



Notice is hereby given of a Regular Meeting of the Nacogdoches City Council to be held **February 16, 2016, 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. Items to be removed from Consent Agenda.
3. **CONSENT AGENDA:** Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.
  - A. Consider approval of minutes from February 2, 2016 regular session.
  - B. Consider authorization for tax resale for property described as: Being Lot 5 in Block 3, of the John G. Orton Re-Subdivision, as show on the Plat recorded in Volume 122, Page 141, more fully described in Volume 1026, Page 177, Nacogdoches County, Texas. GEO (18-437-5303-005000).
  - C. Consider storm sewer easement abandonment and quitclaim of the north boundary line of Ashbury Lane in Ashbury Court Subdivision and continuing across Lots 46, 47, 48, 49, 50, and 51 of the Ashbury Court Subdivision, City Block 54 to the south boundary line of said Subdivision.
  - D. Designation of City Attorney Jeff Davis to the Nacogdoches County Industrial Foundation.

**REGULAR AGENDA:**

4. Consider resolution calling the Regular Election for Southeast and Southwest Ward Council Members for May 7, 2016. (City Secretary)
5. Consider adoption of Nacogdoches City Council Open Forum policy. (Mayor Pro Tem Shelley Brophy)
6. Presentation of 2015 Nacogdoches Police Department motorist contact information. (Police Chief)
7. Consider approval of final change order for Duplichain Contractors for additional work on Starr Avenue Utility Replacement Project. (City Engineer)
8. Consider approval of Resolution to accept an Agreement to Contribute Right-of-Way funds with TxDOT for FM 2609 (Austin Street). (City Engineer)

**For the convenience of the audience, Council may conduct Executive Session deliberation in the first floor conference room, Room 112, of City Hall. Reconvening 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.**

9. **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 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.
10. Open for action, if any, on Item 9-A-1.
11. Open for action, if any, on Item 9-A-2.
12. Adjourn.



Jan Vinson, City Secretary

This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact the Attorney General of Texas at 1-800-252-8011; the City Secretary at 936/559-2506 or visit the City of Nacogdoches web site at [www.ci.nacogdoches.tx.us](http://www.ci.nacogdoches.tx.us).

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 February 10, 2016 at 5:00 p.m. and remained posted until meeting convened.

---

Jan Vinson, City Secretary

**ITEM NO. 3 A**

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** CONSENT AGENDA: Consider approval of minutes from regular session of February 2, 2016.

**MEETING DATE:** February 16, 2016

**CITY CONTACT:** Jan Vinson  
City Secretary  
[vinsonj@ci.nacogdoches.tx.us](mailto:vinsonj@ci.nacogdoches.tx.us)  
559-2506

**ATTACHMENTS:** Minutes

**MINUTES**  
**Regular Session**  
**Nacogdoches City Council**  
**February 2, 2016 – 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, David Norton and Mike Keller, City Attorney Jeff Davis.

Mayor Van Horn called meeting to order at 5:34 p.m.

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

None.

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

**A. Consider approval of minutes from January 19, 2016 regular session and board interviews from January 12, 2016.**

**B. Quarterly Investment Report for quarter ended December 31, 2015.**

Council Member Norton moved to approve consent agenda as presented. Motion seconded by Council Member Keller and unanimously passed.

**REGULAR AGENDA:**

**4. Present Tri-Centennial Proclamation.**

Mayor Van Horn moved proclamation presentation before the Consent Agenda was approved. Jeff Abt was present to receive the Tri-Centennial proclamation.

**5. Consider approval of contract to accept wastewater from D & M Water Supply Corporation.**

City Engineer Steve Bartlett presented contract details. D & M Water Supply is one of sixteen water supply corporations in Nacogdoches County. Approximately twelve years ago D & M took over a small sewer system through a USDA grant. That sewer system is now experience some issues which will require significant construction and remediation; therefore D & M has asked the City to receive their sewer for the small area they serve. The contract states the flow will not exceed 45,000 gallons per day of domestic waste.

Robert Haberle with Schaumburg and Polk Consulting Engineers reported the project is expected to be completed approximately six months after the contract is approved.

Matt Moore, citizen of Nacogdoches, asked the City to consider the effects this would have on the environment and any habitat that may be destroyed as a result of approving the contract. Mr. Haberle assured City Council the process is in strict compliance with Texas Commission on Environmental Quality guidelines.

Council Member Norton made a motion to approve the agreement. Motion was seconded by Council Member Boldon and passed unanimously.

**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 the City has 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

**Minutes unofficial until approved by City Council**

2. Deliberate offer of a financial or other incentive to business prospects described by Subdivision 1 above.
- B. Deliberation Regarding Security Devices or Security Audits under G.C. 551.076 (1) the deployment, or specific occasions for implementation, of security personnel or device.

*No Executive Session was held.*

**7. Adjourn.**

Mayor Van Horn adjourned meeting at 5:55 p.m.

---

Mayor Roger Van Horn  
City Council  
City of Nacogdoches

ATTEST:

---

Jan Vinson, City Secretary

**ITEM NO. 3 B**

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:**            **CONSENT AGENDA:**    Consider authorization for tax resale for property described as:

Being Lot 5 in Block 3, of the John G. Orton Re-Subdivision, as show on the Plat recorded in Volume 122, Page 141, more fully described in Volume 1026, Page 177, Nacogdoches County, Texas. GEO (18-437-5303-005000).

**MEETING DATE:**    February 16, 2016

**DESCRIPTION:**    The City of Nacogdoches, as a taxing entity, has been requested on behalf of Nacogdoches ISD to approve the sale of property described above.

**COST:**                None

**SCHEDULE:**        Upon approval, a Tax Resale Deed will be executed by all taxing entities.

**RECOMMENDED ACTION:**    Approve sale of property as presented.

**CITY CONTACT:**    Jim Jeffers, City Manager – 559-2501

**ATTACHMENTS:**    Description of Property  
Tax Resale Deed is available from the City Secretary



ITEM NO. 3 C

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consent Agenda: Consider storm sewer easement abandonment and quitclaim of the north boundary line of Ashbury Lane in Ashbury Court Subdivision and continuing across Lots 46, 47, 48, 49, 50, and 51 of the Ashbury Court Subdivision, City Block 54 to the south boundary line of said Subdivision.

**MEETING DATE:** February 16, 2016

**DESCRIPTION:** When Ashbury Court Subdivision was originally designed, existing sanitary sewer and storm sewer easements were in place and affected numerous proposed lots. The drainage of storm water and sanitary sewerage was redesigned eliminating the need for the prior easements. In 1998 the City quitclaimed the sanitary sewer line as unused but the developer failed to request quitclaim of the storm water drainage easement. The unused storm drainage easement runs through all or part of six lots and clouds their title. One sale is now held up by the existence of that unused easement. Engineering states that the quitclaim will not harm or diminish proper drainage.

**SCHEDULE:** As Soon As Possible

**RECOMMENDED ACTION:** Approval of Quitclaim

**CITY CONTACT:** Steve Bartlett, City Engineer  
[bartletts@ci.nacogdoches.tx.us](mailto:bartletts@ci.nacogdoches.tx.us)  
936-559-2522

Jeff Davis, City Attorney  
[davisj@ci.nacogdoches.tx.us](mailto:davisj@ci.nacogdoches.tx.us)  
936-559-2503

**ATTACHMENTS:** Plat and Draft Quitclaim available in City Secretary's office.



**ITEM NO. 3 D**

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consent Agenda: Designation of a City Attorney Jeff Davis to the Nacogdoches County Industrial Foundation.

**MEETING DATE:** November 4, 2014

**DESCRIPTION:** The Nacogdoches County Industrial Foundation is a non-profit corporation established in the 1950's to promote commerce and industry in Nacogdoches. It actually issued shares to its original members, of which the City is one.

City Attorney Atherton was appointed to this Foundation in 2014. Due to Mr. Atherton's recent retirement City Attorney Jeff Davis will assume the vacant position on the Foundation as the City representative.

**RECOMMENDED  
ACTION:**

Designate City Attorney Jeff Davis as the City of Nacogdoches representative to the Nacogdoches County Industrial Foundation

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

**ATTACHMENTS:** None



**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider Resolution calling the Regular Election for Southeast and Southwest Ward Council Members for May 7, 2016.

**MEETING DATE:** February 16, 2016

**DESCRIPTION:** The election will be held on Saturday, May 7, 2016 to elect positions of Council Member Southeast Ward and Council Member Southwest Ward. The filing period for this election is January 20, 2016 – February 19, 2016.

Nacogdoches County will conduct the election and complete the majority of the election administration much the same as previous years. Polling locations will change from the Nacogdoches Recreation Center and Thomas J. Rusk Elementary School to the Nacogdoches County Courthouse Annex.

**SCHEDULE:** Upon adoption of the Resolution, the election notice will be published and posted in English and in Spanish.

**RECOMMENDED ACTION:** Adopt Resolution calling the regular election of Council Members for Southeast Ward and Southwest Ward positions.

**CITY CONTACT:** Jan Vinson, City Secretary  
[vinsonj@ci.nacogdoches.tx.us](mailto:vinsonj@ci.nacogdoches.tx.us)  
936-559-2506

**ATTACHMENTS:** Resolution  
Election calendar

A RESOLUTION CALLING FOR THE REGULAR ELECTION OF COUNCIL MEMBERS FOR THE SOUTHEAST WARD AND SOUTHWEST WARD IN AND FOR THE CITY OF NACOGDOCHES, TEXAS.

BE IT RESOLVED BY THE CITY OF NACOGDOCHES, TEXAS:

I.

THAT a municipal election be held in the City of Nacogdoches, Texas, on Saturday, May 7, 2016 with polls open from 7:00 a.m. to 7:00 p.m. for the election of two (2) members of the City Council, being Council Member Southeast Ward and Council Member Southwest Ward to succeed those Council Members whose terms expire when their successor is duly elected and qualified at a meeting of the City Council following the date of the election.

II.

THAT applications shall be accepted in the office of the City Secretary, 202 E. Pilar Street, Room 320, beginning January 20 through February 19, 2016 from 8 a.m. to noon and 1 p.m. to 5 p.m. for said positions.

III.

THAT said election and early voting shall be held and conducted at the Nacogdoches County Courthouse Annex in the Nacogdoches County Elections Office located at 203 West Main Street, Nacogdoches, Texas 75961 and the entire city shall constitute one (1) election precinct.

IV.

THAT Early Voting by personal appearance for this May 7, 2016 City Council Election will be conducted Monday, April 25, 2016 through Friday, April 29, 2016 from 8:00 a.m. to 5:00 p.m. daily, and on May 2, 2016 through May 3, 2016 from 7:00 a.m. to 7:00 p.m. daily at the Nacogdoches County Elections Office located at 203 West Main Street, Nacogdoches, Texas 75961.

V.

THAT notice of said election shall be given as required by law.

PASSED AND APPROVED this the 16<sup>th</sup> day of February 2016.

---

Roger Van Horn, Mayor  
City of Nacogdoches

ATTEST:

---

Jan Vinson, City Secretary

Approved as to form:

---

Jeff Davis, City Attorney

**2016 ELECTION CALENDAR**  
**Regular Election – Southeast Ward and Southwest Ward**  
**May 7, 2016**

<b>January 20</b>	<b>First day to file for place on ballot</b>
<b>February 19</b>	<b>Last day to file for place on ballot – by 5:00 P.M.</b>
<b>February 26</b>	<b>Last day for candidate to withdraw – by 5:00 P.M.</b>
<b>February 29</b>	<b>Recommended date for drawing of ballot positions. (City Secretary’s office – 202 E. Pilar Street, Room 320)</b>
<b>April 7</b>	<b>First campaign contributions/expenditures report due</b>
<b>April 7</b>	<b>Last day to register to vote for this election</b>
<b>April 22</b>	<b>Last day to receive mail ballot application <u>in person – by 5:00 P.M.</u></b>
<b>April 25</b>	<b>First day of early voting by personal appearance</b>
<b>April 26</b>	<b>Last day to receive mail ballot application by mail</b>
<b>May 1</b>	<b>Second campaign contribution/expenditures report due</b>
<b>May 3</b>	<b>Last day of early voting by personal appearance</b>
<b>May 4-6</b>	<b>Period of emergency early voting due to death in family on or after May 4</b>
<b>May 4-7</b>	<b>Period of emergency early voting due to sickness or disability originating on or after April 29</b>
<b>May 7</b>	<b>Election Day                    7:00 A.M. to 7:00 P.M.</b>
<b>May 10-18</b>	<b>Period for Official Canvass</b>

- 4/9/2015      Report covers the period from date your campaign treasurer was appointed through 3/30/2015.  
**This report is not required by the following:**  
a)      Unopposed candidates  
b)      Candidates following the modified reporting procedure who have not exceeded \$500.00 in contributions/expenditures
- 5/1/2015      Report covers the period 3/31/2015 through designation of final report or 4/29/2015 whichever is later.  
**This report is not required by the following:**  
a)      Unopposed candidates  
b)      Candidates following the modified reporting procedure who have not exceeded \$500.00 in contributions/expenditures

**Modified Reporting** - If an opposed candidate does not expect to expend/receive in excess of \$500.00 during the election campaign this procedure may be followed, eliminating the requirement of filing campaign contribution/expenditure reports 30 days and 8 days before an election and 8 days before a runoff. Should a candidate elect to follow the modified reporting procedure and exceeds \$500.00 in contributions/expenditures before the 30th day before the election, he would automatically go back to regular reporting and must file reports 30 days and 8 days before the election. If the \$500.00 limit is exceeded after the 30th day before the election, a report must be filed within 48 hours of exceeding the threshold and must continue filing according to the regular filing schedule.

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider adoption of Nacogdoches City Council Open Forum policy.

**MEETING DATE:** February 16, 2016

**DESCRIPTION:** City Council will consider adoption of an open forum policy which will permit citizens to speak to Council about city governance matters which may or may not be listed on the agenda. The open forum proposal limits presentations to three (3) minutes to the first five (5) citizens who submit the completed open forum participation form to the City Secretary. The Texas Open Meetings Act will preclude City Council Members from discussing, deliberating or making any decisions on topics presented during the open forum.

**RECOMMENDED ACTION:** Consider adoption of an open forum policy.

**CITY CONTACT:** Mayor Pro Tem Shelley Brophy  
[sbrophy@ci.nacogdoches.tx.us](mailto:sbrophy@ci.nacogdoches.tx.us)

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

City Attorney Jeff Davis  
[davisj@ci.nacogdoches.tx.us](mailto:davisj@ci.nacogdoches.tx.us)  
936-559-2503

**ATTACHMENTS:** Proposed Open Forum Policy

# NACOGDOCHES CITY COUNCIL OPEN FORUM

The Nacogdoches City Council welcomes public comments at regularly scheduled meetings. In addition to public comment on agenda items, the City Council offers an open forum whereby citizens may comment on governance issues over which the City of Nacogdoches has domain. Pursuant to the instructions and rules of procedure set forth below, citizens may address City Council during the “Open Forum” listed on the agenda.

## Instructions and Rules of Procedure:

1. In order to address the City Council during the Open Forum portion of the agenda, you must first complete this form and give it to the City Secretary prior to the start of the meeting. Forms will not be accepted after the meeting starts.
2. Please remember to step to the podium when you are recognized by the Mayor and state your name and address before beginning your presentation. If speaking on behalf of an organization or other group, identify the group represented.
3. Speakers’ time may not be pooled or given to other speakers.
4. All presentations by citizens are limited to no more than three (3) minutes.
5. In order to ensure that meetings are conducted in an efficient manner, the number of citizens who may speak during the Open Forum is limited to the first five (5) citizens who submit fully completed participation forms. Presentations will be made in the order completed participation forms are received.
6. If you have written remarks or printed material you wish to present to the City Council, please furnish them to the City Secretary.
7. Speakers should address all remarks to the City Council as a whole, not to individual members.
8. All persons who complete a Citizen Open Forum Participation Form, whether or not allowed to speak, may submit written comments or exhibits to the City Secretary.
9. In accordance with the Texas Open Meetings Act, members of the City Council shall not discuss, deliberate, or make any decisions since the topic of your presentation is not a specific posted agenda item.
10. No shouting or cursing is allowed at City Council meetings. Purposefully disrupting a public meeting is a violation of state law, and may result in the offending party being made to leave the meeting and can lead to criminal charges.

## CITIZEN OPEN FORUM PARTICIPATION FORM

Please **print** the following information:

Name: \_\_\_\_\_ Today’s Date: \_\_\_\_\_

Home Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Subject to be Addressed: \_\_\_\_\_

**PLEASE RETURN THIS FORM TO THE CITY SECRETARY PRIOR TO THE START OF THE MEETING.**

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Presentation of 2015 NPD motorist contact information.

**MEETING DATE:** February 16, 2016

**DESCRIPTION:** Annual report on police traffic stop statistics as required by the 77<sup>th</sup> Texas Legislature.

**COST:** None

**SCHEDULE:** Must be presented to City Council by March 1 of each year.

**RECOMMENDED ACTION:** None Required.

**CITY CONTACT:** Jim Sevey, Chief of Police  
559-2601  
[seveyj@ci.nacogdoches.tx.us](mailto:seveyj@ci.nacogdoches.tx.us)

**ATTACHMENTS:** 2015 Police Contact Report



City of Nacogdoches

Police Contact Data

Annual Report

January 1, 2015 through December 31, 2015



## Summary – 2015 Police Contact Data Report

The annual report on violator contacts is presented to the Nacogdoches City Council as required by the 77<sup>th</sup> Texas Legislature, S.B. 1074. Two new requirements to our contact reporting process were added by House Bill 3389 of the 81<sup>st</sup> Texas Legislature. These changes are the inclusion of information regarding race or ethnicity being known by the officer prior to a traffic stop and the requirement that all agencies submit this annual report to the Texas Commission on Law Enforcement.

In 2002 there was no prior contact information to compare our traffic stop statistics to so U.S. Census 2000 information was utilized. While it is recognized that census figures are not necessarily a good representation of who the police are in contact with, we found that our traffic contacts, by race, were very close to the racial percentages reported in the census figures. There are no big changes noted in the 2003- 2015 figures. For this report, the census data has been updated to the 2010 numbers.

In the 2015 reporting period there were two complaints of racial profiling reported to the Nacogdoches Police Department. (complaint #051115 & 031115) These complaints were both investigated and determined to be unfounded.

I hope that the attached information is sufficient to allow the reader to draw his/her own conclusion that the Nacogdoches Police Department does not practice racially motivated law enforcement.

If there are any questions or comments regarding this report, please feel free to contact me.

Sincerely,

Jim Sevey  
Chief of Police



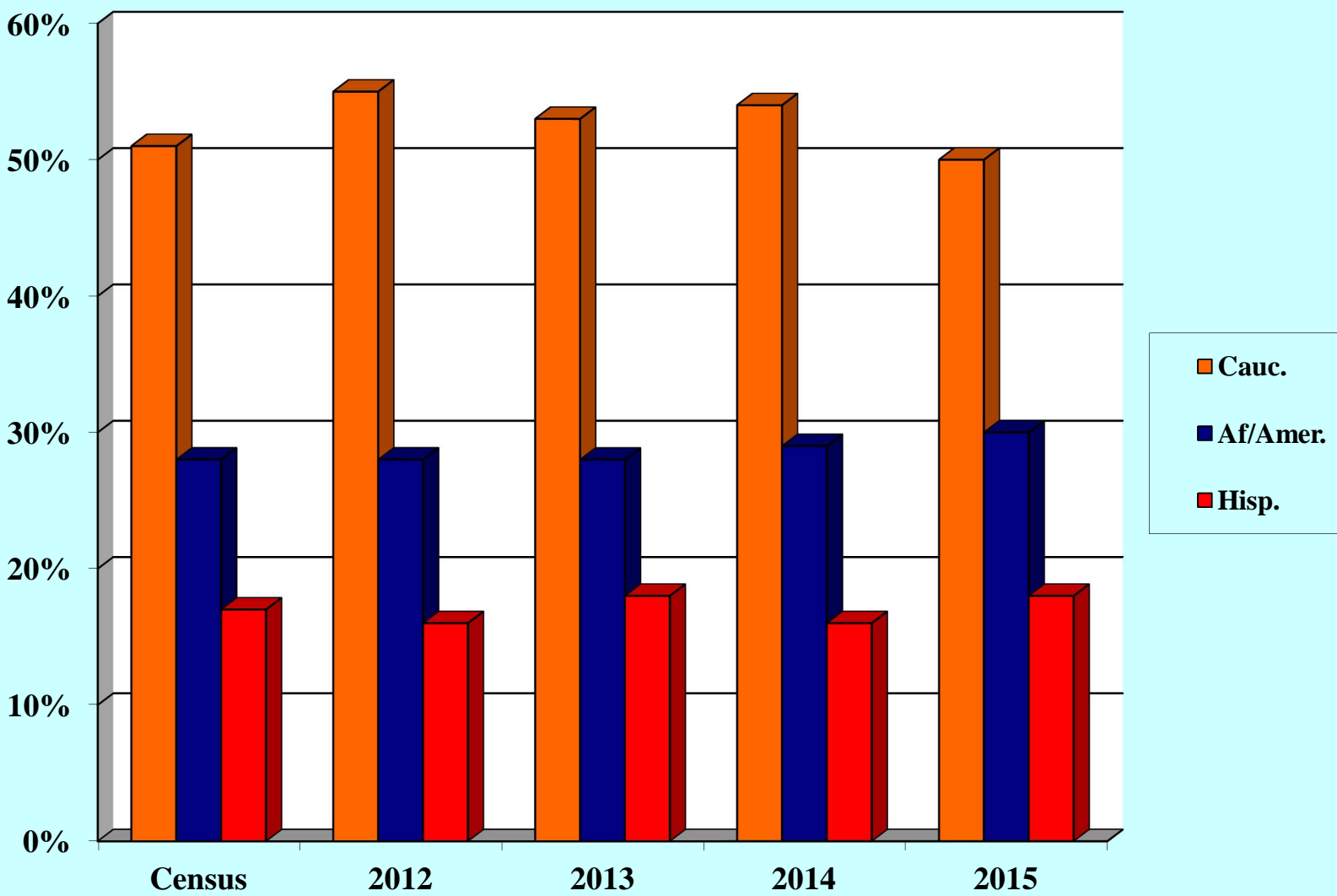


## Table of Contents

### Page

- 1 Summary
- 2 Graph-City Census Data / Contact Data
- 3 Tier 1 Data 2015
- 4 Comparative Analysis 2015

# 2010 CITY CENSUS DATA COMPARED TO 2012-2015 POLICE CONTACT DATA BY RACIAL PERCENTAGE



**(I) Tier 1 Data**

Nacogdoches PD January 1, through December 31, 2015

Table 1. General Demographics of Contacts and Searches

Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC for Search	
	N	%	N	%	N	%	N	%
Caucasian	2657	50.5	91	32.7	53	40.8	39	26.2
African American	1564	29.7	159	57.1	63	48.5	96	64.4
Hispanic	952	18.1	27	9.7	13	10.0	14	9.4
Asian	0		0					
Native American	0		0					
Other	84	1.6	1	.35	1	.7	0	0
<b>Total</b>	<b>5257</b>	<b>100%</b>	<b>278</b>	<b>100%</b>	<b>130</b>	<b>100%</b>	<b>149</b>	<b>100%</b>

<b>Ethnicity Known Prior to Stop</b>	<b>N</b>	<b>%</b>
Yes	715	13.6
No	4542	86.4
<b>Total</b>	<b>5257</b>	<b>100</b>

## **(II) Comparative Analysis**

Table 1. Comparison of 2015 Self-Initiated Stops and 2010 City Census

Race/Ethnicity*	Contacts		City Census Data		Variance	
	N	%	N	%	N	%
Caucasian	2657	50.5	16894	51.2		-.7
African American	1564	29.7	9371	28.4		+1.3
Hispanic	952	18.1	5543	16.8		+1.3
Other	84	1.6	1188	3.6		-2.0
Total	5257	100%	32996	100%		

\* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African American, Hispanic, Asian, or Native American”.

**ITEM NO. 7**

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider approval of final change order for Duplichain Contractors for additional work on Starr Avenue Utility Replacement Project.

**MEETING DATE:** February 16, 2016

**DESCRIPTION:** This change order includes additional utility work that was necessary to accommodate revisions in TxDOT's design for Starr Avenue and also to provide for modifications to the planned utilities after these lines were unearthed. Old existing road corridors like Starr Avenue often prompt field design changes to accommodate real world conditions after construction is underway.

**COST:** \$72,853.60

**FUNDING FROM CURRENT BUDGET**

**FUNDING:** Budget line item transfer required. Utility Water and Sewer Funds.

**RECOMMENDED ACTION:** Approve final change order

**CITY CONTACT:** Steve Bartlett, P.E., City Engineer  
[bartletts@ci.nacogdoches.tx.us](mailto:bartletts@ci.nacogdoches.tx.us)  
936-559-2522

**ATTACHMENTS:** Change order available in City Engineer's office.

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:** Consider approval of a Resolution to accept an Agreement to Contribute Right-of-Way funds with TxDOT for FM 2609 (Austin Street).

**MEETING DATE:** February 16, 2016

**DESCRIPTION:** The Texas Department of Transportation (TXDOT) has requested that the City of Nacogdoches approve an Agreement to Contribute Right-of-Way funds for their proposed improvements along Austin Street from North Street to Raguet Street. These paving and drainage improvements will require the purchase of additional right-of-way. In accordance with Title 43 Chapter 15 of the Texas Administrative Code, local governments may enter in participation agreements with the State for the funding of right-of-way purchases. The total right-of-way acquisition cost is estimated at \$600,000 with the City share of \$17,400 (2.9%).

City Council approved a Resolution and Advanced Funding Agreement on January 16, 2007 pledging participation in the project through the funding of a share of the right-of-way costs. Withdrawing support from this project could carry a penalty of in excess of \$300,000 to reimburse TxDOT for all expenses incurred to date.

**COST:** \$17,400

**BUDGET AMENDMENT REQUIRED?:** No

**RECOMMENDED ACTION:** Approve Resolution to accept the Agreement.

**CITY CONTACT:** Steve Bartlett, City Engineer  
[bartletts@ci.nacogdoches.tx.us](mailto:bartletts@ci.nacogdoches.tx.us)  
936-559-2522

**ATTACHMENTS:** Resolution  
Agreement

**RESOLUTION NO. 1188-2-16**

WHEREAS, the City of Nacogdoches wishes to maintain traveling efficiency for its residents and visitors and to maximize the State's investment in the highway system; and

WHEREAS, a two-block section of Austin Street (FM 2609) from North Street (Business 59) to its intersection with Raguet Street constitutes a major area of concern within the city limits regarding traffic flow on State Highways maintained by the Texas Department of Transportation as part of the state transportation system; and

WHEREAS, this area of concern is used as a major thoroughfare through the city and currently results in major traffic flow problems during peak times; and

WHEREAS, this section of highway during peak periods presents a safety hazard due to backing up of traffic into a main north-south State Highway; and

WHEREAS, Austin Street (FM 2609) serves as an entrance to Stephen F. Austin State University and with future growth of the University and community will continue to impede traffic flow without improvements; and

WHEREAS, the widening of this section of highway would greatly improve the efficiency of this major thoroughfare for residents and visitors alike; and

WHEREAS, the City of Nacogdoches passed a resolution on January 16, 2007 pledging to participate in the project through the funding of its share of right-of-way costs for the widening of a two-block section of Austin Street (FM 2609) from North Street (Business 59) to its intersection with Raguet Street; and

WHEREAS, the City of Nacogdoches desires to enter in a fixed price joint participation agreement pursuant to Title 43, Chapter 15 of the Texas Administrative Code to contribute to State funding participation for the cost of acquiring right-of-way.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Nacogdoches, Texas that the City of Nacogdoches, Texas enter into the Agreement to Contribute Right-of-Way Funds for Austin Street (FM 2609) and that the Mayor of the City of Nacogdoches, Texas is hereby authorized to execute the Agreement to Contribute Right-of-Way Funds for Austin Street (FM 2609).

PASSED AND APPROVED this the 16<sup>th</sup> day of February, 2016.

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

ATTEST:

\_\_\_\_\_  
Jan Vinson, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Jeff Davis, City Attorney

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

**AGREEMENT TO CONTRIBUTE RIGHT OF WAY FUNDS (FIXED PRICE)**

**THIS AGREEMENT** is made by and between the State of Texas, acting through the Texas Department of Transportation, (the "State"), and the City of Nacogdoches, Texas, acting through its duly authorized officials (the "Local Government").

**WITNESSETH**

**WHEREAS**, Texas Transportation Code §§ 201.103 and 222.052 establish that the State shall design, construct, and operate a system of highways in cooperation with local governments; and

**WHEREAS**, Texas Transportation Code, §§ 201.209 authorizes the State and a Local Government to enter into agreements in accordance with Texas Government Code, Chapter 791; and

**WHEREAS**, the State has deemed it necessary to make certain highway improvements on Highway No. FM 2609 (East Austin) from Raguet Street to North Street (BU 59-F), and this section of highway improvements will necessitate the acquisition of certain right of way and the relocating and adjusting of utilities (the "Project"); and

**WHEREAS**, the Local Government requests that the State assume responsibility for acquisition of all necessary right of way and adjustment of utilities for this highway project; and

**WHEREAS**, the Local Government desires to enter into a fixed price joint participation agreement pursuant to 43 TAC §15.52 to contribute to the State funding participation as defined in 43 TAC §15.55 for the cost of acquiring the right of way and relocating or adjusting utilities for the proper improvement of the State Highway System;

**WHEREAS**, the Governing Body of the Local Government has approved entering into this agreement by resolution or ordinance dated \_\_\_\_\_, 20\_\_, which is attached to and made a part of this agreement as Attachment A. A map showing the Project location appears in Attachment B, which is attached to and made a part of this agreement.

**NOW THEREFORE**, the State and the Local Government do agree as follows:



County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

## AGREEMENT

### 1. Agreement Period

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed. This agreement shall remain in effect until the Project is completed or unless terminated as provided below.

### 2. Termination

This agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

- A. The agreement is terminated in writing with the mutual consent of the parties;
- B. The agreement is terminated by one party because of a breach, in which case any cost incurred because of the breach shall be paid by the breaching party; or
- C. The Project is inactive for thirty-six (36) months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this agreement.

### 3. Local Project Sources and Uses of Funds

A. The total estimated cost of the Project is shown in Attachment C, Project Budget Estimate and Payment Schedule, which is attached to and made a part of this agreement. The expected cash contributions from the Federal or State government, the Local Government, or other parties is shown in Attachment C. The Local Government shall pay to the State the amount shown in Attachment C as its required contribution of the total cost of the Project and shall transmit to the State with the return of this agreement, duly executed by the Local Government, a warrant or check for the amount and according to the payment schedule shown in Attachment C.

B. The Local Government's fixed price contribution set forth in Attachment C is not subject to adjustment unless:

1. site conditions change;
2. work requested by the Local Government is ineligible for federal participation; or
3. the adjustment is mutually agreed on by the State and the Local Government.

C. If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the State, the Local Government must complete training before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.

- D. Whenever funds are paid by the Local Government to the State under this agreement, the Local Government shall remit a warrant or check made payable to the "Texas Department of Transportation Trust Fund." The warrant or check shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied to this highway project.
- E. Notwithstanding that this is a fixed price agreement, the Local Government agrees that in the event any existing, future, or proposed Local Government ordinance, commissioner's court order, rule, policy, or other directive, including, but not limited to, outdoor advertising or storm water drainage facility requirements, is more restrictive than State or federal regulations, or any other locally proposed change, including, but not limited to, plats or re-plats, results in any increased costs to the State, then the Local Government will pay one hundred percent (100%) of all those increased costs, even if the applicable county qualifies as an Economically Disadvantaged County (EDC). The amount of the increased costs associated with the existing, future, or proposed Local Government ordinance, commissioner's court order, rule, policy, or other directive will be determined by the State at its sole discretion.
- F. If the Local Government is an EDC and if the State has approved adjustments to the standard financing arrangement, this agreement reflects those adjustments.
- G. If the Project has been approved for an "incremental payment" non-standard funding or payment arrangement under 43 TAC §15.52, the budget in Attachment C will clearly state the incremental payment schedule.

#### **4. Real Property in Lieu of Monetary Payment**

- A. Contributions of real property may be credited to the Local Government's funding obligation for the cost of right of way to be acquired for this project. Credit for all real property, other than property which is already dedicated or in use as a public road, contributed by the Local Government to the State shall be based on the property's fair market value established as of the effective date of this agreement. The fair market value shall not include increases or decreases in value caused by the project and should include the value of the land and improvements being conveyed, excluding any damages to the remainder. The amount of any credit for real property contributed for this project is clearly shown in Attachment C.
- B. The Local Government will provide to the State all documentation to support the determined fair market value of the donated property. This documentation shall include an appraisal of the property by a licensed appraiser approved by the State. The cost of appraisal will be the responsibility of the State. The State will review the submitted documentation and make a final determination of value; provided however, the State may perform any additional investigation deemed necessary, including supplemental appraisal work by State employees or employment of fee appraisers.

County Nacogdoches  
 District Lufkin  
 ROW CSJ # 2590-01-027  
 CCSJ # 2590-01-020  
 Federal Project #: NA  
 Federal Highway Administration  
 CFDA # 20.205  
 Not Research and Development

- C. Credit shall be given only for property transferred at no cost to the State after the effective date of this agreement and the issuance of spending authority, and only for property which is necessary to complete this project, has title acceptable to the State, and is not contaminated with hazardous materials. Credit shall be in lieu of monetary contributions required to be paid to the State for the Local Government's funding share of the right of way to be acquired for this project. The total credit cannot exceed the Local Government's matching share of the right of way obligation under this agreement, and credits cannot be reimbursed in cash to the Local Government, applied to project phases other than right of way, nor used for other projects.
- D. In the event the Local Government's monetary contributions to the State for acquisition of right of way, when added to its real property credits, exceed the Local Government's matching share of the right of way obligation, there will be no refund to the Local Government of any portion of its contributed money.

**5. Amendments**

Amendments to this agreement due to changes in the character of the work, terms of the agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written supplemental agreement.

**6. Notices**

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, to the following addresses:

<b>Local Government:</b>	<b>State:</b>
<u>Roger Van Horn, Mayor</u>	Director of Right of Way Division
<u>City of Nacogdoches</u>	Texas Department of Transportation
<u>202 E. Pilar St.</u>	125 E. 11 <sup>th</sup> Street
<u>Nacogdoches, TX 75961</u>	Austin, Texas 78701

All notices shall be deemed given on the date delivered or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail and that request shall be honored and carried out by the other party.

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

**7. Remedies**

This agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this agreement and shall be cumulative.

**8. Legal Construction**

If one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provisions and this agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

**9. Responsibilities of the Parties**

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**10. Compliance with Laws**

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

**11. Sole Agreement**

This agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the subject matter of this agreement.

**12. Ownership of Documents**

Upon completion or termination of this agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Local Government. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

**13. Inspection of Books and Records**

The Local Government shall maintain all books, papers, accounting records and other documentation relating to costs incurred under this agreement and shall make such materials available to the State and, if federally funded, the Federal Highway

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

Administration (FHWA) or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this agreement or until any impending litigation, or claims are resolved. Additionally, the State and FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

**14. State Auditor**

The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

**15. Procurement and Property Management Standards**

The parties shall adhere to the procurement standards established in Title 49 CFR §18.36 and with the property management standard established in Title 49 CFR §18.32.

**16. Civil Rights Compliance**

The parties to this agreement shall comply with the regulations of the U.S. Department of Transportation as they relate to nondiscrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

**17. Applicability of Federal Provisions**

Articles 18 through 23 only apply if Federal funding is used in the acquisition of right of way or the adjustment of utilities.

**18. Office of Management and Budget (OMB) Cost Principles**

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

**19. Disadvantaged Business Enterprise (DBE) Program Requirements**

- A. The parties shall comply with the DBE Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

- C. The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally -Approved Disadvantaged Business Enterprise by Entity and attachments found at web address [http://txdot.gov/business/business\\_outreach/mou.htm](http://txdot.gov/business/business_outreach/mou.htm).
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

## 20. Debarment Certification

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the Local Government certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

## 21. Lobbying Certification

In executing this agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 USC §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

## 22. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
  1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
  2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows Federal government to track the

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and

3. Report the total compensation and names of its top five (5) executives to the State if:

- i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
- ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

### 23. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B. If threshold expenditures of \$500,000 or more are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://txdot.gov/inside-tdot/office/audit/contact.html>
- C. If expenditures are less than \$500,000 during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$500,000 expenditure threshold and therefore, are not required to have a single audit performed for FY \_\_\_\_\_."
- D. For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

### 24. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.



County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

**THIS AGREEMENT IS EXECUTED** by the State and the Local Government in duplicate.

**THE LOCAL GOVERNMENT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**THE STATE OF TEXAS**

\_\_\_\_\_  
Gus Cannon  
Interim Director, Right of Way Division  
Texas Department of Transportation

\_\_\_\_\_  
Date

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

**ATTACHMENT A  
RESOLUTION OR ORDINANCE**

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

**ATTACHMENT B  
LOCATION MAP SHOWING PROJECT**

**INDEX OF SHEETS**

1	TITLE SHEET
2	INDEX SHEET
3	CONTROL SHEET
4, 5 & 6	MAP SHEETS

**NOTES**

- D.P.A.C.T. INDICATES OFFICIAL PUBLIC RECORDS OF NACOGDOCHES COUNTY, TEXAS.
- EXISTING AND PROPOSED LOTS ARE ACCORDING TO RECORD OR RECORD ON CALCULATION.
- D.P.A.C.T. INDICATES DEED RECORDS OF NACOGDOCHES COUNTY, TEXAS.
- PRODUCT COORDINATES ARE BASED ON THE CITY OF NACOGDOCHES COUNTY, TEXAS COORDINATE SYSTEM, NAD 83 AND DISTRICTS SHOWN ARE CH10 AND BASED ON THE FOLLOWING:
  - POINT NO. 50P      NAD 83 302.493
  - FIELD NO. 51      E+ 4,053,326.989
  - FIELD NO. 51      E+ 4,053,326.989
- POINT NO. 75P      NAD 83 312.53
- FIELD NO. 76      E+ 4,053,326.989
- POINT NO. 76P      NAD 83 312.53
- FIELD NO. 77      E+ 4,053,326.989

- TO CONVERT DISTANCES TO SURFACE, MEASURES OF THE PRODUCT ADJUSTMENT FACTOR OF 1.000000.
- ADJUSTING PERFORMED IN APRIL 2015 BY CONTRACTOR RESEARCH SPECIALISTS. EXAMINERS OR OTHER WRITERS RECEIVED BUT EXIST THAT ARE NOT SHOWN.
- FIELD SURVEY PERFORMED IN APRIL, MAY AND JUNE, 2015 AND FEBRUARY, 2016.
- RIGHT-OF-WAY WORKS COMPLETED IN AUGUST, 2015.

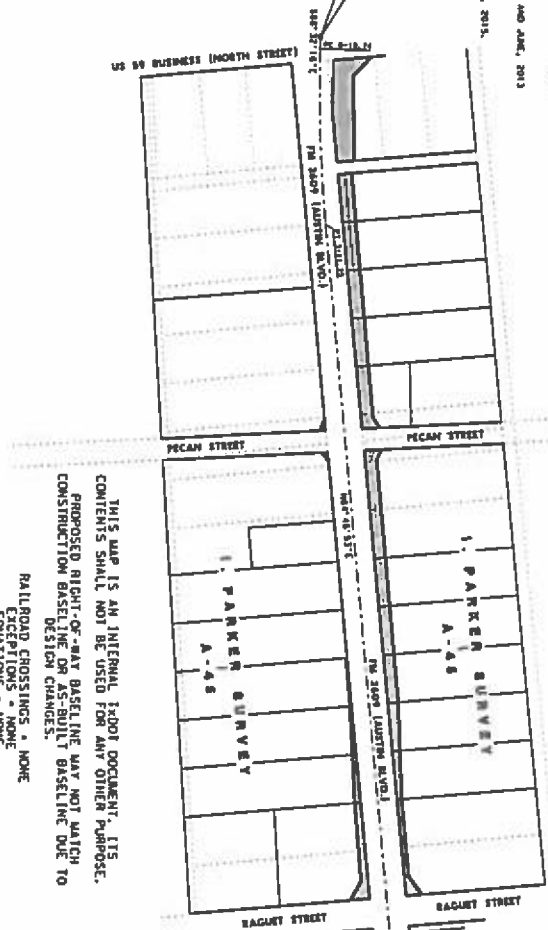
**STATE OF TEXAS**  
**DEPARTMENT OF TRANSPORTATION**

---

**PLANS OF PROPOSED**  
**RIGHT-OF-WAY PROJECT**  
**NACOGDOCHES COUNTY**  
**FM 2609 (AUSTIN BOULEVARD)**  
**FROM: RAQUET STREET**  
**TO: NORTH STREET (BU 59-F)**  
**CSJ NO. 2590-01-020**  
**RCSJ NO. 2590-01-027**  
**NET LENGTH OF PROJECT = 1,491.11 FEET • 0.282 MILE**

**BASELINE CURVE DATA**

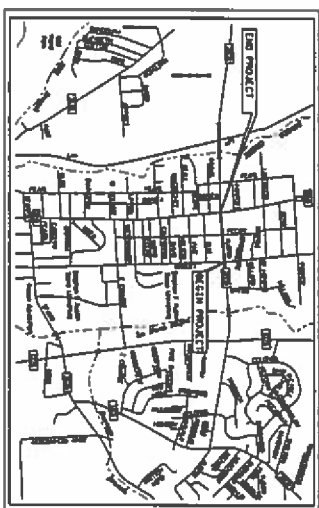
PI STA+1+65.66
PI N+10,602,350.30
PI E+ 4,063,984.98
DELTA ANGLE=90°52'47.11"
LEN=101+291.31'
RADIUS=2,500.00'
CHORD=188+07'10"E-291.35'



THIS MAP IS AN INTERNAL DRAFT DOCUMENT. ITS CONTENTS SHALL NOT BE USED FOR ANY OTHER PURPOSE. PROPOSED RIGHT-OF-WAY BASELINE WAY NOT MATCH CONSTRUCTION BASELINE OR AS-BUILT BASELINE DUE TO DESIGN CHANGES.

RAILROAD CROSSINGS = NONE  
 EXCEPTIONS = NONE  
 ELEVATIONS = NONE

LAYOUT SCALE  
 3/4" = 1' SHEET 1 INCH = 200 FEET  
 1/8" = 1' SHEET 1 INCH = 200 FEET



VICINITY MAP  
 (NOT TO SCALE)

RECOMMENDED FOR ACQUISITION	DATE
DISTRICT SUPERVISOR OR MAP ADMINISTRATION	DATE
RECOMMENDED FOR ACQUISITION	DATE
AREA ENGINEER OR DESIGN ENGINEER	DATE
FINAL MAP ACQUISITION COMPLETE	DATE
DISTRICT ENGINEER	DATE

STATE	TEXAS	DISC.	11	COUNTY	NACOGDOCHES	PROJECT NO.	2590-01-020	SHEET NO.	027
CSJ	2590-01-020	DATE	08/14/2015	SCALE	AS SHOWN	DATE	08/14/2015	BY	027

County Nacogdoches  
District Lufkin  
ROW CSJ # 2590-01-027  
CCSJ # 2590-01-020  
Federal Project #: NA  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

**ATTACHMENT C**  
**PROJECT BUDGET ESTIMATE AND PAYMENT SCHEDULE**

**Standard Agreement to Contribute  
State Performs Work  
EDC Adjustment  
Attachment C**

Description	Total Estimated Cost	State Participation			Local Participation		
		% Before EDC Adj.	% After EDC Adj.	Cost After EDC Adj.	% Before EDC Adj.	% After EDC Adj.	Cost After EDC Adj.
Right of Way Acquisition	\$600,000	90%	97.1%	\$582,600	10%	2.9%	\$17,400
Reimbursable Utility Adjustments	\$0	0%	0%	\$0	0%	0%	\$0
Joint Bid Reimbursable Utility Adjustments	\$0	0%	0%	\$0	0%	0%	\$0
	\$0	0%	0%	\$0	0%	0%	\$0
	\$0	0%	0%	\$0	0%	0%	\$0
<b>TOTAL</b>	<b>\$600,000</b>	<b>90%</b>	<b>97.1%</b>	<b>\$582,600</b>	<b>10%</b>	<b>2.9%</b>	<b>\$17,400</b>

Except as otherwise provided in the Agreement, the fixed amount of Local Government participation will be that amount provided above.

Local Government requested and has been granted an Economically Disadvantaged County Adjustment from the Texas Transportation Commission on September 24, 2015 by virtue of attached Minute Order No. 114381, and approved a 71 percent adjustment to the required 10 percent local participation for this project. Also attached are completed Affidavit and EDC Program Information Sheet.

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

Transportation Code, §222.053(a), defines an “economically disadvantaged county” as a county that has, in comparison to other counties in the state: (1) below average per capita taxable property value; (2) below average per capita income; and (3) above average unemployment.

Transportation Code, §222.053(c), directs the Texas Transportation Commission (commission), when evaluating a proposal for a highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, to adjust the minimum local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement.

Transportation Code, §222.053(f), requires the commission to certify a county as economically disadvantaged on an annual basis as soon as possible after the Comptroller of Public Accounts (comptroller) provides reports on the economic indicators listed above.

Title 43 TAC §15.55(b)(2) provides that, in determining the adjustment to the local matching funds requirement, and the local government's efforts and ability to meet the requirement, the commission will consider a local government's: (A) population level; (B) bonded indebtedness; (C) tax base; (D) tax rate; (E) extent of in-kind resources available; and (F) economic development sales tax.

The comptroller has provided the data needed to determine the counties eligible for the Economically Disadvantaged Counties Program for 2016. The counties' efforts and ability to provide a local match have been considered using the criteria set forth in 43 TAC §15.55. Exhibit A lists the eligible counties and the respective recommended local match adjustments. Exhibit B establishes additional local match adjustments for cities within these counties participating in the program.

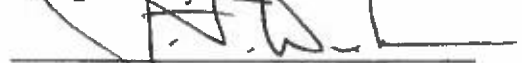
IT IS THEREFORE ORDERED by the commission that the list of counties eligible for the 2016 Economically Disadvantaged Counties Program is certified and the local match adjustment for each county is established, as shown in Exhibit A, as well as additional adjustments for cities participating in the program, as shown in Exhibit B.

Submitted and reviewed by:



Director, Transportation Planning  
and Programming Division

Recommended by:



Executive Director

**114381 SEP 24 15**

Minute  
Number

Date  
Passed

# EXHIBIT A

## Economically Disadvantaged Counties FY 2016

Eligible Counties	Adjustment %
Angelina County	63
Atascosa County	55
Bailey County	84
Bee County	72
Bell County	62
Bosque County	44
Bowie County	61
Brooks County	82
Brown County	70
Burleson County	46
Caldwell County	87
Calhoun County	48
Cameron County	86
Camp County	60
Cass County	64
Cherokee County	74
Coleman County	64
Coryell County	61
Dawson County	57
Delta County	84
Duval County	72
Ellis County	58
El Paso County	73
Falls County	91
Fannin County	72
Floyd County	50
Franklin County	49
Freestone County	30
Grayson County	64
Hale County	72
Hall County	55
Hardin County	58
Henderson County	59
Hidalgo County	95
Hill County	66
Houston County	62
Hudspeth County	65
Hunt County	69
Hutchinson County	37

Eligible Counties	Adjustment %
Jasper County	72
Jefferson County	44
Jim Hogg County	84
Jones County	83
Kaufman County	67
Kleberg County	77
Lamar County	75
Lamb County	73
Leon County	35
Liberty County	69
Limestone County	59
Llano County	17
McLennan County	65
Madison County	62
Marion County	50
Matagorda County	53
Maverick County	90
Milam County	62
Morris County	48
Nacogdoches County	71
Navarro County	66
Newton County	64
Orange County	56
Palo Pinto County	39
Polk County	61
Presidio County	77
Red River County	72
Rusk County	62
Sabine County	57
San Augustine County	61
San Jacinto County	64
San Patricio County	55
Shelby County	65
Smith County	46
Starr County	95
Swisher County	74
Titus County	69
Trinity County	76
Tyler County	78



## Economically Disadvantaged Counties FY 2015 cont.

Eligible Counties	Adjustment %
Upshur County	57
Uvalde County	69
Val Verde County	72
Van Zandt County	63
Walker County	91

Eligible Counties	Adjustment %
Waller County	72
Willacy County	80
Wood County	61
Zapata County	75
Zavala County	90

# EXHIBIT B

## Additional Adjustments for Cities Within an Economically Disadvantaged County FY 2016

Every eligible county receives an adjustment to its local match requirement ranging from 15 (minimum) to 95 (maximum) percent. A city within an economically disadvantaged county receives an adjustment equal to the adjustment for the county in which it is located, with the possibility of up to 10 additional percentage points based on its population and the existence of an economic development sales tax.

The two following tables depict the additional percentage points that cities may be granted.

### *Economic Development Sales Tax:*

#### ADDITIONAL PERCENTAGE

YES	5%
NO	0%

### *Population:*

#### ADDITIONAL PERCENTAGE

$x < 1,000$	5%
$1,000 < x < 2,000$	4%
$2,000 < x < 3,000$	3%
$3,000 < x < 4,000$	2%
$4,000 < x < 5,000$	1%
$x > 5,000$	0%



# AFFIDAVIT

The State of Texas,  
County of \_\_\_\_\_

Before me, \_\_\_\_\_, a notary public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, who being by me duly sworn, upon oath says:

I, \_\_\_\_\_, representing the city / county of \_\_\_\_\_, having been duly elected on \_\_\_\_\_ and having served continuously since that time, certify in my official capacity that, to the best of my knowledge, the information contained in this application is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Subscribed and sworn to before me, by the said \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to certify which witness my hand and seal of office.

My commission expires \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Official Signature

\_\_\_\_\_  
Printed or stamped name of Notary



ECONOMICALLY DISADVANTAGED COUNTIES PROGRAM INFORMATION SHEET

COUNTY Nacogdoches

APPLICANT City of Nacogdoches

District Contact Information

NAME: Olga Flores

TELEPHONE: 936-633-4311

\* If the project is an "OFF-SYSTEM" project, is the project in the Unified Transportation Program (UTP) and have a local funding agreement in place, or in a District Bank Balance Program?  
(Circle as appropriate) YES or **NO**

\* If the applicant is a CITY within an eligible county, please answer the two following questions:

# 1 Economic Development Sales Tax? (Circle as appropriate) YES or **NO**

# 2 Population ( 2010 Census)? \_\_\_\_\_

PROJECT INFORMATION

UTP PRIORITY STATUS:	CON
CSJ:	2590-01-027
ESTIMATED LETTING DATE	March-17

On-System? ( Circle as appropriate) **YES** or NO

LOCATION AND LIMITS - Give highway number with limits to and from.

FM 2609 (East Austin) from Raguet to North Street

PROJECT SCOPE- Give type of work.

Acquire right and way and adjust utilities

ADJUSTMENT RATIONAL- Give reason why the adjustment is needed.

Nacogdoches County is economically disadvantaged.

ANTICIPATED PROJECT COST BREAKDOWN OF ELIGIBLE COMPONENTS

TOTAL ADJUSTMENT- **71**

1. Project Component	2. Est. Total Cost (\$)	3. Local Participation (%)	4. Est. Required Local Match (\$)	5. Local Participation After Adjustment (\$)
Right of Way	\$600,000.00	10%	\$60,000.00	\$17,400.00
			\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
<b>TOTAL</b>	<b>\$600,000.00</b>		<b>\$60,000</b>	<b>\$17,400</b>

Approved by: Cheryl P. Hood, P.E. Date: 2-4-2016

**CITY OF NACOGDOCHES  
AGENDA INFORMATION SHEET:**

**PROJECT:           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 the City has 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 offer of financial or other incentive to business prospects described by Subdivision 1 above.**

**MEETING DATE: February 16, 2016**

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