

**SECTION 00 52 43**  
AGREEMENT FOR EMERGENCY PROCUREMENT OF  
SANITARY SEWER MAIN M-341 AERIAL CROSSING REPLACEMENT

THIS AGREEMENT is made by and between the City of Forth Worth, a Texas home rule municipality, acting by and through its duly authorized City Manager, ("City"), and William J. Schultz, Inc. d/b/a Circle "C" Construction Company, authorized to do business in Texas, acting by and through its duly authorized representative, ("Contractor"). City and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**Article 1. WORK**

Contractor shall complete all Work as specified or indicated in the "Contract Documents" attached hereto or specifically referenced herein, for the Project described below.

**Article 2. PROJECT**

The "Project" is generally as follows: Perform replacement of aerial crossing of the 24-inch Sanitary Main M-341 over Boyd Branch, a tributary of the West Fork Trinity River and other incidental work, as needed.

The Work is detailed in attached work plan and in city specifications sections 33 05 10, 33 04 40, 33 11 05, 33 11 13, 33 12 25, 33 05 20, 33 05 22.

**Article 3. CONTRACT TIME**

Time is of the essence.

Contractor recognizes that time is of the essence and the Contractor will be required to remain on the jobsite until the replacement aerial crossing is complete and functioning. The City expects the Contractor to have a sense of urgency to complete this work as soon as possible.

**Article 4. CONTRACT PRICE**

City agrees to pay Contractor for performance of the Work, based on Contractor's invoices, an amount up to One Million Two Hundred and Fifty Thousand Dollars (\$1,250,000.00). This figure may be adjusted up or down as final invoices are received.

**Article 5. CONTRACT DOCUMENTS**

5.1 CONTENTS:

- A. The Contract Documents which comprise the entire agreement between City and Contractor concerning the Work consist of the following:
  1. This Agreement.
  2. Exhibits to this Agreement:
    - a. Evidence of Current Insurance
    - b. Current Prevailing Wage Rate Table
    - c. Memorandum of Emergency Authority
  3. General Conditions incorporated by reference

## Article 6. INDEMNIFICATION

- 6.1 Contractor covenants and agrees to indemnify, hold harmless and defend, at its own expense, the city, its officers, servants and employees, from and against any and all claims arising out of, or alleged to arise out of, the work and services to be performed by the contractor, its officers, agents, employees, subcontractors, licenses or invitees under this contract. This indemnification provision is specifically intended to operate and be effective even if it is alleged or proven that all or some of the damages being sought were caused, in whole or in part, by any act, omission or negligence of the city. This indemnity provision is intended to include, without limitation, indemnity for costs, expenses and legal fees incurred by the city in defending against such claims and causes of actions.
- 6.2 Contractor covenants and agrees to indemnify and hold harmless, at its own expense, the city, its officers, servants and employees, from and against any and all loss, damage or destruction of property of the city, arising out of, or alleged to arise out of, the work and services to be performed by the contractor, its officers, agents, employees, subcontractors, licensees or invitees under this contract. This indemnification provision is specifically intended to operate and be effective even if it is alleged or proven that all or some of the damages being sought were caused, in whole or in part, by any act, omission or negligence of the city.

## Article 7. MISCELLANEOUS

### 7.1 Terms.

Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

### 7.2 Assignment of Contract.

This Agreement, including all of the Contract Documents may not be assigned by the Contractor without the advanced express written consent of the City.

### 7.3 Successors and Assigns.

City and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, in respect to all covenants, agreements and obligations contained in the Contract Documents.

### 7.4 Severability/No Waiver.

Any provision or part of the Contract Documents held to be unconstitutional, void or unenforceable by a court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CITY and CONTRACTOR.

Failure by City or Contractor to enforce any provision of this Agreement shall not render that provision un-enforceable should there be a future breach.

### 7.5 Governing Law and Venue.

This Agreement, including all of the Contract Documents is performable in the State of Texas. Venue shall be Tarrant County, Texas, or the United States District Court for the Northern District of Texas, Fort Worth Division.

## 7.6 Other Provisions.

7.6.1 City Wage Rate. The Contractor agrees to pay at least minimum wage per hour for all labor as the same is classified, promulgated and set out by the City.

7.6.2 Non-appropriation of Funds. In the event no funds or insufficient funds are appropriated by City in any fiscal period for any payments due hereunder, City will notify Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds have been appropriated.

7.6.3 Prohibition On Contracts With Companies Boycotting Israel. Contractor, unless a sole proprietor, acknowledges that in accordance with Chapter 2271 of the Texas Government Code, if Contractor has 10 or more full time-employees and the contract value is \$100,000 or more, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. **By signing this contract, Contractor certifies that Contractor's signature provides written verification to the City that if Chapter 2271, Texas Government Code applies, Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.**

7.6.4 Prohibition on Boycotting Energy Companies. Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code-(as added by Acts 2021, 87th Leg., R.S., S.B. 13, § 2), the City is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more, which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms "boycott energy company" and "company" have the meaning ascribed to those terms by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 13, § 2). **To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement.**

7.6.5 Prohibition on Discrimination Against Firearm and Ammunition Industries. Contractor acknowledges that except as otherwise provided by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 19, § 1), the City is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate,” “firearm entity” and “firearm trade association” have the meaning ascribed to those terms by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 19, § 1). **To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement.**

7.6.6 Immigration Nationality Act. Contractor shall verify the identity and employment eligibility of its employees who perform work under this Agreement, including completing the Employment Eligibility Verification Form (I-9). Upon request by City, Contractor shall provide City with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Contractor shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any Contractor employee who is not legally eligible to perform such services. **CONTRACTOR SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY CONTRACTOR, CONTRACTOR’S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** City, upon written notice to Contractor, shall have the right to immediately terminate this Agreement for violations of this provision by Contractor.

7.7 Authority to Sign.

Contractor shall attach evidence of authority to sign Agreement, if other than duly authorized signatory of the Contractor.

SIGNATURE PAGE AND ANY ATTACHMENTS/EXHIBITS TO FOLLOW

IN WITNESS WHEREOF, City and Contractor have executed this Agreement which is effective as of the date signed by the City's Assistant City Manager ("Effective Date").

CONTRACTOR:  
WILLIAM J. SCHULTZ, INC. D/B/A CIRCLE  
"C" CONSTRUCTION COMPANY

CITY OF FORT WORTH

By: Teri Skelly  
Name: Teri Skelly  
Title: President  
Date: 5-12-2022

By: Dana Burghdoff  
Dana Burghdoff  
Assistant City Manager  
Date: May 17, 2022

Address:  
500 W Trammell PO Box 40328  
Fort Worth, TX 76140

Attest:  
Jannette S. Goodall  
Jannette S. Goodall (May 17, 2022 16:04 CDT)  
Jannette S. Goodall, City Secretary

(Seal)

APPROVAL RECOMMENDED:

M&C N/A (Attached 05/04/22 Emergency Memo)  
Date: N/A (Attached 05/04/22 Emergency Memo)

Christopher Harder  
Christopher Harder (May 13, 2022 07:09 CDT)  
Christopher Harder, P.E.  
Director, Water Department

Contract Compliance Manager:  
By signing, I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.

Tony Sholola  
Tony Sholola, P.E.  
Assistant Director

Approved as to Form and Legality:

DBL  
Douglas W. Black  
Sr. Assistant City Attorney



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/12/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> K&S Insurance Agency 2255 Ridge Road, Ste. 333 P. O. Box 277 Rockwall TX 75087	<b>CONTACT NAME:</b> Kim Wright <b>PHONE (A/C, No, Ext):</b> (972) 771-4071 <b>E-MAIL ADDRESS:</b> kwright@kandsins.com	<b>FAX (A/C, No):</b> (972) 771-4695
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> William J Schultz, Inc. dba Circle C Construction Company 500 W. Trammell Ave. Everman TX 76140	<b>INSURER A:</b> FCCI Insurance Co.	NAIC # 10178
	<b>INSURER B:</b> Travelers Property Casualty Company of America	25658
	<b>INSURER C:</b> Texas Mutual Insurance Co.	22945
	<b>INSURER D:</b> Federal Insurance Company	20281
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

### COVERAGES

### CERTIFICATE NUMBER:

### REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			CPP100051064	08/12/2021	08/12/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			CA100051065	08/12/2021	08/12/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			ZUP41M1142821	08/12/2021	08/12/2022	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> N N/A			0002051085	08/12/2021	08/12/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Contractors Equipment			06706289	08/12/2021	08/12/2022	Leased/Rented Equip. \$500,000

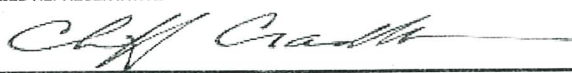
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Sanitary Sewer Main M-341 Aerial Crossing Replacement

See attached for additional information.

### CERTIFICATE HOLDER

### CANCELLATION

The City of Ft. Worth 200 Texas Street Fort Worth TX 76102	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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AGENCY CUSTOMER ID: \_\_\_\_\_

LOC #: \_\_\_\_\_



## ADDITIONAL REMARKS SCHEDULE

Page \_\_\_\_ of \_\_\_\_

AGENCY K&S Insurance Agency		NAMED INSURED William J Schultz, Inc. dba Circle C Construction Company	
POLICY NUMBER			
CARRIER	NAIC CODE	EFFECTIVE DATE:	

### ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance: Notes

The General Liability and Auto Liability policies include a blanket automatic additional insured endorsement that provides additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status. The General Liability endorsement wording include both the insured's ongoing and completed operations.

The General Liability and Auto Liability policies contain an endorsement with "Primary and Noncontributory" wording.

The General Liability, Auto Liability and Workers' Compensation policies include a blanket automatic waiver of subrogation endorsement that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it.

\*ALWAYS REFER TO THE ATTACHED POLICY FORMS FOR SPECIFIC WORDING OF SUCH COVERAGE, LIMITS, CONDITIONS AND EXCLUSIONS.

**2013 PREVAILING WAGE RATES**  
(Heavy and Highway Construction Projects)

<b>CLASSIFICATION DESCRIPTION</b>	<b>Wage Rate</b>
Asphalt Distributor Operator	\$ 15.32
Asphalt Paving Machine Operator	\$ 13.99
Asphalt Raker	\$ 12.69
Broom or Sweeper Operator	\$ 11.74
Concrete Finisher, Paving and Structures	\$ 14.12
Concrete Pavement Finishing Machine Operator	\$ 16.05
Concrete Saw Operator	\$ 14.48
Crane Operator, Hydraulic 80 tons or less	\$ 18.12
Crane Operator, Lattice Boom 80 Tons or Less	\$ 17.27
Crane Operator, Lattice Boom Over 80 Tons	\$ 20.52
Crawler Tractor Operator	\$ 14.07
Electrician	\$ 19.80
Excavator Operator, 50,000 pounds or less	\$ 17.19
Excavator Operator, Over 50,000 pounds	\$ 16.99
Flagger	\$ 10.06
Form Builder/Setter, Structures	\$ 13.84
Form Setter, Paving & Curb	\$ 13.16
Foundation Drill Operator, Crawler Mounted	\$ 17.99
Foundation Drill Operator, Truck Mounted	\$ 21.07
Front End Loader Operator, 3 CY or Less	\$ 13.69
Front End Loader Operator, Over 3 CY	\$ 14.72
Laborer, Common	\$ 10.72
Laborer, Utility	\$ 12.32
Loader/Backhoe Operator	\$ 15.18
Mechanic	\$ 17.68
Milling Machine Operator	\$ 14.32
Motor Grader Operator, Fine Grade	\$ 17.19
Motor Grader Operator, Rough	\$ 16.02
Off Road Hauler	\$ 12.25
Pavement Marking Machine Operator	\$ 13.63
Pipelayer	\$ 13.24
Reclaimer/Pulverizer Operator	\$ 11.01
Reinforcing Steel Worker	\$ 16.18
Roller Operator, Asphalt	\$ 13.08
Roller Operator, Other	\$ 11.51
Scraper Operator	\$ 12.96
Servicer	\$ 14.58
Small Slipform Machine Operator	\$ 15.96
Spreader Box Operator	\$ 14.73
Truck Driver Lowboy-Float	\$ 16.24
Truck Driver Transit-Mix	\$ 14.14
Truck Driver, Single Axle	\$ 12.31
Truck Driver, Single or Tandem Axle Dump Truck	\$ 12.62
Truck Driver, Tandem Axle Tractor with Semi Trailer	\$ 12.86
Welder	\$ 14.84
Work Zone Barricade Servicer	\$ 11.68

The Davis-Bacon Act prevailing wage rates shown for Heavy and Highway construction projects were determined by the United States Department of Labor and current as of September 2013. The titles and descriptions for the classifications listed are detailed in the AGC of Texas' Standard Job Classifications and Descriptions for Highway, Heavy, Utilities, and Industrial Construction in Texas.



## INTEROFFICE MEMO

Date: May 4, 2022

To: Dana Burghdoff, Assistant City Manager

From: Chris Harder, P.E., Water Director

Subject: **SANITARY SEWER MAIN M-341 AERIAL CROSSING REPLACEMENT  
EMERGENCY RESPONSE**

It has been determined that the aerial crossing of the 24-inch Sanitary Sewer Main M-341 (Figure 1) over Boyd Branch, a tributary of the West Fork Trinity River, is in danger of collapsing (Figures 2 and 3) and must be immediately replaced in order to prevent sewer discharge into the tributary and Trinity River.

The recommended solution is to immediately proceed with design for replacement of the aerial crossing. The design services to be provided include engineering for the aerial crossing relocation (Figure 4), easement preparation, environmental and floodplain permit, temporary bypass pumping setup, United States Army Corps of Engineers permit and assistance during construction. Construction will be initiated immediately upon receipt of the USACOE permit. The necessary design will be performed by Freese and Nichols, Inc., while construction will be conducted by William J. Schultz, Inc. dba Circle C Construction Company. Staff will monitor the crossing and particularly immediately after rain events have the potential to increase water levels in the tributary.

Waiting to bid and award a construction contract to perform this work is not in the best interest of the health and safety of the citizens of the City of Fort Worth. Chapter 2, Article I, Section 2-9 of the City's Code of Ordinances and Section 252.022 of the Local Government Code exempts from normal bidding requirements expenditures that are necessary to preserve or protect public health or safety of the municipality's residents and procurements necessary because of unforeseen damage to public machinery, equipment, or property.

This memo is submitted to request authorization for emergency procurement of engineering and construction services to replace the aerial crossing. It is estimated that the engineering and construction costs associated with this emergency repair may cost approximately \$1,500,000.00 (Engineering: \$250,000.00; Construction: \$1,250,000.00).

A confirming M&C will be circulated to ratify the above activities after the work has been performed.

**APPROVED FOR EMERGENCY PROCUREMENT:**

**Recommended:**

  
Christopher Harder (May 4, 2022 10:22 CDT)

Chris Harder, P.E., Director, Water Department

**Approved as to form and Legality:**

  
DBlack (May 4, 2022 10:35 CDT)

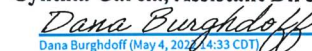
Douglas W. Black, Sr. Assistant City Attorney

**Approve:**



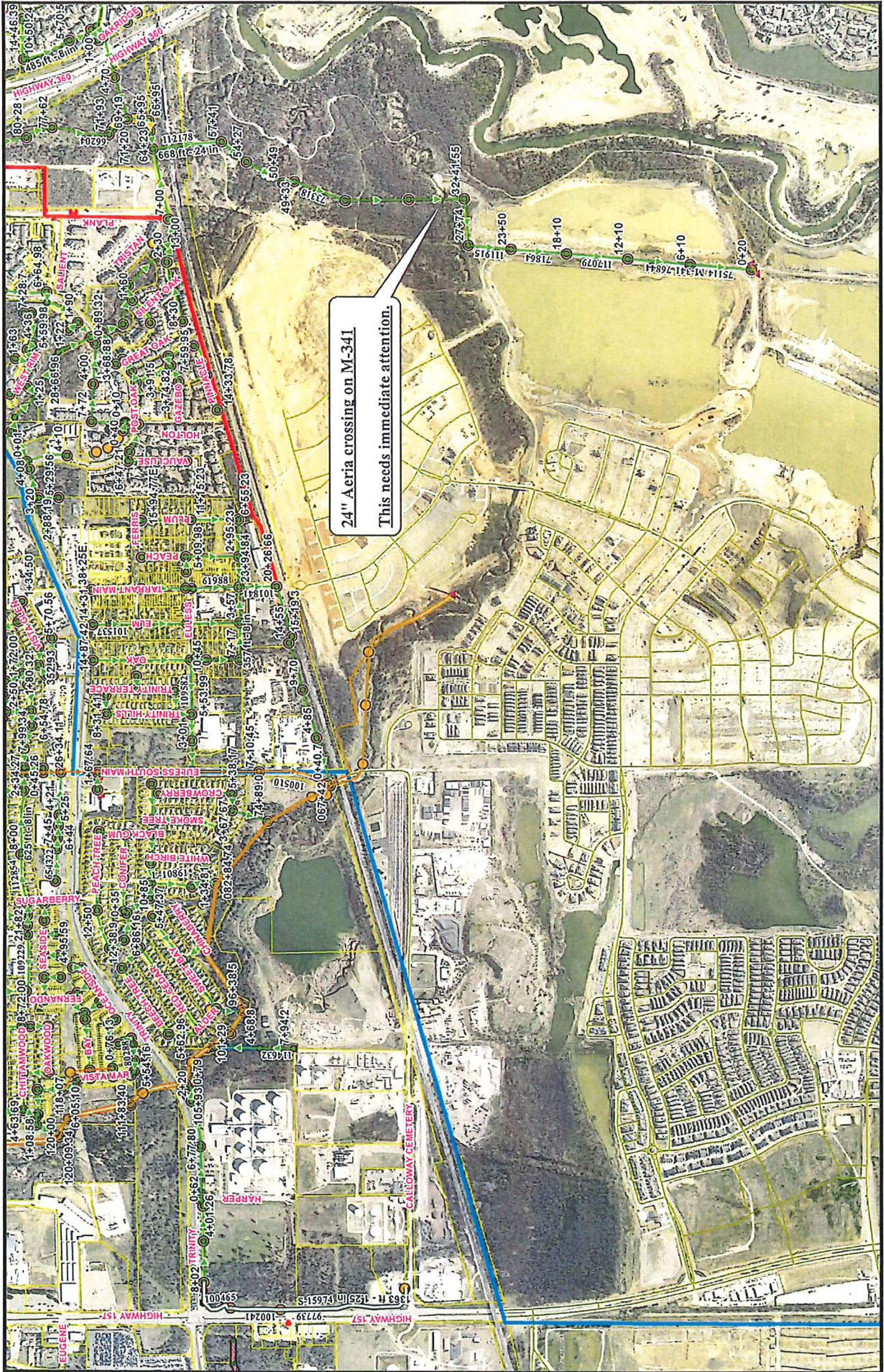
Cynthia Garcia, Assistant Director, Purchasing

**Approve:**

  
Dana Burghdoff (May 4, 2022 4:33 CDT)

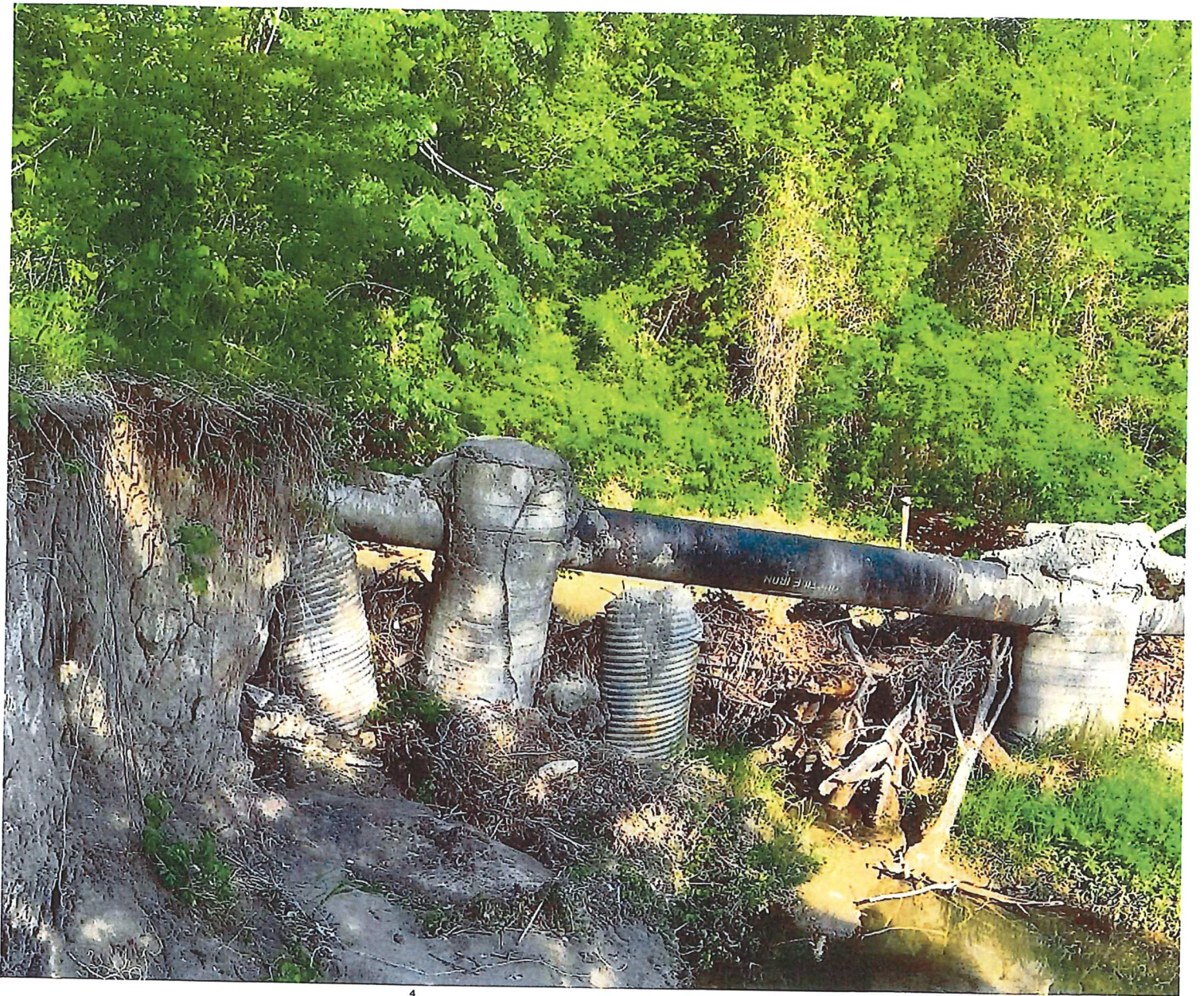
Dana Burghdoff, Assistant City Manager

FIGURE 1



# FIGURE 2





4

FIGURE 3

FIGURE 4

