



Notice is hereby given of a Regular Meeting of the Nacogdoches City Council to be held **October 6, 2015, beginning at 5:30 p.m.** in the Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action.

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

1. Call to order.
2. **PRESENTATIONS AND RECOGNITIONS:**
  - A. None
3. Items to be removed from Consent Agenda.
4. **CONSENT AGENDA:** Items included under the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
  - A. Consider approval of minutes from special session of September 8, 2015 and regular session of September 15, 2015. (City Secretary)
  - B. Consider approval of 2016 Routine Airport Maintenance Program (RAMP) Grant. (Airport Manager)

**REGULAR AGENDA:**

5. Consider contract award for Depository Bank Services. (Finance Director)
6. Consider ordinance amending Chapter 34 "Environment" Article II. "Weeds and Other Offensive Accumulations" of the Code of Ordinance of the City of Nacogdoches, Texas. (Fire Division Chief)
7. Consider award of Debt Collection Service Contract. (Finance Director)
8. Consider Convention and Visitors Bureau contract extension for tourism and convention marketing services. (City Manager)
9. Consider annexation of approximately 35 acres located west of the current city limits at 3805 NW Stallings Drive. (Municipal Services Director)
10. Consider process for replacing retiring City Attorney. (City Manager)
11. Consider authorization to purchase Asphalt Zipper 4' milling machine. (Public Works Manager)
12. Consider authorization to purchase Kubota 108hp Tractor with Boom Mower. (Public Works Manager)
13. Consider approval for the purchase of five (5) patrol vehicles. (Police Chief)

**For the convenience of the audience, the Council may conduct Executive Session deliberation in the first floor conference room, Room 112, of City Hall. Re-opening of the open session for action, if any, on Executive Session items will be in City Council Chambers. Regular Session agenda items appropriate for Executive Session consideration may be moved into Executive Session for deliberation, but not action, upon proper announcement at the meeting by the presiding officer.**

14. **EXECUTIVE SESSION:**

- A. Personnel - Discuss appointment of City Secretary as per G.C. 551.074.
- B. Deliberation regarding Economic Development negotiations under Local Government Code Section 551.087 as follows:
  - 1. Discuss or deliberate regarding commercial or financial information the City received from business projects the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations; and
  - 2. Deliberate the offer of a financial or other incentive to business prospects described by Subdivision 1 above.
- 15. Open for action, if any, on Item 14-B-1.
- 16. Open for action, if any, on Item 14-B-2.
- 17. Open for action, if any, on Item 14-A.
- 18. Adjourn.



Jan Vinson, Executive Assistant



This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact the Attorney General of Texas at 1-800-252-8011; the City Secretary at 936/559-2504 or visit the City of Nacogdoches web site at [www.ci.nacogdoches.tx.us](http://www.ci.nacogdoches.tx.us).

The Nacogdoches City Council Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (936) 559-2506 or FAX (936) 559-2912 for further information.

**CERTIFICATION**

I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on \_\_\_\_\_, October \_\_\_\_\_, 2015 at 5:00 p.m. and remained posted until meeting convened.

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Jan Vinson, Executive Assistant

**ITEM NO. 4-A**

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** CONSENT AGENDA: Consider approval of minutes special session of September 8, 2015 and regular meeting of September 15, 2015.

**MEETING DATE:** October 6, 2015

**CITY CONTACT:** Jan Vinson  
City Secretary  
936-559-2506

**ATTACHMENTS:** Minutes

**MINUTES**  
**Special Session**  
**Nacogdoches City Council**  
**September 8, 2015 – 5:00 p.m.**  
City Council Room – City Hall  
202 E. Pilar Street

**DRAFT**

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**Regular Session:**

**Those Present:**

Mayor Roger Van Horn; Council members Shelley Brophy, Roy Boldon, Mike Keller and David Norton; City Attorney Rob Atherton and City Secretary Lila Fuller.

**1. Call to Order.**

Mayor Van Horn at 5:00 p.m. A quorum was established.

**2. EXECUTIVE SESSION:**

- A. Deliberation regarding Economic Development negotiations under Local Government Code Section 551.087 as follows:
1. Discuss or deliberate regarding commercial or financial information that the City has received from a business projects that the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations; and
  2. Deliberate the offer of a financial or other incentive to business prospects described by Subdivision 1 above.

*The City Council went into Executive Session at 5:00 p.m.*

**3. Open for action, if any, on Item 2-A-1.**

No action taken.

**4. Open for action, if any, on Item 2-A-2.**

No action taken.

**5. Adjourn.**

Mayor Van Horn adjourned meeting at 5:25 p.m.

\_\_\_\_\_  
Mayor Roger Van Horn  
City Council  
City of Nacogdoches

ATTEST:

\_\_\_\_\_  
Lila Fuller, City Secretary

**Minutes unofficial until approved by City Council**

**MINUTES**  
**Regular Session**  
**Nacogdoches City Council**  
**September 15, 2015 – 5:30 p.m.**  
City Council Room – City Hall  
202 E. Pilar Street

**DRAFT**

**Regular Session:**

**Those Present:**

Mayor Roger Van Horn; Council members Shelley Brophy, Roy Boldon, Mike Keller and David Norton; City Manager Jim Jeffers, City Attorney Rob Atherton and City Secretary Lila Fuller.

**1. Call to Order.**

Mayor Van Horn at 5:30 p.m. A quorum was established.

**2. PRESENTATIONS AND RECOGNITIONS:**

A. None.

**3. Items to be removed from Consent Agenda.**

None.

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

A. Consider approval of minutes from the regular session of September 8, 2015.

*Approved as presented.*

Council member Norton moved to approve the consent agenda as presented. The motion was seconded by Council member Keller and unanimously passed.

**REGULAR AGENDA:**

**5. PUBLIC HEARING: Consider annexation of approximately 35 acres west of current city limits at 3805 NW Stallings Drive.**

Larissa Philpot, city planner, stated this was the second of two hearings to receive public comment on annexation of 35 acres located west of the current city limits at 3805 NW Stallings Drive, better known as the Exposition Center arena and barns owned by Nacogdoches County. She stated final consideration of the annexation would be held on October 6.

Mayor Van Horn opened the public hearing.

There being no one else present, the public hearing was closed.

*No action necessary.*

**6. EXECUTIVE SESSION:**

A. Deliberation regarding Economic Development negotiations under Local Government Code Section 551.087 as follows:

1. Discuss or deliberate regarding commercial or financial information that the City has received from a business projects that the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations; and

**Minutes unofficial until approved by City Council**

2. Deliberate the offer of a financial or other incentive to business prospects described by Subdivision 1 above.

*No Executive Session was held.*

**7. Open for action, if any, on Item 6-A-1.**

No action taken.

**8. Open for action, if any, on Item 6-A-2.**

No action taken.

**9. Adjourn.**

Mayor Van Horn adjourned meeting at 5:33 p.m.

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Mayor Roger Van Horn  
City Council  
City of Nacogdoches

ATTEST:

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Lila Fuller, City Secretary

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** CONSENT AGENDA: Consider approving 2016 Routine Airport Maintenance Program (RAMP) Grant project proposal.

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** RAMP is a 50/50 match grant. Proposed projects for FY 2015-2016 total \$66,000. The 2016 RAMP project proposal includes the following:

1	Maintain Storm Water Pollution Prevention Plan (SWPPP)	(Mandatory) SWPPP maintenance.	\$ 6,500
2	Update Storm Water Pollution Prevention Plan (SWPPP)	(Mandatory) SWPPP 5-Year Updated Plan.	\$ 3,000
3	Herbicide/Pesticide	(Mandatory) Bi-yearly application to airport grounds, will include fence line.	\$ 13,000
4	Airport Light Repair and Maintenance	(Mandatory) Runway, taxiway and ramp lighting repair and maintenance.	\$ 8,000
5	Parking Lot/Driveway Maintenance	Resurface and maintenance on existing parking lot and driveways.	\$ 9,500
6	Carpet Replacement	Replace 10-year-old carpet, which is in poor condition, in Pilots Lounge.	\$ 4,000
7	Airport Signage	Repair existing signage. Add new signage at Hwy 7 W. The City has an opportunity to enter into MOU with ATO to put a sign on their property at Hwy 7 W.	\$ 20,000
8	Light to Signage	Provide lights to new signage at Hwy 7 W.	\$ 2,000
	Total Project Cost:		\$ 66,000

**COST:** \$33,000 City Match (50%)

**FUNDING FROM CURRENT BUDGET**

**FUNDING:** \$20,000 – FY 2015-2016 Airport Construction Fund (14.13)  
\$13,000 – FY 2014-2015 CIP Carryover - Airport Construction Fund (14.13)

**SCHEDULE:** Implemented upon approval. Projects completed by August 30, 2016.

**RECOMMENDED ACTION:** It is recommended the City of Nacogdoches approve the RAMP Grant project proposal.

**CITY CONTACT:** Mary Uresti, Airport Manager, (936) 560-9567  
[muresti@ci.nacogdoches.tx.us](mailto:muresti@ci.nacogdoches.tx.us)

**ATTACHMENTS:** None.

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider contract award for Depository Bank Services.

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** The City of Nacogdoches received five (5) proposals for depository banking services. The Finance Department staff recommends that the two year contract be awarded to First Bank & Trust East Texas.

**COST:** None

**SCHEDULE:** Contract period will be October 2015 through September 2017. Contract is renewable each year after for three additional years at the City's discretion.

**RECOMMENDED ACTION:** Award contract for Depository Banking Services to First Bank & Trust East Texas.

**CITY CONTACT:** Pamela Curbow, Director of Finance – 559-2526

**ATTACHMENTS:** Depository Banking Services Recommendation



## **Recommendation for Depository Banking Services For October, 2015 - September, 2017**

After reviewing the proposals from all banks, it is the recommendation of the Finance Department staff that the banking services contract be awarded to First Bank & Trust East Texas.

We recommend First Bank & Trust for the following reasons:

- No monthly administrative/FDIC Fees
- Lowest monthly activity fees (<\$800/month based on current activity)
- Lowest balance required to cover fees (\$4,175,000)
- Highest balance available to invest (\$40,825,000 based on avg. balance of \$45,000,000)
- Higher yield on investments even though interest rate is lower than other banks due to the higher available balance to invest.
- Can provide all needed banking services

## **Review of Depository Banking Services Proposals**

The City's current depository agreement will expire on October 31, 2015 which will close the current five year agreement that the City has with Regions Bank. We received proposals from the following banks for a new two year agreement for the period October 2015 through September 2017:

**Regions Bank  
First Bank & Trust East Texas  
Citizens 1<sup>st</sup> Bank**

**BancorpSouth  
Commercial National Bank**

All banks submitted competitive proposals but there were distinct differences that set one bank apart from the others. The amount of fees charged for banking services varied greatly between the banks from less than \$1,000/month to over \$9,000/month. These fees are offset by varying required bank balances. The higher the required balance, the less money that the City has to invest and earn interest. Therefore, the bank with the lowest monthly fees and lowest required bank balance will allow the City to invest significantly more money than all other banks.

**For example: Assuming an average bank balance of \$45,000,000**

**Bank A:       \$       9,667 monthly fees  
                  \$ 33,605,724 required balance to offset fees  
                  \$ 11,394,276 available to invest  
                  \$       1,405 potential monthly interest earnings**

**Bank B:       \$       796 monthly fees  
                  \$ 4,175,000 required balance to offset fees  
                  \$ 40,825,000 available to invest  
                  \$       2,766 potential monthly interest earnings**

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider an ordinance amending Chapter 34 “Environment” Article II. “Weeds and Other Offensive Accumulations” of the Code of Ordinances of the City of Nacogdoches, Texas.

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** City code requires property owners to maintain premises free of weeds, grass over 12 inches, trash and rubbish. The proposed amendment to the code simply clarifies that areas in the rights of way, easements and alleys are included as the property owner’s responsibility.

This amended code section will aide in enforcement simply by making it clear that those areas are included in property owner’s responsibilities.

**SCHEDULE:** Effective 10 days after publication

**RECOMMENDED ACTION:** Approve ordinance amending Chapter 34 “Environment” Article II. “weeds and other offensive accumulations” of the Code of Ordinances of the City of Nacogdoches, Texas.

**CITY CONTACT:** Keith Kiplinger, Fire Chief  
[kiplingerk@ci.nacogdoches.tx.us](mailto:kiplingerk@ci.nacogdoches.tx.us)

Robert Ford, Division Chief  
[fordr@ci.nacogdoches.tx.us](mailto:fordr@ci.nacogdoches.tx.us)

936-559-2541

**ATTACHMENTS:** Proposed Ordinance

ORDINANCE # \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 34 "ENVIRONMENT" ARTICLE II. "WEEDS AND OTHER OFFENSIVE ACCUMULATIONS" OF THE CODE OF ORDINANCES OF THE CITY OF NACOGDOCHES, TEXAS.**

WHEREAS, the City Council believes Chapter 34 "Environment" of the Nacogdoches Code of Ordinances should be amended; and,

WHEREAS, the City Council of the City of Nacogdoches has determined that high grass, weeds and other offensive accumulations are unsightly and unsanitary; and,

WHEREAS, the Texas Health and Safety Code authorizes municipalities to enact and enforce ordinances and abate nuisances related to sanitation, including weeds and other public nuisances; and

WHEREAS, after deliberation on the facts involved in the amendments, the City Council of the City of Nacogdoches is of the opinion that Chapter 34 "Environment" of the Code of Ordinances of the City of Nacogdoches, Texas should be amended as set forth hereinafter.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Nacogdoches that:

Chapter 34 "Environment" of the Code of Ordinances of the City of Nacogdoches, Texas is amended by removing the following:

**~~Sec. 34-26. – Nuisance declared.~~**

~~It shall be unlawful for any owner, occupant or person in charge of any premises within the city to allow weeds to grow or grass to be over 12 inches in height upon the premises or to allow trash or rubbish to accumulate thereon to such an extent as is reasonably calculated to create a fire hazard or to become injurious to the health of the citizens. Either act is declared to constitute a public nuisance.~~

**~~Sec. 34-27. – Uncultivated weeds or plants in rank profusion.~~**

~~It shall be unlawful for any owner, occupant or person in charge on any premises to have weeds or plants that are not cultivated growing upon the premises or grass growing to a greater height than 12 inches on an average or to grow in rank profusion thereon. Any such premises upon which any weeds are permitted to grow or grass is above such height or in rank profusion shall be deemed a public nuisance.~~

And by replacing it with the following:

**Sec. 34-26. - Nuisance declared.**

It shall be unlawful for any owner, occupant or person in charge of any premises real property, occupied or unoccupied, within the city to allow weeds to grow or grass to be over 12 inches in height upon the premises or to allow trash or rubbish to accumulate thereon or within an adjoining alley, easement, right-of-way or other public way to such an extent as is reasonably calculated to create a fire hazard or to become injurious to the health of the citizens. Either act is declared to constitute a public nuisance.

**Sec. 34-27. - Uncultivated weeds or plants in rank profusion.**

It shall be unlawful for any owner, occupant or person in charge of any premises real property, occupied or unoccupied, to have weeds or plants that are not cultivated growing upon the premises or grass growing to a greater height than 12 inches on an average or to grow in rank profusion thereon or within an adjoining alley, easement, right-of-way or other public way. Any such premises upon which any weeds are permitted to grow or grass is above such height or in rank profusion Allowing such shall be deemed a public nuisance.

Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

**PASSED AND APPROVED this the 6<sup>th</sup> day of October, 2015.**

\_\_\_\_\_  
Roger Van Horn, Mayor

ATTEST:

\_\_\_\_\_  
Jan Pigg, City Secretary

Approved as to form:

\_\_\_\_\_  
Rob Atherton, City Attorney

Approved as to content:

\_\_\_\_\_  
Keith Kiplinger, Fire Chief

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider award of Debt Collection Services Contract.

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** The current debt collection contract for our Utility Billing Department has expired. We contract with an external agency that provides professional collection services and assists the City in recovering the lost revenue resulting from bad debt accounts. For consideration for the new contract, the City of Nacogdoches received three (3) proposals. Based on the evaluation, the selection committee recommends that Municipal Services Bureau (MSB) be used to provide debt collection services.

**COST:** No up-front cost to City – Collection Fee of 22.5% will be deducted from customer debt balance paid.

**BUDGET AMENDMENT REQUIRED?:** No

**SCHEDULE:** Collection services to begin October 2015. Contract is renewable each year for four additional years at the City's discretion.

**RECOMMENDED ACTION:** Award Proposal for Debt Collection Services to Municipal Services Bureau (MSB)

**CITY CONTACT:** Pam Curbow, Finance Director – 559-2526.

**ATTACHMENTS:** Debt Collection Services Evaluation Score Sheet

# DEBT COLLECTION SERVICES EVALUATION

## SCORES BY EVALUATION COMMITTEE

<b>CRITERIA</b>	<b>ETECH</b>	<b>MSB</b>
Agency Capabilities/ Available Resources <b>25%</b>	18.75	20.63
Project Understanding/ Proposed Methodology <b>25%</b>	16.25	20.00
Favorable References/ Government Experience <b>15%</b>	8.63	11.63
Proposed Costs/Fees <b>35%</b>	15.75	28.00
	<b>59.38</b>	<b>80.25</b>

The third bidder, MVBA, was determined to be non-responsive.

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider approval of Nacogdoches Convention and Visitors Bureau contract extension for tourism and convention marketing services.

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** City of Nacogdoches contracts with the Convention and Visitors Bureau to provide tourism and convention marketing services. The CVB is requesting the contract be extended for another year.

**COST:** 72.5% of hotel occupancy tax collected estimated at \$493,000.

**RECOMMENDED ACTION:** Approve contract extension.

**CITY CONTACT:** Jim Jeffers, City Manager  
[jeffers@ci.nacogdoches.tx.us](mailto:jeffers@ci.nacogdoches.tx.us)  
936-559-2501

**ATTACHMENTS:** Contract



## AGREEMENT BETWEEN THE CITY OF NACOGDOCHES AND NACOGDOCHES CONVENTION AND VISITORS BUREAU

This agreement is entered into between the City of Nacogdoches, a Texas home-rule Municipality (City), and the Nacogdoches Convention and Visitors Bureau, a Texas non-profit corporation (CVB) pursuant to Chapter 351 of the Texas Tax Code (as amended from time to time, the "Authorizing Legislation"). In furtherance of the purposes of the Authorizing Legislation, and in consideration of the mutual covenants in this Agreement, the City and the CVB agree as follows:

### 1. Term

This Agreement shall be effective and binding upon the parties beginning October 1, ~~2014~~ 2015, and shall remain in effect until September 30, ~~2015~~ 2016, subject to early termination as described below. Except as otherwise expressly provided in this Agreement, any written notice or other written communication requested or permitted to be given under this Agreement shall be delivered, or sent by United States registered or certified mail, postage prepaid, or by express carrier, to:

Nacogdoches Convention and Visitors Bureau  
Executive Director  
200 East Main Street  
Nacogdoches, Texas 75961

unless another address is substituted by notice delivered or sent as provided in this paragraph. Unless specifically noted in this Agreement, any notice is deemed given when received.

### 2. Statement of Work

The marketing plan approved by the City shall state the work to be performed by the CVB with money paid the CVB by the City from the hotel occupancy tax (Work). The Work shall be consistent with the CVB's "Mission Statement" as follows: to encourage, enhance and promote tourism-related business ~~and special events~~ in the Nacogdoches area; ~~to further the promotion of tourism and publicity for the area;~~ and to promote Nacogdoches as a tourist destination throughout the state, regionally, nationally and internationally. Any material proposed changes to the approved marketing plan must be approved in writing by the City Manager or designee. As used in this Agreement, the term "hotel tax revenue" means money paid by the City to the CVB from hotel occupancy tax levied and collected by the City in accordance with the Authorizing Legislation (Tax Collections). The CVB agrees to perform the Work in accordance with Chapter 351 of the Texas Tax Code, all other applicable laws and regulations, this Agreement, and the applicable marketing plan and the Budget. Contract performance will commence on October 1, ~~2013~~ 2015, (Commencement Date).

### 3. Budget, Accounting and Reports

a. As used in this Agreement, "fiscal year" means twelve-month period beginning October 1 and ending September 30. ~~The CVB shall adopt this Fiscal Year as its fiscal year.~~

No later than June 15 of each year or at such other date approved by the City Manager of City, CVB shall provide City a proposed Budget and Marketing Plan for the Work, which shall reflect consultations between CVB and appropriate City staff concerning, with respect to the budget, projected available tax collections for the ensuing fiscal year, any amount available in the CVB's reserve fund, and estimated costs of the Work.

The City Council shall approve the budget and marketing plan. The City and the CVB shall negotiate in good faith to reach an agreement on a marketing plan and budget for the fiscal year by September 1 of the preceding fiscal year. Failure to reach an agreement shall authorize the City or the CVB to terminate this agreement on ninety (90) days notice.

~~b.~~a. The Work shall be conducted, and all marketing plans and budgets shall contain the following requirements:

~~(i) The marketing plans shall have separate work statements for, and the budget shall separately state and account for, (A) new "Class "A" Bookings" for the period commencing eighteen (18) months after the commitment date, (B) Convention Sales, (C) Music and Film Activities, (D) Marketing, Advertising Communications (including Heritage and Cultural), (E) Tourism, (F) Convention Services including Housing, (G) Visitor Services, (H) Sports Associations, and (I) other Work.~~

~~(ii)~~(i) The marketing plan and budgets shall be consistent with required allocation of uses of tax collections as set forth in the Authorizing Legislation and applicable City Ordinances, and shall identify those scheduled activities, programs or events that will directly enhance and promote tourism and the convention and hotel industry.

~~(iii) The marketing plans shall be consistent with the policy that the primary role of the CVB is to market space in convention facilities, beyond eighteen (18) months from the first day of use, with the intent to maximize hotel occupancy tax and use of the convention facilities. Marketing of this space within eighteen (18) months of the first day of use is the primary role of the CVB.~~

~~(iv) Provide annually and before expenditure of City of Nacogdoches hotel occupancy tax funds a list of scheduled activities, programs or events that will directly enhance and promote tourism and the convention and hotel industry. The list is to be provided to the City Secretary Manager or her his designee and in a format approved by City and may be supplemented by CVB during the term of the~~

~~Agreement. The requirement of this paragraph does not apply if CVB already provides written information to City that indicates which scheduled activities or events that it offers directly enhance and promote tourism and the convention and hotel industry.~~

As part of the Work, CVB shall provide, at a minimum, following services, activities and functions:

(A) Market, solicit and advertise for conventions, tourism and other gatherings to maximize use of convention facilities, commercial lodging facilities and tourism facilities consistent with adopted marketing plan. Such includes close cooperation with the Hotel Fredonia and Convention Center when such resume operations.

(B) Provide registration, housing and information services for convention groups. ~~Act as a liaison for City in its relationship with music and film industries.~~

(C) Develop public awareness of the desirability, benefits and importance of travel, ~~music and film industries~~ to the Nacogdoches area economy.

(D) Market and distribute materials promoting Nacogdoches as a preferred destination city consistent with marketing plan.

~~(D)~~

(E) Demonstrate advantages Nacogdoches area has to offer visitors from other parts of state, nation and world.

(F) Perform all responsibilities of tourism and marketing.

~~(G) Market and promote tourism and conventions among heritage and cultural markets in accordance with performance criteria set forth in each year's Marketing Plan.~~

~~(H)~~(G) Perform additional duties as agreed upon by both parties consistent with aforementioned Mission Statement.

~~(v)~~ The marketing plan shall include, but not be limited to, a description of the proposed program of action for the fiscal year. ~~It shall contain a specific numerical goal regarding Class "A" bookings for the convention facilities and quantifiable goals against which success may be measured.~~ In addition, the annual budget document of CVB shall be presented in such a way as to associate direct costs where applicable, to the programs presented in the marketing plan. The marketing plan shall contain convention marketing goals and convention marketing programs. In addition,

marketing plan shall include convention services, tourism, marketing and communication, housing, visitor services, sports association and music and film marketing goals and programs. Upon approval of marketing plan and budget by City Council, CVB shall implement the plan and allocate funds within budgeted limits without further action on the part of the City.

(ii)

~~The following criteria shall be used for goal measurement in individual departments:~~

~~1. Convention Sales~~

- ~~a) Class A Rooms—Groups utilizing the convention facilities.~~
- ~~b) Class B Rooms—Groups of more than 50 rooms that do not utilize convention facilities.~~
- ~~c) Class C Rooms—Groups of less than 50 rooms that do not utilize convention facilities.~~
- ~~d) Total room nights.~~
- ~~e) City wide convention s booked, (1,000 room nights peak is the current criteria.)~~
- ~~f) Room nights generated through leads.~~
- ~~g) Number of group leads sent.~~
- ~~h) Other industry standards.~~

~~2. Sports Commission~~

- ~~a) Room Nights—including Class A, Class B and Class C rooms.~~
- ~~b) Event leads sent.~~
- ~~c) Site visits.~~
- ~~d) Media coverage/press communications.~~
- ~~e) Other industry Standards.~~

~~3. Tourism~~

- ~~a) Product placed with tour operators.~~
- ~~b) Destination training.~~
- ~~c) Tourism partner Leads.~~
- ~~d) Online package development.~~
- ~~e) Other industry standards.~~

~~4. Marketing Communications~~

- ~~a) Press releases/pitches.~~
- ~~b) Media outlets contacted.~~
- ~~c) Dollar impact of media.~~
- ~~d) Unique website visitors.~~
- ~~e) Visitors guide fulfillment.~~
- ~~f) Other industry standards.~~

~~5. Convention Services~~

- ~~a) Meetings serviced.~~
- ~~b) Housing assigned.~~
- ~~c) Registration hours.~~

~~d) Other industry standards.~~

~~6. Music Marketing~~

- ~~a) Booking assists.~~
- ~~b) Industry contacts.~~
- ~~c) Media contacts.~~
- ~~d) Media events.~~

~~7. Film Office~~

- ~~a) Production inquires.~~
- ~~b) Fulfillment location packages delivered.~~
- ~~c) Project starts.~~
- ~~d) Production days.~~
- ~~e) Other industry standards.~~

~~8. Visitor Services~~

- ~~a) Visitor guide requests.~~
- ~~b) Downtown visitors.~~
- ~~c) Phone calls/email inquiries.~~
- ~~d) Retail revenue.~~
- ~~e) Other industry standards.~~

~~9. Heritage Tourism~~

- ~~a) Visitor inquiries.~~
- ~~b) Heritage site development locally.~~
- ~~c) Historic walking tour participants.~~
- ~~d) Heritage site visitors.~~
- ~~e) Heritage site marketing.~~

~~10. Nature Tourism~~

- ~~a) Visitor inquiries.~~
- ~~b) Garden tours.~~
- ~~c) Nature tourism promotion.~~
- ~~d) Nature tourism development.~~

All requests by CVB to City for funds, services, or other items of value shall be directed in writing for approval to the City Manager.

~~(vi)(iii) The CVB acknowledges City has adopted as a logo and motto "Nacogdoches, the oldest town in Texas"<sup>(1)</sup> which may be used on CVB stationary, bulletins, displays, posters and media and press releases. CVB is authorized to use any trade or service marks of City in connection with its performance of the Work. Promotional material should contain "Nacogdoches, the oldest town in Texas" logo and CVB can use any additional logo adopted by its Board of Directors.~~

~~e.b.~~ It is intent of City and CVB that budgets for the Work which, other than as hereinafter excepted, reflect the amount of tax collections available for the Work and tax collections equal to 72.5% of the City portion of hotel

revenue that is taxable and collected under the Authorizing Legislation and Article IV, Hotel Occupancy Tax, Section 94-141 of the City Code, be available for the Work. If during a fiscal year tax collections vary more than 10% from the expectations on which the applicable budget is based, CVB shall send City Manager written notice of how CVB proposes to adjust its budget accordingly. ~~If City Manager agrees with proposed adjustments, CVB shall affect them as soon as practicable. If City Manager does not agree with proposed adjustments, he or she shall propose other adjustments to the Work plan. The City Council will resolve disputed adjustments to the Work plan, and CVB will effect as soon as practicable adjustments as resolved. It is not intended that the scope of Work should be decreased if there are adequate funds available in the reserve fund to continue to pay for the Work; provided, however, once the available tax collections and any available money in such reserve funds have been spent, then no further money shall be available or paid by City.~~ Limits of hotel occupancy fund allowed to be used for day to day operations, travel and other matters described in 351.101(e) and (f) shall be strictly observed.

Under a separate agreement the City may provide that the first \$150,000.00 of the City portion of the Hotel Occupancy Tax generated by the Hotel Fredonia and Convention Center and actually received by the City in any one year period determined by the City is to be granted to the Hotel Fredonia and Convention Center or the entity owning, leasing, or operating it. Such \$150,000.00 amount shall not be considered in the computation of the 72.5% allocated to the CVB. Amounts of Hotel Occupancy Tax over \$150,000.00 in any such one year period generated by Hotel Fredonia and Convention Center and received by the City would be considered as part of the 72.5%. It is not anticipated that the exclusion of such \$150,000.00 yearly amount of Hotel Occupancy Tax generated by the Hotel Fredonia and Convention Center and received by the City will extend beyond ten (10) years; however, the beginning of such ten (10) year duration has not yet been determined. Further excluded from the 72.5% would be any of the State portionportions of the Hotel Occupancy Tax generated by the Hotel Fredonia and Convention Center and actually received by the City from the Comptroller of Public Accounts.

d.c. CVB shall maintain complete and accurate books and records of activities and finances, which City may audit at any time upon reasonable notice. Financial records shall be maintained on a regular basis in accordance with generally accepted accounting principles, subject to any variations as are required by State law, or are agreed to in writing by City. Specifically, CVB shall account separately for hotel tax revenue, and any other funds provided it by the City, and shall account separately for receipts and expenditures related to each of the following activities; (A) convention sales, (B) convention services housing, (C) tourism, (D) film and music, (E) marketing and communications, (F) visitor services, (G) administration, (H) advertising, (I) sports commission and (J) other work. On request of City, CVB shall make records relating to handling and expenditure of hotel tax revenue and other City payments available to City or any other person designated by City. CVB shall also follow all provisions of City of Nacogdoches Code of Ordinances Administration of Funds, Section 94-206, et seq and Convention and Visitors Bureau Board, 94-231 et

seq.

d. CVB shall engage ~~the same an~~ independent firm of certified public accountants previously approved utilized by City Manager to audit its annual financial statements and shall deliver to City Manager a copy of audited annual financial statements, consisting of balance sheet, income statement, statement of cash flows, and notes to financial statements, no later than one hundred twenty (120) days after end of each fiscal year. The engagement letter from the independent firm of certified public accountants shall contain a statement that CVB may request a copy of all audit work papers produced either by the client or the firm during annual audit of the financial statements. Notes to audited annual financial statements shall contain a detailed breakdown of revenues by source and expenditures by category. In addition to audited annual financial statements, upon request, CVB shall deliver copy of all audit work papers that underlie audited annual financial statements.

e.

f.e. Within thirty (30) days after the end of each quarter in the fiscal year, the CVB shall deliver to City Manager a (i) written report of expenditures relating to the Work with specific allocations and expenditure information as to hotel occupancy taxes, and (ii) unaudited financial statements for the quarter just ended, including at a minimum a balance sheet and income statement~~income statement~~. Within forty five (45) days after the end of each quarter in the fiscal year, the CVB shall conduct a meeting (on at least three (3) days advance published notice) to present the financial report for the quarter just ended and obtain public input on it and the Work.

g.f. CVB will provide City quarterly reports containing detailed information on performance of the Work, including performance reports listing all groups and/or events added to the City Manager or designee schedule in that period with accompanying information such as names, dates booked, estimated attendance and estimated room nights. CVB shall provide City with any reports or documentation required by federal or state law; as such laws may be amended from time to time during the term of this Agreement.

#### **4. Payments by the City**

(a) In addition to any particular limitations and conditions specifically stated in this Agreement, all obligations of the Agreement from proceeds of the hotel occupancy tax available to pay for the Work under this Agreement, and further subject to the actual collection of these tax proceeds. This Agreement imposes no obligation upon City to levy and collect this tax.

(b) City shall pay to CVB monthly~~quarterly~~ in arrears from hotel tax revenue appropriated for this Agreement. Hotel tax revenue shall be spent solely to perform the Work allowable under Section 351 and fund compliance with this Agreement, including the preparation of reports and financial statements, and auditing of the latter. CVB acknowledges it has a fiduciary

duty to City regarding hotel occupancy funds.

- (c) CVB is an independent entity, and the relationship between CVB and City is and shall remain that of independent contractors. City is not and shall not be liable for any of CVB's debts or obligations, including any operating deficit that may arise. CVB shall not hold itself out as an agent of City, nor in any way purport to bind City with respect to any contract or other obligation. CVB shall defend, indemnify and hold City harmless against any cost, claim, expense, liability, award or judgment (claim) arising in whole or in part out of, or alleged to arise in whole or in part out of the operations or activities of CVB. City may set-off and apply against any such claim (or against City's cost of defending against such claim) any amount City owes CVB. CVB shall carry insurance in the following types and amounts for the duration of this Agreement and, prior to the commencement date, shall furnish City Manager with Certificates of

Insurance along with copies of policy declaration pages and all policy endorsements as evidence thereof; including insurance for special events, which may be outside the scope of general coverage:

- (i) Statutory workers' compensation and employers' liability coverage with minimum policy limits for employers' liability of \$100,000 bodily injury to each accident, \$500,000 bodily injury by disease policy limit, and \$100,000 bodily injury by disease each employee;
- (ii) Commercial general liability insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000. The policy shall provide contractual liability coverage for liability assumed under this contract, products and completed operations coverage and independent contractors coverage;
- (ii) Business automobile liability insurance for all owned, non-owned and hired vehicles with a limit of \$500,000 per occurrence for bodily injury and property damage liability;
- (iii) Directors and officers coverage with a minimum of not less than \$1,000,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such; and
- (iv) "All risk" property coverage (excluding flood and earthquake) at 100% replacement cost value for contents in the CVB's care, custody or control. The coverage will be primary and the City will be shown as loss payee on the policy.

If coverage is written on a claims-made basis, the coverage, including renewals, shall have a retroactive date coincident with or prior to the date of this Agreement and the certificate of insurance shall state that coverage is claims-made and the retroactive date. This coverage shall be continuous for not less than twenty-four (24) months following completion of service under this Agreement. CVB shall provide all provisions of this Agreement concerning liability, duty and standard of care, together with indemnification or



defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies. CVB shall not commence work under this Agreement until it has obtained all required insurance and the City Manager's office has reviewed such insurance coverage. Required insurance shall be written by company licensed to do business in State of Texas at the time the policy is issued. In any event, Company must be rated by A.M. Best at B+VII or better and acceptable to City. CVB shall produce an endorsement to each affected liability policy that:

(A) names City as additional insured (except workers' compensation), with the right of subrogation against City, waived and (B) obligates insurance company to notify City at following address, of any non-renewal, cancellation or material changes to the policy, at least thirty (30) calendar days before change or cancellation.

City of Nacogdoches  
City Manager  
202 East Pilar Street  
Nacogdoches, Texas 75961

CVB shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of this Agreement or the twenty-four (24) month period following completion, in the case of a claims-made policy. City reserves right to review insurance requirements of this section during the effective period of this Agreement and to make reasonable adjustments to insurance coverage, their limits when deemed necessary, based upon changes in statutory law, court decisions or the claims history of the industry or financial condition of the insurance company, as well as that of CVB. City shall be entitled, upon request, and without expense to City, to receive copies of the requisite insurance policies and all endorsements thereto and may make any reasonable requests for deletion, revisions or modification of particular policy terms, conditions, limitations, or exclusions. (Except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any such policies.)

~~(d) During each fiscal year, any portion of tax collections allocable to the Work and is not needed to pay CVB pursuant to the applicable budget shall accrue to ending balance of the reserve fund. City and CVB shall review the amount of the reserve fund each year and the City shall determine the disposition of the money in the reserve fund in connection with City's review of its budget and of CVB's budget.~~

##### 5. **Other Requirements**

(a) CVB Treasurer and ~~Assistant Treasurer~~any other board member or employees deemed applicable, if any, shall be bonded in a minimum amount of \$100,000 each.

(b) For the purposes of this Agreement and CVB Bylaws, City agrees the term "competitive strategy" shall mean: selling Nacogdoches strengths against

competitors' weaknesses, developing and/or negotiating sponsorship and contribution agreements, competition for tourism special events, promotional/seasonal packaging and programs, and introduction of a new advertising campaign.

(c) Except as provided in CVB Bylaws, articles of incorporation or in this Agreement, CVB may conduct its affairs and engage in such other activities as it deems appropriate, so long as such actions (i) are consistent with its purposes as stated in this Agreement and articles of incorporation, (ii) comply with applicable laws, and (iii) do not impair its ability to carry out its duties under this Agreement.

(d) City may require CVB to perform an annual performance audit. City will determine the scope of work and CVB will pay for said performance audit.

## **6. Early Termination**

Either party may terminate this agreement by written notice to the other party if such other party breaches any of its obligations hereunder and does not cure such breach within thirty (30) days after receiving written demand from the other party specifying the breach in question and demanding it be cured. Such right to terminate this Agreement shall be without prejudice to the other legal and equitable rights of the parties.

## **7. Cooperation**

Upon expiration or termination hereof for any reason, CVB shall cooperate with City to ensure a smooth transition and completion of the Work. Without limiting the generality of the foregoing, CVB shall promptly, but not more than sixty (60) days following termination, turn over to City without charge all unspent Hotel Tax Revenue as well as all other City contributed revenue funds, including balance of reserve fund, and all property purchased with Hotel Tax Revenue or City provided funds and upon request shall assign to City all contracts, rights and claims relating to the Work. Termination of this Agreement shall not impair the rights of City under state law, articles of incorporation or bylaws of CVB or under any other contract between City and CVB.

## **8. Contract Administration**

This Agreement shall be administered by City through the City Manager or designee, and all communications from CVB to City concerning this Agreement and the Work shall be directed to the City Manager or designee, unless otherwise specified herein or in CVB Bylaws. CVB shall deliver to the City Manager simultaneously a copy of any notice required by this Agreement or such bylaws to be delivered to another City official.

## **9. Miscellaneous**

This Agreement may not be amended without written consent of the parties. This

Agreement is for the benefit of City and CVB only and no other party may seek to enforce it or assert any rights under it. CVB may not assign this Agreement without the prior written consent of City. Delay by a party in enforcing, or failure by such party to enforce, a right under this Agreement shall not be deemed a waiver of the same. A waiver of party's rights shall be effective only if in writing and shall be limited to the single event or occurrence specified. This Agreement may be executed on one or more counterparts. This Agreement, including its exhibits, attachments, and applicable City-approved Marketing Plans and Budgets, represents the entire agreement between the parties regarding the subject matter hereof, and there are no other representations, understandings, or agreements between the parties relative to such subject matter.

**10. Articles of Incorporation/Bylaws**

City shall have the right to approve any proposed changes to CVB Articles of Incorporation or Bylaws.

In Witness Whereof, the City of Nacogdoches and the Nacogdoches Convention and Visitors Bureau have caused this Agreement to be executed and delivered by their duly authorized representatives as of the date specified below:

CITY OF NACOGDOCHES, TEXAS

Signature: \_\_\_\_\_

Print Name: James P. Jeffers

Title: City Manager

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

NACOGDOCHES CONVENTION AND VISITORS BUREAU

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

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

**ITEM NO. 9**

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider the annexation of approximately 35 acres located west of the current city limits at 3805 NW Stallings Drive.

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** This is the final action to complete the annexation of the Exposition Center and associated property.

The properties will be zoned Agricultural immediately upon annexation. Staff will then present rezoning requests appropriate to the current and future needs of the properties.

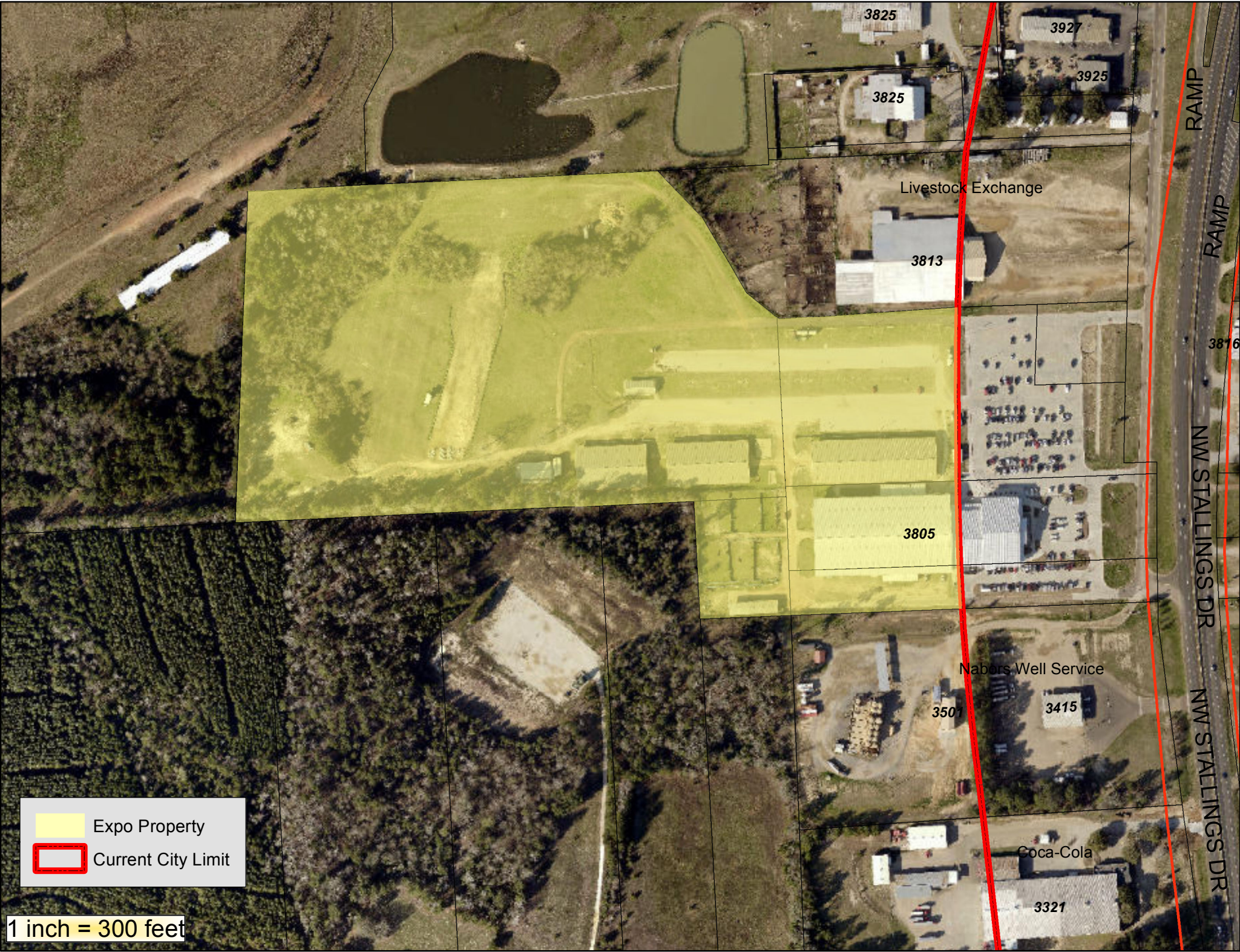
**COST:** There is no anticipated cost to this annexation

**SCHEDULE:** Annexation effective - Ten days after publication in the newspaper, anticipated effective date of October 21, 2015.

**RECOMMENDED ACTION:** Adoption of ordinance

**CITY CONTACT:** Larissa Philpot, Municipal Services Director  
559-2572  
[philpotl@ci.nacogdoches.tx.us](mailto:philpotl@ci.nacogdoches.tx.us)

**ATTACHMENTS:** The ordinance and property description are available on file in the City Planning office.



Expo Property  
 Current City Limit

1 inch = 300 feet

3825

3927

3925

3825

Livestock Exchange

3813

RAMP

RAMP

3816

NW STALLINGS DR

NW STALLINGS DR

3805

Nabors Well Service

3507

3415

Coca-Cola

3321

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider process for replacing the retiring City Attorney.

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** City Attorney will retire January 29, 2016. Per the charter, City Attorney is employed by City Council. City Council will discuss options for completing the search process and is anticipated to provide direction to City staff on how to proceed in retaining a City Attorney.

**RECOMMENDED ACTION:** Determine process for replacing retiring City Attorney.

**CITY CONTACT:** Jim Jeffers, City Manager  
559-2501  
[jeffers@ci.nacogdoches.tx.us](mailto:jeffers@ci.nacogdoches.tx.us)

**ATTACHMENTS:** None

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider authorization for the purchase of Asphalt Zipper milling machine for Public Works Department.

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** Asphalt Zipper 4' milling machine is an attachment used in conjunction with a front-end loader to mill & reclaim asphalt by grinding the asphalt into a reusable material which is mixed into the sub-grade to further strengthen and stabilize the sub-grade in preparation for asphalt resurfacing.

**COST:** \$ 108,740.00

**FUNDING FROM CURRENT BUDGET**

<b><u>FUNDING:</u></b>	<b><u>Acct. Name &amp; No.</u></b>	<b><u>Requested</u></b>
Street Department	Capital Equip/ 01.26 680.25	\$128,000

**RECOMMENDED ACTION:** Award bid for purchase of above Asphalt Zipper milling machine through Asphalt Zipper for Total Price of \$ 108,740.00

**CITY CONTACT:** Cary Walker, Public Works Manager, (936) 559-2582

**ATTACHMENTS:** Quotation/specifications available for review at the Public Works Department.

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider authorization to purchase of Kubota 108hp Tractor with Boom Mower

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** Kubota 108hp Tractor with an extendable reach Boom Mower attachment used to trim brush in R.O.W., severe embankments, or slopes capable of reaching out 15' and 12' height.

**COST:** \$ 80,858.40

**FUNDING FROM CURRENT BUDGET**

<b>FUNDING:</b>	<b>Acct. Name &amp; No.</b>	<b>Requested</b>
Street Department	Capital Equip/ 01.86 680.25	\$110,000

**RECOMMENDED ACTION:** Award bid purchase of Kubota 108hp Tractor with Boom Mower through Hammer Kubota via Buy Board for total price of \$80,858.40

**CITY CONTACT:** Cary Walker, Public Works Manager, (936) 559-2582

**ATTACHMENTS:** Quotation/specifications available for review at the Public Works Department.



**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider approval for the purchase of five (5) patrol vehicles.

**MEETING DATE:** October 6, 2015

**DESCRIPTION:** The Police Department is requesting approval to purchasing Five (5) Police rated Tahoes through Buy Board #430-13. Caldwell Country Chevrolet quoted a price on purchasing Five (5) Police rated Tahoes for \$34,675.00 each plus \$400.00 Buy Board fee for a total price of \$173,775.00 Over the past 6 years the Tahoes have proven to be the most cost efficient vehicle for the money taking in consideration the included 5 year warranty, the average fuel consumption of vehicles capable of maintaining the needed equipment. This purchase is for the vehicles alone. The emergency equipment and accessories will be purchased separately utilizing the remaining \$126,225.00

**COST:** The quoted price for the Five (5) patrol vehicles is \$34,675.00 per patrol vehicle plus a \$400.00 Buy Board fee for a total of \$146,315.00.

**SOURCE OF FUNDING:**

<u>Item</u>	<u>Acct. Name &amp; No.</u>	<u>Original Budget</u>	<u>Award</u>
Five (5) Patrol Vehicles	60.60.680.20	\$300,000.00	\$173,775.00

**SCHEDULE:** Upon Commission approval, the City of Nacogdoches will order vehicles.

**RECOMMENDED ACTION:** Approve purchase of five (5) patrol vehicles.

**CITY CONTACT:** Jim Sevey, Chief of Police, 936-559-2601

**ATTACHMENTS:** Contact Assistant Chief Griffin to review price quote of vehicles.

**ITEM NO. 14-A**

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** EXECUTIVE SESSION: Personnel – Discuss appointment of  
City Secretary as per G.C. Section 551.074

**MEETING DATE:** October 6, 2015

**Information will be provided  
at Tuesday's meeting**

ITEM NO. 14-B

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:            EXECUTIVE SESSION:**

- A. Consider appointment of City Secretary.
- B. Deliberation regarding Economic Development negotiations under Local Government Code Section 551.087 as follows:
  - 1. Discuss or deliberate regarding commercial or financial information that the City has received from a business projects that the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations; and
  - 2. Deliberate the offer of a financial or other incentive to business prospects described by Subdivision 1 above.

**MEETING DATE:    October 6, 2015**

**Presentation will be made at**  
**Tuesday's meeting**