the state during the use of the covered application.

3.0 POLICY COMPLIANCE

The Authority will verify compliance with this policy through various methods, including but not limited to, IT/security system reports and feedback to leadership.

An employee found to have violated this policy may be subject to disciplinary action, including termination of employment.

4.0 POLICY REVIEW

This policy will be reviewed and updated as necessary to reflect changes in state law, additions to applications identified under Government Code Section 620.006, updates to the prohibited technology list posted to DIR's website, or to suit the needs of the Authority.

ADJOURN